



THE CHILD RIGHT ACT 2007

**A bridged and simplified version
of the Act**

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**The Lawyers Centre for
Legal Assistance
(LAWCLA)**

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PREFACE

The purpose of this handbook is to make the law to be easily understood by all, to promote and protect the right of children, who happens to be the future leaders of this nation.

LAWCLA's main mission is to protect and to promote the development of human rights all over the country through the law. For one's right to be protected it is necessary that you are aware of it so as to be able to enjoy it. Likewise, the police, the courts and even in grass root community must be au fait about these rights before they can be able to see that it is put into effect.

Therefore, the mission of LAWCLA does not stop after the passage of a new law improving children's' rights but move on by educating the masses about these new provisions in the law.

If the reader needs more information about the act, he should read the Child Right Act 2007.

PART 1 INTRODUCTION

1. Starting Date of this Law

The President set the date when The Child Right Act 2007 will come into effect by order in a statutory instrument (a legal document that should be approved by Parliament).

2. Definition of Main Terms

The lawmaker has defined the main terms used in this Child Right Act in order to explain the meaning of certain words:

Adoption: this involves the court giving powers and rights to someone so that he can act as the parent of that child.

Bare gathering: this is a meeting of traditional leaders such as chief, tribal headman, village chief that is open to all members of the community. It is not a court of law

Basic social services: includes services provided for education, necessary goods such as food, clothes water and health, including health matters that are connected with giving birth to children.

Chairman: means Chairman of the Commission made mention in subsection (1) of section 6.

Charter: African Charter on the Rights and welfare of the Child which entered became a law on 29 November 1999

Child: a person below the age of eighteen.

Commission: the National Commission for Children set up by section 4 of The Child Right Act 2007.

Commissioner And Deputy Commissioner (DC): the persons appointed under subsection (1) of section 13.

Convention: the Convention on the Rights of the Child, recognise and accepted by the General Assembly of the United Nations on 20 November 1989.

Council: the district council.

Court: Magistrate's court or the High court.

Family Court: a Family court made mention of in section 76.

Female Genital Mutilation: the cutting or removal of any part of the female sexual organ.

Foster Parent : an adult person who is not a real or actual parent of a child but willing to provide care and support usually given by the true and real parent ; and « foster » and Foster care must also follow this same definition that has already being given.

Gifts and Grants: money given and any other material support given to the commission so as to see that the Child Rights Act 2007 would be a law that is followed and respected by all.

Minister: the Minister responsible for children's affairs.

National Children and Youth Forum: elected representatives

from properly recognised children and youth promotion organisations.

National Parents' Body: elected representatives from properly recognised parent promotion organisations.

Service Provider: any person or group of persons approved or fit to provide services in health, education, child development or protection and for the general well-being of children.

Young Person: any person aged between eighteen and twenty-five.

3. Importance of the Principles of the Best Interest of the Child

The best interest of the child should be the most important consideration that should be given when decision or action that may affect the child or children is to be taken under The Child Right Act 2007.

In assessing best interest of the child, a person, a court or any other authority must take into account:

- the principle of non-discrimination(unfairness) against any child in the enjoyment of his rights given to him by law
- the right to life and highest survival and development,
- the respect of the opinion of the child,
- the wishes of the entire Convention and the Charter.

PART 2 THE NATIONAL COMMISSION FOR CHILDREN

4. Setting up of the Commission

A Commission for Children is set up it can take any person or body to court and any member of the public or body also has the power to take this commission to court, it also has the ability to buy and own property and to sell and get rid of property which it own.

5. Independence of the Commission

The Commission is not under the control or being directed by any individual or body. It is free to take any action or decision.

6. Persons Who Make Up the Commission

The Commission is made up of a chairman appointed by the President because he has knowledge and experience in child's rights matters and 12 other members (1 Paramount Chief, 1 male parent and 1 female parent elected by the national parents' body, 1 male and 1 female child or young person elected by a national children's and youth forum, 2 representatives of the religious community, 1 representative of UNICEF, 1 representative of the Bar Association of Sierra Leone, 1 representative of the Ministry and 1 Commissioner and 1 Deputy Commissioner made mention in section 13 of The Child Right Act 2007).

7. **How Long Should Members Work In the Commission (Duration)**

The chairman is appointed for 3 years and he can be made to continue performing his service to commission.

The 12 members can be elected or nominated for 3 years they have the right to be re-elected or re-nominated.

A person would immediately not be a member if he is:

- Unable to perform his duties in the office,
- he has put up a bad behaviour or has a wrong doing which has been confirm.
- if a court has stated that he is unable to pay his debt(declare bankrupt by a court)
- found guilty by a court of law of because he has committed a crime which involves fraud or dishonesty,
- failure to attend 3 following meetings of the Commission without any good reason.
- Resignation by written notice to the President

8. **Salaries, Benefits and Allowances of Members**

The salaries, benefits and allowances of the members excluding the deputy Commissioner and the Commissioner are determined by the Parliament.

