

Annex – Proposed amendments to the Adoption of Children Act (ACA)

| S/N | Intent |
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| Eliminate unethical behaviour | |
| 1. | <p>Deter undesirable or unethical practices in the adoption sector to protect the interests of parties (children, birth parents, applicants).</p> <p>The proposed amendments are to:</p> <ul style="list-style-type: none"> a) Deter undesirable activities, and impose penalties (imprisonment and/or fines) for the following offences: <ul style="list-style-type: none"> i. Obtaining of birth parents’ consent to adoption through fraud, coercion or an exploitative relationship; ii. Provision of misleading or false declarations or information at any stage of the adoption process; iii. Having a child placed with or cared for by applicants who do not have a favourable adoption readiness assessment and (for foreign children) in-principle approval of the child’s Dependant’s Pass¹; iv. Publishing personal information of children, unless approved by the GIA; and v. Adoption agencies not making publicly available up-to-date information on their fees and services, which would enable prospective adopters to make more informed decisions. b) Require adoption applicants to provide a breakdown of all payments made or to be made in consideration of the adoption (including details of recipients) to the Court when submitting the application. c) Impose a general duty of care on all individuals and entities (e.g. adoption agencies) to ensure that they take reasonable care to protect the best interests of children. Specifically, a breach of the following would constitute an offence: <ul style="list-style-type: none"> i. Non-compliance with any requirement under the Act (e.g. pre-adoption and Guardian-in-Adoption (GIA) assessment requirements, notifying material changes in circumstances, compliance with directions by the GIA). ii. Commission of any offences in the Act. |
| 2. | <p>Identify parties undertaking adoption duties, to enable the implementation of measures to strengthen the adoption sector.</p> <p>The proposed amendments are to define “adoption agency” and “authorised adoption agency” in the legislation as follows:</p> |

¹ MSF recognises that there may be valid reasons why some children may already be staying with their prospective adopters. MSF intends to specify scenarios when a child may be placed even if the prospective adopters are not yet assessed as suitable. This could include cases of a child staying with a step-parent, or relative prior to the adoption application.

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| | <p>a) An “adoption agency” will be defined as a business or individual making arrangements for, or on behalf of, another person to facilitate an adoption under the ACA.</p> <p>b) An “authorised adoption agency” will be defined as an agency authorised by the Minister for Social and Family Development to perform specified functions related to adoptions.</p> |
| Find a good home for every child | |
| 3. | <p>Require all applicants to undergo a readiness assessment so that applicants better understand their own readiness to manage the challenges of the adoption journey and the possible support that they may require. It will also ensure that the child is placed in a safe and suitable environment.</p> <p>The proposed amendments are to:</p> <p>a) Strictly require all prospective adopters to obtain a favourable “Adoption Readiness Assessment” before they are able to submit an adoption application to the Court. This requirement will not be waived.</p> <p>b) Require applicants to be physically present in Singapore for at least one year immediately preceding the date of the pre-adoption assessment application.</p> <p>c) Empower the GIA and authorised adoption agencies to vary/revoke the Adoption Readiness Assessment if there has been a material change in the applicants’ circumstances after the assessment was issued (e.g. change in job circumstances for one or both applicants, or change in plans for care arrangements) or if the GIA disagrees with the authorised adoption agency’s assessment.</p> <p>d) Allow applicants to appeal to the GIA and thereafter the Minister against the outcome of the assessment, or the decision to vary/revoke assessment, to ensure that their views are heard. Minister’s decision on an appeal will be final.</p> |
| 4. | <p>Give priority to applicants with strong ties to Singapore, amidst a global decline in the number of children involved in inter-country adoptions.</p> <p>The proposed amendments are to:</p> <p>a) Impose residency requirements for applicants:</p> <ol style="list-style-type: none"> i. Must be habitually resident in Singapore AND ii. One or both applicants must be Singapore Citizens or both applicants must be Permanent Residents. |

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| | <p>b) Allow residency requirements to be relaxed if there are exceptional circumstances, but only if the adoption improves the welfare of the child.</p> |
| 5. | <p>Scrutinise applications where applicants were convicted of serious crimes to ensure the safety of adopted children.</p> <p>The proposed amendments are:</p> <p>a) For the Court to consider and be satisfied that the applicant has the appropriate character and fitness to adopt.</p> <p>b) To prohibit applicants convicted of the following serious offences (to be prescribed in subsidiary legislation) from adopting:</p> <ul style="list-style-type: none"> i. Sexual offences; ii. Offences involving violence, abuse, and neglect (e.g. ill-treatment of children, causing hurt to vulnerable persons); iii. Offences affecting life (e.g. causing death by rash acts, attempt to murder); iv. Trafficking offences; v. Kidnapping, abduction, and slavery offences; and vi. Drug offences. <p>c) Allow exceptions to be made if applicants are able to show the Court that there are exceptional circumstances (e.g. the applicant committed the offence decades ago and has since turned over a new leaf). The Court must also give weight to whether the GIA is supportive.</p> |
| 6. | <p>Deter withholding of information, as some applicants currently refuse to undergo assessments or provide necessary information to determine their suitability. This diverts attention and resources away from cooperative applicants and may unfairly lengthen their adoption process.</p> <p>The proposed amendments are to:</p> <p>a) Empower the GIA and authorised adoption agencies to require applicants or other relevant persons (e.g. family members living in the same house) to undergo medical, psychiatric or psychological assessments, or any other assessments that the GIA deems fit, or provide such information as may be necessary.</p> <p>b) Require applicants to notify the GIA if there has been a material change in their circumstances which may affect their suitability to provide a safe and stable family for the child. Examples of what constitutes a material change in circumstances (e.g. applicants are undergoing a divorce, diagnosis of a terminal illness) will be set out in subsidiary legislation.</p> <p>c) Empower the Court to strike out the application or make other orders as the Court thinks fit if applicants do not comply with the above.</p> |

