



Republic of Uganda



“ ENHANCING THE RULE OF LAW THROUGH LAND AND FAMILY JUSTICE”

Presentation on the Children (Amendment) Act 2016 and the Draft Children Regulations, 2016

By

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Structure of Presentation



1. Background
2. Purpose
3. Key Amendments
4. Regulations for the key amendments

Background



The Children Act Cap.59 (2000) provides for:

- 1) The care, protection and maintenance of children,
- 2) Local authority's support to children and,
- 3) The establishment of the Family and children court for child offenders and
- 4) Defined a child as a person below 18 years.



Since its enactment, the Children act CAP59 has had challenges in enforcement of some provisions. This has which negatively impacted on the realization of some fundamental rights. Therefore the need for the amendments.

Besides there were also other emerging issues which include the following:

- i) Increased violence against children
- ii) Child sacrifice,
- iii) Child trafficking
- iv) Child marriages.

The above created gaps that had to be closed and hence the amendment of the Act.



These gaps included the following;

- 1.lack of strong provisions to address emerging forms of child abuse including child sacrifice, pornography and sex tourism
- 2.lack of clear guidelines/procedures under which legal guardianship could be pursued.
3. Lack of sanctions for contravening provisions such as the operation of children homes without approval and employment of children in harmful labor conditions
- 4.Lack of sanctions against increasing corporal punishment in schools and other places of learning.

Purpose



Children (Amendment) Act, 2016 amended the Children Act Cap. 59 to enhance the protection of children as follows;

1) to strengthen the provision for guardianship of children;

2) to strengthen the conditions of inter-country adoption;

3) to prohibit corporal punishment and;

4) to provide for the National Children Authority and to provide for other related matters



1. Establishment of the Uganda National Children Authority and repealing the National Council for Children Act, CAP 60
2. Setting procedures for Legal Guardianship and restricting Legal Guardianship to Ugandan citizens only.
3. Adoption procedures have been amended by reducing the time which an applicant will foster a child before adoption orders are granted from 36 months to 12 months



4. Sexual exploitation of children has been prohibited and strong sanctions for those who do it include a fine of 100 currency points or imprisonment not exceeding five years
5. Special provisions for not discriminating against a child in service delivery on account of disability.
6. Introduction of provisions to protect children from all customary practices that are harmful to their health, education or mental, physical or moral development. This includes child marriages



- 7) Corporal Punishment for children in schools has been banned and strong sanctions for those who do it have been included.
- 8) The Minister responsible for children shall be responsible for supervision and recruitment of Probation Social Welfare Officers.



Children Regulations 2016

The regulations cover both the Children Act Cap 59 and the Children (Amendment) Act, 2016

These consolidate all the rules hitherto referred to as ***The Children (Adoption of Children) Rules, Statutory Instrument 1*** and ***The Children (Family and Children Court) Rules, Statutory Instrument-2*** and new ones being proposed for amendments as advised by PAC during the 9th Parliament.

Children Regulations 2016.



There are particularly three key areas of concern which require your attention,

- i) Legal Guardianship,
- ii) Adoption and
- iii) Inter-country adoption

The rest of the regulations will be looked at by the High Court- Family Division for a more thorough analysis and informed input into all the proposed regulations.



Children Regulations 2016

- For this particular presentation am going to concentrate on the regulations being proposed for legal guardianship and adoption especially inter-country adoption;





Children Regulations 2016.

- 1) The Ministry responsible for children affairs has established a National Alternative Care Panel through its National Alternative care Framework which is in charge of clearing all Social Welfare Reports concerning Legal Guardianship, Adoption and Inter- Country Adoption.
- 2) The National Alternative care panel will be represented at District level by a District Alternative Care panel to which the Senior Probation Social welfare officer is a secretary.
- 3) The panel at district will first check if the placement of the child in any other form of alternative care was in the child's best interest





Regulations continued.

4) Depending on which form of placement is being approved by the panel in 3 above, the Probation Social Welfare Officer will write a social welfare report to court that bears the Panels opinion.

5) The courts shall not make any order to place a child in any form of alternative care without taking due consideration of the social welfare report endorsed by the District Panel.

6) If the recommended placement is inter- country adoption, the report shall be endorsed by the National Alternative Care Panel.

7) The Panels shall be guided by the National Alternative Care Frame Work and the children act CAP59 (as amended)



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THANK YOU