9. Procedures of Meetings Held By the Commission

The Commission meets for the conduction of business at least once every month. The number of members to ensure that a meeting take place should not be below six. The Chairman presides over every meeting and in his absence, a member is appointed to preside.

Any decision is taken by a majority of the members present. Each member has one vote but in situation wherein there is a tie, the chairman or the person presiding has a casting vote.

A majority of the members can request the Chairman for a special meeting of the Commission for a specified purpose. The meeting must be summoned within 5 days of the receipt of the notice calling for the meetings.

The Commission can invite any person to participate to a meeting but this person can not vote.

A public record of the meetings must be issued.

10. Disclosure of Interest

Any member having a financial interest or any other interest in any matter considered by the Commission that would affect his family member or himself, must disclose such interest and he must not take part in any meeting, discussion and vote relating to such matter. If he did not disclose his personal interest relating to a matter the Commission dealt with, he can be sacked.

11. Functions of Commission

The Commission has to keep an eye on and direct the implementation of the Convention, the Charter and this Act. It has to advise the Government on policies to improve the condition and welfare of children in Sierra Leone.

Subsections 12 to 22 deal with the organisation of the Commission. If interested, please see the text.

PART 3 - CHILD RIGHTS, PARENTAL AND STATE RESPONSIBILITIES

23. Right to Life and Maximum Survival and Development

Every child has the right to life and to survival and development to the highest level and it is the responsibility of parents to provide support to their child in the enjoyment of these rights. The parents may be assisted by the State if needed.

24. Right to Name and Nationality

Every child has the right to a name, to be a citizen of a particular country and the right to know, if possible, his true parents and extended family.

25. Right to Grow Up With Parents

Every child has the right to live with his parents and family and to grow up in a caring and peaceful environment. However, a court can decide that it is not in the best interest of the child to live with his parents if it would lead to a major harm or the child would suffer from serious child abuse.

26. Parental Duty and Responsibility

No parent can refuse a child of his welfare even if the parents were not married at the time of the birth or were not living together.

Every child has the right to life, dignity, respect, leisure, liberty, health including immunisation against diseases (taking injections and medicine against diseases), education and shelter from his parents.

The parents' duties towards their child include:

- providing them with care and paying attention to the upbringing of the child, not to force the child to be discriminated against, preventing the child to be faced with violence, abuse, physical and moral dangers and oppression,
- good guidance, care, assistance, maintenance and assurance of the child's survival and development,
- in case wherein the parent would be absent for a short period good that the child would be taken care of by a responsible person (a child under 18 months must be cared for by a person of 15 years and above).
- Each parents has a duty to make sure that they register the birth of their child of the birth and the names of both parents must appear on the birth certificate except if the father of the child is not known by the mother.

27. Right to Parental Property

Every child has the right to inherit from his parents, whether or not he was born during their marriage or was born out of marriage.

28. List Age of Becoming a Soldier

Every child must be protected from participating in a war. The minimum age to become a soldier is 18.

The Government must not allow any child to be part of the military or paramilitary service and must not use or permit the use of land mines or other weapons declared by international law documents to be dangerous to children.

29. Right to Leisure/Play

Every child has the right to participate in sports, cultural and artistic activities or other leisure activities

30. Treatment of Disabled Child

A disabled child must be treated with respect and has the right to special care, education and training wherever possible to develop his abilities and physic to the highest level.

31. Right to Opinion

Any child capable of forming his own opinion has the right to express himself, to be listened to and to participate in the

decisions in relation with his welfare, regarding to his age and maturity.

32. Protection from Unfair Labour

No person can subject a child to a labour that deprives him of his health, education or development.

33. Protection from Torture and Inhuman Treatment

No person can make a child to be subject to torture or other cruel, inhuman or shameful treatment or punishment, including cultural practice that threatens the physical and mental welfare of the child.

A correction of a child must fit his age, physical and mental condition and level of understanding of the aim of the correction.

The Child Right Act 2007 has declared that the Corporal Punishment Act should no longer exist (it has been repealed).

34. Minimum Age of Marriage

The minimum age for any marriage is 18 years. No child can be forced to be engaged, the subject of a dowry transaction or married.

No registration of any marriage can be granted unless the officer is satisfied that the individuals are 18 years or above.

35. Punishment for Not Following This Law

Any person who does not follow this law by allowing someone below the age of 18 years to get married commits a crime and can be fine not more than 30 million leones or jailed for a period not less than 2 years or to both.