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| 7. | <p>Ensure the child is cared for if the adoption placement breaks down during proceedings, or an adoption order is not made, to ensure that the child is not left in limbo in an unsuitable home.</p> <p>The proposed amendments are to:</p> <ul style="list-style-type: none"> a) Allow the Court to make an order to remove the child from the applicant or such other person in whose care or custody the child may be; b) Allow the Court to make an order to place the child with such suitable person as the GIA may recommend, if any of the following conditions are met: <ul style="list-style-type: none"> i. It is not in the child’s welfare to be in the care of the applicant; ii. The applicant is not willing or able to care for the child; or iii. An adoption order has not been granted. c) Allow the Court to make such orders: <ul style="list-style-type: none"> i. any time after the filing of the adoption application up to 14 days after a decision on the adoption application has been made (whether or not the adoption was successful); ii. as the Court may initiate, or upon the application of the GIA. d) Make non-compliance with the order an offence with penalties. |
| Break cycles of abuse/neglect | |
| 8. | <p>Not require the consent of some birth parents, to facilitate the adoption of children whose birth parents withhold consent to adoption, although they are unwilling or unable to take care of their child despite their best efforts, even with the support of professionals and the community.</p> <p>The proposed amendments are to:</p> <ul style="list-style-type: none"> a) Include a requirement that an adoption order cannot be made unless the applicant serves a copy of the application on every parent or guardian whose consent is required for the adoption. The Court may dispense with service on any person. b) Allow the Court to decide whether to dispense with consent if the parent or guardian whose consent is required for the adoption: <ul style="list-style-type: none"> i. Has abandoned the child or cannot be found; ii. Has neglected or ill-treated the child, and has not adequately resolved the conditions that pose a risk of harm to the child within a specified period (1 year for a child under 3 years old, and 2 years for a child above 3 years old); iii. Has failed, without reasonable excuse, to care for the child independently or to fulfil the responsibilities of a parent/guardian for the specified period; |

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| | <ul style="list-style-type: none"> iv. Has been institutionalised (including imprisonment), for a period of time that would make it highly unlikely for the person to care for the child; v. Is a chronic drug abuser, or has displayed a continuous pattern of recalcitrant offending; vi. Has been assessed by a qualified assessor (1) to be unable to have care and control of the child at the material time of the assessment, due to physical or mental incapacity; and (2) that the person is unlikely to be able to resume care and control of the child within a reasonable period of time; vii. Ought to have his/her consent dispensed with, in the opinion of the court and in all the circumstances of the case. <p>c) Empower the GIA to require any person whose consent is required for an adoption to be assessed by a qualified assessor, as there are some parents or guardians who refuse to be assessed on their capacity to care for the child.</p> |
| 9. | <p>Facilitate adoption of children in state care who are unlikely to be reunified with their natural families, to encourage more families to step forward to adopt the child to give him or her the opportunity to grow up in a stable and loving family.</p> <p>The proposed amendments are to:</p> <ul style="list-style-type: none"> a) Allow the Court to decide to dispense with parental consent, if the adoption application relates to a child who is the subject of an Enhanced Care and Protection Order (ECPO) granted under Section 49B of the Children and Young Persons Act (CYPA). b) Allow the Director-General of Social Welfare (DGSW) or a protector (who is a person authorised by the DGSW to perform functions under the CYPA) to intervene in adoption proceedings if the child to be adopted is under a Court order for care or protection issues. This is to allow the DGSW or the protector to make a case to the Court on why parental consent may be dispensed with. |
| Other amendments | |
| 10. | <p>Protect parties performing adoption duties under the Act from personal liability</p> <p>The proposed amendment is to accord protection from personal liability to staff in authorised adoption agencies and MSF officers involved in adoption cases if they have acted (or omitted to act) in good faith and with reasonable care.</p> |

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| 11. | <p>Replace the term “infant” with “child”, as the ordinary meaning of the term “infant” typically describes a very young child, and does not convey the correct impression that the Act allows adoptions of persons below the age of 21.</p> |
| 12. | <p>Legislate the title of Guardian-in-Adoption</p> <p>The proposed amendments are to:</p> <ul style="list-style-type: none"> a) Create a new departmental/ statutory title of Guardian-in-Adoption, who shall be responsible for safeguarding the interests of children to be adopted and the administration and enforcement of the ACA. b) Empower the GIA to delegate her functions to any public officer, or such other person with the approval of Minister. c) Repeal Section 10(3) of the ACA, which imposes a duty on the court to appoint a person/body to act as a GIA, so as to reduce administrative processes. |