

No. 130/1999

with amendments

Chapter I

Adoptions and legal requirements in respect thereof

Article 1

Permission for adoption.

District Commissioners grant permission for adoptions. The Minister may decide that one single District Commissioner will grant permissions according to Chapters II to VI of this Act.

Article 2

Who can adopt.

A married couple or individuals who have been cohabiting for a period of at least five years shall jointly take part in the adoption process, as only these persons may jointly adopt children, subject to any exemptions provided in this Article.

One of the spouses, or one of the individuals in a cohabitation, may, however, with the consent of the other, be granted permission to adopt the child or the adopted

child of the other.

One of the spouses, or an individual who is in a cohabitation, may, furthermore, be granted permission for adoption if the other one has disappeared or is in such a mental state as not to understand the meaning of adoption.

A single person may be granted permission for adoption under special circumstances and if the adoption is clearly beneficial for the child.

For the purposes of this Act, cohabitation means a cohabitation of two persons which is registered in the population register or which may be ascertained by other unequivocal evidence.

### Article 3

Who can be adopted.

This Act applies to the adoption of children under the age of 18. It also applies to the adoption of older persons unless otherwise stipulated and as applicable. The term child in this Act means a child up to the age of 18.

A person may not adopt his biological child unless the child has previously been adopted and the adoption by the

biological parent is considered to improve the circumstances of the child.

#### Article 4

General conditions for adoption.

A permission for adoption may only be granted if it is deemed evident, following upon an investigation by the relevant Child Protection Committee, into the affairs of the prospective adopted child and those desiring to adopt, that this is in the best interest for the child. Furthermore, it shall be the intention of the adopting parties to take care of and bring up the child or the person who is to be adopted has been brought up with them or there are other special reasons for adoption.

#### Article 5

The age of the applicant.

A permission for adoption will only be granted to a person who has reached the age of 25 years. However, should special circumstances apply, a person who has reached the age of 20 may be granted permission for adoption.

#### Article 6

Consent of the person to be adopted.

An individual who has reached 12 years of age may not be adopted without his or her consent, provided that his or her mental state is not such as to prevent the expression of a valid consent or if it is deemed questionable to seek his or her approval due to his or her interests.

Before a child consents to an adoption in accordance with paragraph 1, a discussion shall be had with him or her on behalf of the relevant Child Protection Committee and guidance on adoption and its legal effects shall be provided. If the child who is to be adopted is younger than 12 years of age, his or her opinion to the prospective adoption shall be sought, as described in paragraph 2, if it is deemed possible, taking into consideration the child's age and maturity.

#### Article 7

Consent of the custodian of the child or a legal guardian.

The consent of parents, who have the custody of a child, is required for the adoption of the child.

If either parent, who has the custody of the child, is in such

a mental state as to be unable to give a valid consent or if he or she has disappeared, the consent of the other parent will suffice. In case conditions are such with both parents the consent of a specially appointed legal guardian for the child is required.

If a Child Protection Committee has the custody of the child the consent of the Committee is required for the adoption. A permission for adoption may be granted, even though a consent according to paragraph 1 or paragraph 2 is lacking if the child has been placed in foster care with the applicants and the circumstances of the child otherwise strongly recommend that he or she be adopted.

## Article 8

Form and contents of a consent.

Consent to adoption shall be given in writing, and the person concerned shall confirm the consent before a member of staff from a District Commissioner who confirms that the person concerned has been informed of the legal effects of consent and of adoption.

A consent is not valid unless it has been confirmed three