36. Parental Rights

Every parent has the right to:

- live with his child or to decide the place where they are going to live,
- control and guide his upbringing,
- maintain personal relations with him if they do not live together,
- act as his representative regarding his interests,
- appoint or remove a guardian with the approval of a court,
- have access to parenting programmes,
- participate in child welfare committees.

A parent can ask a judge to stop the other parent using his rights or ask for financial maintenance if the other parent fails to perform his parental duties toward the child.

37. Support from Village Heads

A head of village must receive people and discuss about the matters that can affect the common welfare of children in the community. Any person, even children, can communicate his matters to a village child welfare committee. Any head of a community must refer to the committee any matter if it is complex or when the community fails to resolve it.

38. Support from Service Providers

Any social development worker (health worker, teacher...) must work with seriousness and fairness with children without any personal interest or discrimination, in respect of the best interest of the children.

They must provide advice to parents and bring matters that are affecting the welfare of children to a community leader.

They must advise communities on child matters.

Any community health worker must take care of children's health and give advice to young people and parents regarding the development stage of the child.

They have to report any sexual or other form of abuse to Family Support Units of the Sierra Leone Police that must hold a register of child abusers and take special measures to protect children from these persons.

39 Support from Local Council

Every local council must develop activities to improve the welfare of children and specifically about early child care facilities, recreational facilities, implement youth friendly health centres and promote child participation in these activities.

40. Support from Central Government

The Ministry must put in place a plan in helping working parents to take care of their children. A fund must be set aside for the benefit of children.

41. Cultural and National Pride

Every child must be encouraged to appreciate his culture and national identity. They must learn at least one local Sierra Leone language at primary school.

42. Guidance from Relatives

Every member of the extended family has the authority to advise a child of the family, keeping in mind the best interest of the child.

43. Guidance Regarding Customary Law

A person allowed by custom and tradition to provide advice to children can do it if it is in the best interest of the child.

44. Development of Capacities

The guidance of the child must include the use of tradition and cultural standards to develop his sense of responsibility in developing his capacities.

The sense of responsibility includes his present and future welfare, the respect of parents and elders, the welfare of others, his family, the society, his country and humanity in general.

45. Child's Duty

Every child must contribute towards family unity, respect his parents and other people, treat his studies and work very seriously and strengthen the positive cultural values of his community.

46. Harmful Customary Practices

The following customary practices are illegal:

- Marriage of person who is below 18 years,
- child engagement to be married to someone in the future,

Any person or body that fails to respect the law that declare such practice illegal commits an offence, he would be asked to pay a fine of not less than 500 000 leones or jailed for a period not less than one year or to fine and at the same time jailed for one year.

Part 4 - CHILD WELFARE FUNCTIONS OF LOCAL COMMITTEES AND DISTRICT COUNCILS

47. Village Child Welfare Committee

Every head of a village must organise elections of members of a village child welfare committee at a *bare* gathering. The committee is made up of:

- a social welfare officer nominated by the Minister,
- a traditional leader elected at a *bare* gathering,
- a man and a woman representing parents elected at a *bare* gathering,
- a female and a male child or young person representing children and young people elected by a specially organised children's and youth forum,
- 3 service providers elected at a *bare* gathering,
- 2 representatives of NGOs or community based organisations working in the village area,
- 3 members from the religious community (of different religion and sex).

The members are elected for 2 years and it can be renewed.

48. Functions of the Village Committee

The aim of the village committee is to improve the enjoyment of the rights of children in every village.

The duties of the village committee are:

- to promote child rights awareness and enjoyment in the village area,
- to keep an eye on the enjoyment of child rights in the area,
- to submit reports, observations and concerns about child welfare to a chiefdom child welfare committee and to the Ministry,
- to keep an eye on the advancement of girl child education,
- to assess the capacity of a person to foster a child and to keep an eye on all foster children in the village area,
- to prevent domestic violence and violence directed at the girl child,
- to provide advice and instruction to children alleged to have committed minor crime,
- to provide advice to children, parent and other person in the promotion of the best interest of the child,

- to issue recommendations and instructions on the maintenance and support of a particular child in the village,
- to listen to complaints concerning the welfare of any child in the village,
- to refer to a chiefdom committee any matter it is unable to deal with,
- to undertake any other functions improving the enjoyment of the rights of children in the village.

49. Chiefdom Child Welfare Committee

Every Paramount Chief must organise elections of members of a chiefdom child welfare committee among residents of the chiefdom. The chiefdom committee is made up of:

- a social welfare officer nominated by the Ministry,
- a traditional leader elected at a meeting of tribal authorities in the chiefdom,
- a man and a woman representing parents elected by the village committees in the chiefdom,
- a female and a male child or young person representing children and young persons elected by a specially organised children's and youth forum,

- 3 service providers,
- 2 representatives of NGOs or community based organisations working in the chiefdom,
- 3 persons representing the religious sector in the chiefdom (of different religion and sex).

The members are elected for a renewable period of 2 years.

50. Functions of the Chiefdom Committee

The aim of the chiefdom committee is to coordinate and to improve the enjoyment of children rights in the chiefdom.

The duties of the chiefdom committee are:

- to give advice to the village committees in the chiefdom,
- to deal with the cases and questions coming from the village committees,
- to keep an eye on the enjoyment of child rights in the chiefdom,
- to bring to the attention of the district council any matters to children welfare that the chiefdom is unable to solve,
- to submit observations, reports and concerns about the welfare of children in the chiefdom district council to the Ministry,

- to carry out any other function that can improve the enjoyment of the rights of children in the area.

51. Responsibilities of Ministry

The Ministry has the responsibility to promote the enjoyment of child rights and welfare in Sierra Leone.

The duties of the Ministry are to:

- keep an eye on, supervise and to properly organize the activities of all child welfare committees,
- To make sure that the development of children's rights and welfare takes place throughout the country,
- Carry out research on the welfare of children in Sierra Leone,
- provide administrative, assist in training and provide the child welfare committees with what they need
- give advice to the committees,
- look at the reports from the committees,
- prepare reports for the Commission about the position and welfare of children in Sierra Leone,
- Assist in the sharing of information and bringing together and creating contacts among the committees.

52. The Power the Child Welfare Committees

A committee does not have the power to deal with offences such as murder, treason, rape and other sexual offences, serious damage of property, injury and other serious crimes.

In such a case, the committees have to forward such matters to the Sierra Leone Police for investigations and criminal prosecution.

A committee has to give advice to all the parties at stake and is not able to punish, imprison, impose a fine, order damages or to decide of any other punishment.

53. Informal Proceedings of the Committees

The proceeding before a child welfare committee is informal.

A committee and a court have to go as quickly as possible when dealing with a child matter and must allow the child to contribute to the search for solutions according to his age and ability.

54. Decision of a Committee

Any person not satisfied with the decision of a village committee can appeal to a Child Panel of a district to change the decision.

55. Failure to Comply With a Committee Decision

Any person who wilfully fails to comply with the decision of a committee is liable to a fine of not less than 50 000 leones and a social welfare officer can apply to the Family Tribunal or to a court for a sentence.

56. Minister's Power to Make Rules

The Minister must make rules about proceedings and functions of committees.

57. Family Support Units

In each police station, a Family Support Unit is responsible for dealing with children that have been suspected of committing a crime, child victims of domestic violence and proven child abusers.

58. District Council to Protect Children

A district council must protect the welfare of children, promote children rights, bring together governmental agencies in matters concerning children and investigate cases violation of children rights in its area.

59. Persons to Report Child Abuse and Protection Cases

Any person with information on a child abuse or a child in need of care and protection shall report the matter to the district council.

60. Meaning of Care and Protection

A child is in need of care and protection if:

- he has loss both parents that is father and mother
- he has been completely ignored or ill-treated,
- he has a parent or guardian who does not exercise proper guardianship,
- he is poor and live in a state of misery,
- he is under the care of a criminal or a drunkard,
- he is homeless,
- he is begging or accompanying a person who is begging,
- he meet with thieves or prostitutes or lives in a house used by prostitutes except if the prostitute is his mother or protects him from bad influences,
- he is threaten by human trafficking,

- he ask for money to perform immoral purposes,
- he is exposed to both moral or physical danger.

61. Removal of Previous Law

Part IV of the Children and Young Persons Act is repealed (no longer exist).it has been removed by parliament.

62. Investigation by District Council

When a case of child abuse or a child in need of care and protection is suspected, the district council can direct a probation officer or a social welfare officer to investigate.

The officer must forward the matter to a Child Panel if the child is not in immediate need of care and protection.

The officer must find a safe place for the child for a period of not more than 7 days if the child is in need of immediate care and protection or has been abused.

the Family Court must make a written notice before the end of the 7 days.

63. Care Order

A Family Court can make a written notice to the district council on application by a social welfare or probation officer.

The order removes the child from his present situation and transfers the parental rights to the council.

The probation officer takes care of the child and determines the most suitable place for him (an approved residential home, with an approved fit person or the parent's, guardians or relative's home).

A care order (a written notice by the court) must not exceed 3 years or until the child is eighteen years old if it is earlier. An order (a written notice by the court) can make it compulsory for the person responsible for the child to pay for his maintaining.

64. Supervision Order

A supervision order made by the Family Court on application of an officer aims at preventing any significant harm being caused to a child remaining at his family home.

The supervision order places a child under the supervision of a probation officer but the child stays in the family home for a maximum period of one year or until the child is eighteen years old if it is earlier.

65. Duties of Probation and Social Welfare Officers

The duties of a social welfare officer or a probation officer in respect of a care or provision order are:

- to advice and help the child and his family,
- to make sure that the child is not subject to harm,
- to help to plan the future of the child.

66. Home Visit

An officer can be allowed by a parent, guardian or relative of the child to visit him.

67. General Provisions on Orders

A child who fails to follow an order (a written notice of the Court) and runs away can be returned to the place of care by the police. The Family Court may make another order if the approved fit person does not want to take care of the child no more.

68. Cancellation of Court Orders

An order can come to an end if it is the best interest of the child, by the request of the child, a probation officer, a social welfare officer or a parent, guardian or relative of the child.

69. Care Order and Adoption

After a certain period set by the court, a child under a care order can be put up for adoption.

PART 5

70. Minimum Age of Criminal Responsibility

A child can not be held responsible for his actions under 14 years old.

71. Establishment and Function of Child Panels

In each district, child panels are created. They are not courts of law. Their functions are to mediate in criminal and private matters concerning children.

72. Composition of a Child Panel

A child panel is made up of:

- a chairman nominated by the district council among the members of the council,
- a member of a women's organisation,
- a representative of the Chieftom councils in the district,
- the district social welfare officer,
- 2 citizens of high moral character and honesty.

73. Organization of a Child Panel

A child panel meets as often as necessary and at least once a month. Any agreement between the parties must be recorded by the child panel. Any person with an important interest in the matter before the child panel can be invited to attend and participate in its deliberations. A child is allowed to express his opinion and to participate in any decision that affects him according to his level of understanding.

74. Private Matters

A child panel tries to settle dispute in matters involving child's rights and the parental' duties.

75. Criminal Cases

A child panel tries to settle and bring about peace between a child and any person offended by his action.

A child must be aware of the consequences of his action and that his behaviour is subject to the juvenile court.

It can impose a community guidance order on the child with the consent of the parties concerned by the matter, meaning that the child is placed under the guidance and supervision of a person of good standing in the community for a period not exceeding 6 months.

It can ask the child to apologies, and ask that property which has been stolen is return back to the owner.

76. Family Courts

Family Courts are in charge of matters concerning children.

77. Composition of Family Court

A Family Court is composed of:

- a chairman who is a magistrate,
- 2 to 4 members appointed for their knowledge or experience in child rights issues, including a social welfare officer.

78. Power of Family Court

A Family Court has the power to deal with cases involving problems relating to claims that one person thinks that he is the parent of the child (parentage), custody (this involves a situation wherein one of the parents thinks that he should be the one that the child should live with), and matters dealing with the taking care of the child.

79. Family Court Sittings

A Family court must sit apart from ordinary courts and the only persons allowed in the room are:

- the members and officers of the Family Court,
- the parties to the case, their lawyers, witness and other persons directly concerned in the case,
- the parent or guardian of the child,
- the probation and social welfare officers,
- any other person permitted by the Family Court.

80. Procedure

The proceedings must be as informal as possible, the judge should do his best to investigate rather than leave the lawyers to produce the facts and evidence.

81. Rights of Child

The child has the right to have a lawyer and to give an account and express an opinion. The child's right to privacy must be respected. He has the right to appeal.

82. No Publication of Information

No person can publish information leading to the identification of the child, except with the permission of the Family Court. Disobeying this law is a fine not more than 2 million Leones or you are jailed for a period not more than one year.

PART 6 - PARENTAGE, CUSTODY AND MAINTENANCE OF CHILDREN

83. Application for Parentage

The persons who have the right to ask the Family Court for a written notice to prove who is the mother or father of a child are:

- the child,
- his parent,
- his guardian,
- a probation officer,
- a social welfare officer,
- any other interested person.

The request must be made before the birth of the child or during the 3 years after the death of his mother or father, or before the child is 18 or after if it is permitted by the court.

84. Evidence of Parentage

The evidence of who the mother or father of a child is, are:

- the name of the parent written on the births register,
- the performance of customary ceremony by the father of the child,
- the refusal by the parent to submit to a medical test,

- Any written documentation of parentage (that is who is the father or mother),
- Any other issue that the court thinks that would help to determine who the father or mother is.

85. Medical test

A Family Court can order the individual who is claiming to be the father or mother to a medical test to prove whether he or she is the real parent of the child.

86. Custody

A parent, family member or any person who raises a child can ask the court to allow the child to stay under his roof and be cared for by him or her.

87. Access to a Child

A parent, family member or any person who has been caring for a child can ask the court to allow him or her to be able to visit the child.

88. Consideration for Custody or Access

The condition that is set by the court for this are:

- the best interest of the child,

- the importance for a young child to be with his mother,
- the age of the child,
- the importance for a child to be with his parents except if he is abused,
- the opinion of the child,
- the importance of keeping brothers and sisters together,
- the need for continuity in the care and control of the child,
- any other matter that the court considers necessary.

89. Unlawful Child Removal

No person can illegally remove a child from his lawful care from the control of his parent, his guardian, a relative, a probation officer etc without the permission of the Family Court.

90. Duty to Maintain Child

The person who by law is allowed to take care of a child must provide necessary assistance to the child by promoting his health, basic education and provide him with shelter. The father of a child, whether the child was born during the period of marriage or outside marriage is responsible according to the law to take care of the child.

91. Application for Maintenance Order

A parent, the guardian or any other person who has a child that is leaving under his roof, the child through someone who has his interest at heart, a probation officer or a social welfare officer can ask the court for a maintenance order (meaning that it is a written notice informing the court that they are going to take care of the child).

The request for maintenance order can be made to operate against a person who according to the law is responsible to maintain the child or to contribute to his maintenance.

92. Considerations for Maintenance Order

The conditions laid down by the court for making a maintenance order are:

- the income and wealth of both parents for the maintenance of the child,
- any difficulties face by one of the parents in being able to earn a salary or an income,

- his financial responsibility to take care of his other children,
- the cost of living in the area where the child lives,
- the rights of the child,
- any other matter the court considers important.

93. Request for Social Enquiry Report

A Family Court can request a probation officer or social welfare officer to prepare a social enquiry report on the issue of maintenance and can consider the report in making decision.

94. Form of Maintenance Order

A Family Court can state that a mother should be taken care of by the father of her child even if she is not married to the father of the child, including:

- medical expenses for the duration of the pregnancy, delivery or death of the child,
- allowance for the maintenance (to take care) of the mother during her period of pregnancy and after the birth of the baby,
- the payment of money for the education of the mother if she is a child herself.

The income or property of the person can be used for the payment of the maintenance in case of failure to pay maintenance.

A Family Court can make a maintenance order for any other child in need in the household.

A Family Court can make an order for the delay of any payment against any person responsible for maintenance.

95. Persons Who Have the Right to Maintenance Order

Any person who has a child living under his roof named at in a maintenance order must receive and administer the money for his maintenance. If this person is unable to perform this function, another person will be appointed by the court.

96. Duration of Order

A maintenance order stops when the child is 18 or dies before 18 or when the child has got a job.

97. Continuation of Maintenance Order

A maintenance order can continue after 18 if the child is going to school or university or he is learning a particular trade.

A request asking the court for the continuation of the maintenance order can be made by a parent, any person who has the child living with him or by the young person himself.

98. Changes and Ending a Maintenance Order

A Family Court can stop or change an order when it is requested by a parent, the person who lives with the child, by the child or a young person, or any other person responsible for his care.

99. Enforcement of Order

Any person can ask a judge to put in force/enforce a maintenance order 30 days after the order is made by the court.

100. Access to Child for a Parents Who Does Not Live With the Child

A parent who does not have his child living under his roof because he is faced with a custody (that is the right of his child to live in his house), access (being able to see and visit the child) or maintenance order (the court forcing the parent to take care of the child) can still have access to him that is being able to see and visit the child).

101. Preventing Many Maintenance Applications

No court action for a maintenance order can be brought if there is already an application for maintenance during divorce proceedings under the Matrimonial Causes Act.

102. Offences

Any person who unlawfully removes a child from his custody (sec 89), fails to supply the child with his necessities (sec 90) or take someone to court in order that the person may take care of his child while a similar matter is brought to the attention of the court during divorce proceedings (sec 101) commits a crime and can be fined not less than 500 000 leones or jailed for a period not less than 6 months or to pay the fine and at the same time jailed for a period not less than six months.

105. Foster-Care Placement

When a child has been sent to live in a home by the court, an advice to place the child in a residential home has been made by an officer or a child has been placed in a residential home by any person, a committee can decide to place the child with a foster parent.

This committee is made up of:

- a probation officer
- a social welfare officer,
- a person in charge of the approved residential home,
- 2 persons from the community with special interest in the welfare of children,
- A request to foster a child can be made to a probation officer, a social welfare officer or to a person in charge of the approved residential home who will send it to the district council.

106. Persons Who Can Foster

Any person who is more than 21 years of age, of high moral character and he is honest can be a foster-parent.

107. Definition of a Foster-Parent

A foster-parent is a person who is not the real parent of a child but is willing to take care of him.

108. Adoption Application by Foster-Parent

A person who is below 30 years old and has been leaving with and taking care of a child as a foster-parent for not less than 6 months can apply to take up the responsibility of taking care and acting as if he is the real parent of the child, this is known as adoption.

PART 7 - INSTITUTIONALISED CARE AND MISCELLANEOUS MATTERS

109. Approval of Residential Home

The Government may set up approved residential homes in areas determined by the Minister. Any other person, including an NGO can establish a residential home and submit it to the approval of the district council.

The district council will inspect the home and if it fits with the standards, it will be approved by public notice.

The home must obtain a licence to operate issued by the district council after the payment of a fee, except for the government homes.

An already established non governmental home must apply to the district council for approval and the issue of a licence within a period of 6 months from the start of this Child Right Act 2007. If the residential home fails to obtain a licence, it must stop its activities.

110. Council to Monitor Homes

A district council monitors the homes in its area.

111. Minister to Give Directives to Homes

The Minister can give orders and directives to homes in line with public interest.

112. Inspection of Homes

At any time the Minister can ask the district council to make an inspection of a home in order to check if it fits with the standards.

113. Admission of Children to Homes

A child can be admitted in a home for the care of children when the Family Court is deciding how to protect this child, on the advice of a probation officer or social welfare officer, or if he is an orphan and no other solution is available.

If a home fails to maintain the standards, the licence can be cancelled or suspended by the district council and another solution will be found for the children.

The staff of the home and the officers must help the resident children to live again with his parents, guardian or relatives.

After a child has been returned to his family, the probation officer and social welfare officer must keep in contact with him.

If a child has no parent or foster- parent or is unable to return to his family, the home and the officers must encourage and help him to become live on his own.

114. Parental Responsibility of Homes

The staff of a home for the care of children assumes the Parental responsibility for the residential children and ensures the protection of their rights.

The parents, guardian or relatives of a child in a home for the care of children have to take care of the welfare of the child by visiting him and protecting his interest.

A written request to a Family Court to protect the best interest of the child is part of the parental responsibility of a child in a home.

115. Power of Family Court to Order Contribution

A Family Court can order that the parents, guardian or relatives of a child in a home for the care of children make a payment to help in taking care of the child in the home in according to their income.

116. Approved Homes and Adoption

A child in a home for the care of children can be put up for adoption that is someone else other than the real parents can be given the duty to act as if they are the parents of this child if it is in his best interest. The decision is taken by the district council after discussion with the home manager.

117. Regulations on Homes

The Minister can make regulations about homes for the care of children.

118. Offences

The punishment made for parents in case of breaking they law as stated in section 114 of this Child Right Act 2007 applies to the home staff.

Any person who holds a home without licence, continues to run a home in by breaking the law or obstructs an inspection commits an offence and can be fined not more than 5 million leones or jailed for not more than one year or to both and in case of continuing offence, to 50 000 leones for each day on which the offence continues.

119. Permit to Operate Day-Care Centres

It is compulsory to have a permit delivered by the district council to run a day-care centre. The council inspects the future day-care centre to check if it fits with the standards and if approved, delivers a permit upon payment of a fee.

Any day-care centre running without permit must be closed by the council.

120. Inspection of Day-Care Centres

The council must inspect day-care centres at least once in every 6 months. If the inspection shows that the centre does not fit with the standards in the best interest of the child, the council must suspend the permit and the owner of the centre must make the necessary changes. If he fails, the permit is cancelled.

121. Bye-Laws and Guidelines

A district council must determine the operation of day-care centres in its area.

122. Policy Directives

The Minister issues directives for the operation of day-care centres.

123. Existing Operators

Any already operating day-care centre must apply to the district council for a permit within 6 months of the start of this Child Right Act 2007. If it fails to get the permit, it must stop operating.

124. General Offence and Penalty

Any person who operates a day-care centre without permit, continues to operate a day-care centre by breaking the law or obstruct inspections commits a crime and can be fined not more than 2 million leones or jailed for not more than one year or to both and in case of continuing offence to a further fine not exceeding 50 000 leones for each day on which the offence continues.

PART 8 - EMPLOYMENT OF CHILDREN

125. Minimum Age for Full-Time Employment

The compulsory primary education of a child ends at 15. The minimum age for full-time employment of a child is 15.

126. Preventing Child Labour at Night

No person can employ a child in night work meaning between 8pm and 6am.

127. Minimum Age for Light Work

The minimum age for the employment of a child in light work is 13 years of age. Light work means not harmful to the health or development of the child and not preventing the child from going to school and to benefit from school work.

128. Minimum Age for Hazardous Employment

The minimum age for hazardous/dangerous work is 18 years of age. Hazardous means a work that poses a danger to the health, safety or morals of a person and includes going to sea, mining or quarrying, carrying heavy loads, using chemical products, working with machines and working in places where a child can be exposed to immoral and bad behaviour (hotels, bars, night clubs etc).

129. Application

This Act applies to employment all sectors.

130. Registration of Children and Young Workers

An industrial employer must keep a register of the children and young persons he employs with their date of birth or obvious age if the date of birth is unknown.

Industrial means everything except commerce and agriculture (mines, manufacture, transports...).

131. Offences

Any person who break this law concerning employment of children commits an offence and can be sentenced to a fine not more than 10 million Leones or jailed for not more than 2 years or to both.

Any person who break this law in section 130 of the Child Right Act 2007 commits an offence and can be fined not more than 500 000 leones

132. Formal Sector

A district labour officer is in charge of checking this law is being respected and followed about children labour in the formal sector. He can conduct investigation, question any person and report any matter to the police who will investigate and prosecute the law breaker.

133. Informal Sector

The district council is responsible for the enforcement of this Act in the informal sector. Any person can be questioned by a member of the council and the member can report any matter to the police who will investigate and prosecute the law breaker.

If the law breaker is a member of the family of the child, the district council must ask a probation officer or social welfare officer to prepare an investigation report that will be read by the police before any action is taken.

134. Apprentices

This Act applies to child apprentices in the informal sector.

135. Minimum Age for Apprenticeship

The minimum age for an apprenticeship is 15 or after the child has finished basic education.

136. Responsibilities of Craftsman

The craftsman is responsible toward his apprentice and must:

- train and instruct him,
- be responsible for any harm caused to the apprentice,

- provide food to the apprentice,
- provide him a safe and healthy environment,
- provide for his moral training,
- protect his best interest.

137. Apprenticeship Agreement

The parent, guardian or relative of an apprentice must reach an agreement with the craftsman in the best interest of the parties and the apprentice (child).

138. Duties of Apprentice

An apprentice must obey and serve the craftsman and agree not to be absent without permission, to prevent and not to cause any deliberate damage to the property of the craftsman.

139. Release of Apprentice

The conditions for the release of the apprentice must be in the best interest of the child. The craftsman must issue a certificate of release at the end of the apprenticeship.

If he refuses to deliver the certificate without any justification, he commits a crime and can be fine not more than 2 million Leones or jailed for not more than 6 months or to both.

140. Resolution of Disputes

Disputes related to an apprenticeship are referred to the district labour officer.

141. Amendments

Please see the text.

THE MAIN PRESCRIPTIONS OF THE CHILD RIGHT ACT, 2007

The main provision of this Act is the principle of **the best interest of the child**. Every decision concerning a child must be taken in his best interest without any discrimination in respect with the right to life and maximum survival and development, in respect and all the rights contained in the Convention and the Charter.

Children's Rights:

- right to life and maximum survival and development,
- right to name, nationality and knowledge of origins,
- right to grow up with parents,
- right to life, dignity, respect, liberty, health, education and shelter,
- right to inherit property from parents (whether the parents are married or not),
- right to leisure: sport, cultural or artistic activities....,
- right to give his opinion in decisions he is concerned,

Protection of Children:

- protection against neglect, discrimination, violence, sexual abuse, physical and moral hazard and oppression,
- protection against exploitative labour,
- protection against torture and degrading treatment,

- protection against domestic violence (minimal, proportional and understandable correction),
- prohibition of night work,

Protection against Harmful Customary Practices:

Customary practices that cause harm to children and are not in the best interest of children are prevented. Any customary practice must fit with this Act, the Convention and the Charter.

Prohibited customs:

- early marriage,
- child engagement marriage as she reaches the age of puberty (betrothal).

Parents, Guardian or Relative' Responsibility and Duties:

The parental responsibility and duties exist even if the parents are not married and do not live together.

- **Main duties:** to provide good guidance, care, assistance, maintenance, maximum survival and development.
- **Duty to maintain a child:** to provide for health, life, basic education and shelter.

Any legally liable person must provide maintenance for a child. The father of a child, legitimate or not, living with the mother or not, is legally liable for his maintenance.

Family Court Orders:

- **Care and protection order:** a probation or social welfare officer asks the court to remove the child from his family because he thinks the child is in danger if he stays longer,
- **Supervision order:** a probation or social welfare officer is appointed to supervise and advice the family about the child when there is a threat for his welfare but the child stays with his family.
- **Maintenance order:** the court orders the parent who is legally liable but does not live with the child to pay for his everyday needs (health, education, clothes, shelter...). It can also order the father to pay for the mother's need (medical expenses, maintenance and education if she is a child herself) during pregnancy and 9 months after the delivery.

Parental Rights:

- right to live with the child or decide of his residence,
- right to control his education and upbringing,
- right to have personal relations with the child,
- right to represent his interests,

- right to appoint or remove a guardian,
- right to access to parenting programmes,
- right to participate in child welfare committees,
- right to ask the other parent for financial assistance.

Minimum Age:

- Marriage: 18
- Armed forces: 18
- Compulsory primary education: until 15
- Criminal responsibility: 14
- Light work: 13
- Full time employment: 15
- Hazardous employment: 18
- Apprenticeship: 15

