

Adoption Law of the People's Republic of China

(Adopted at the 23rd Meeting of the Standing Committee of the Seventh National People's Congress on December 29, 1991, promulgated by Order No. 54 of the President of the People's Republic of China on December 29, 1991, and effective as of April 1, 1992)

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Article 1 This Law is enacted to protect the lawful adoptive relationship and to safe-guard the rights of parties involved in the adoptive relationship.

Article 2 Adoption shall be in the interest of the upbringing and growth of adopted minors, in conformity with the principle of equality and voluntariness, and not in contravention of social morality.

Article 3 Adoption shall not contravene laws and regulations on family planning.

CHAPTER II ESTABLISHMENT OF ADOPTIVE RELATIONSHIP

Article 4 Minors under the age of 14, as enumerated below, may be adopted:

- (1) orphans bereaved of parents;
- (2) abandoned infants or children whose parents cannot be ascertained or found; or
- (3) children whose parents are unable to rear them due to unusual difficulties.

Article 5 The following citizens or institutions shall be entitled to place out children for adoption:

- (1) guardians of an orphan;
- (2) social welfare institutions; or
- (3) parents unable to rear their children due to unusual difficulties.

Article 6 Adopters shall meet simultaneously the following requirements:

- (1) childless;
- (2) capable of rearing and educating the adoptee; and
- (3) having reached the age of 35.

Article 7 Any childless citizen who has reached the age of 35 may adopt a child belonging to a collateral relative by blood of the same generation and up to the third degree of kinship, irrespective of the restrictions specified in Item (3), Article 4; Item (3), Article 5; and Article 9 of this Law as well as the restriction of a minor under the age of 14.

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An overseas Chinese, in adopting a child belonging to a collateral relative by blood of the same generation and up to the third degree of kinship, may even be not subject to the adopter's childless status.

Article 8 The adopter may adopt one child only, male or female.

Orphans or disabled children may be adopted irrespective of the restrictions that the adopter shall be childless, reach the age of 35 and adopt one child only.

Article 9 Where a male person without spouse adopts a female child, the age difference between the adopter and the adoptee shall be no less than 40 years.

Article 10 Where the parents intend to place out their child for adoption, they must act in concert. If one parent cannot be ascertained or found, the other parent may place out the child for adoption alone.

Where a person with spouse adopts a child, the husband and wife must adopt the child in concert.

Article 11 Adoption of a child and the placing out of the child for the adoption shall both take place on a voluntary basis.

Where the adoption involves a minor aged 10 or more, the consent of the adoptee shall be obtained.

Article 12 If the parents of a minor are both persons without full civil capacity, the guardian(s) of the minor may not place out him (her) for adoption, except when the parents may do serious harm to the minor.

Article 13 Where a guardian intends to place out an orphaned minor for adoption, the guardian must obtain the consent of the person who has obligations to support the orphan. Where the person who has obligations to support the orphan disagrees to place out the orphan for adoption, and the guardian is unwilling to continue the performance of his guardianship, it is necessary to change the guardian in accordance with the General Principles of the Civil Law of the People's Republic of China.

Article 14 A step-father or step-mother may, with the consent of the parents of the stepson or step-daughter, adopt the stepson or step-daughter, and such adoption may be free from the restrictions specified in Item (3), Article 4; Item (3), Article 5; and Article 6 of this Law, as well as from the restriction that the adoptee must be under the age of 14.

Article 15 Whoever adopts an abandoned infant or child whose parents cannot be ascertained or found or an orphan in the care of a social welfare institution shall register the adoption with a civil affairs department.

Apart from the provisions of the preceding paragraph, a written agreement on adoption shall be concluded by the adopter and the person placing out the child for adoption in accordance with the terms on adoption and on placing out a child for adoption provided by this Law. The adoption may also be notarized. If the adopter or the person placing out the child for adoption wishes that the adoption be notarized, the adoption shall be notarized.

Article 16 Orphans or children whose parents are unable to rear them may be supported by relatives or friends of their parents.

The adoptive relationship shall not apply to the relationship between the supporter and the supported.

Article 17 Where a spouse places out a minor child for adoption after the death of the other spouse, the parents of the deceased shall have the priority in rearing the child.

Article 18 Persons having placed out a child for adoption may not bear any more child, in violation of the regulations on family planning, on the ground of having placed out their child for adoption.

Article 19 It is strictly forbidden to buy or sell a child or to do so under the cloak of adoption.

Article 20 A foreigner may, in accordance with this Law, adopt a child (male or female) in the People's Republic of China.

With respect to the adoption by a foreigner in the People's Republic of China, papers certifying such particulars of the adopter as age, marital status, profession, property, health and whether subjected once to criminal punishment shall be

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provided. Such certifying papers shall be notarized by a notarial agency or notary of the country to which the adopter belongs, and the notarization shall be authenticated by the Embassy or Consulate of the People's Republic of China stationed in that country. The adopter shall conclude a written agreement with the person placing out the child for adoption, register in person the adoption with a Chinese civil affairs department and complete the procedure for notarizing the adoption at a designated notarial agency. The adoptive relationship shall be established as of the date of the notarization.

Article 21 When the adopter and the person placing out the child for adoption wish to make a secret of the adoption, others shall respect their wish and shall not make a disclosure thereof.

Article 22 As of the date of establishment of the adoptive relationship, the legal provisions governing the relationship between parents and children shall apply to the rights and duties in the relationship between adoptive parents and adopted children; the legal provisions governing the relationship between children and close relatives of their parents shall apply to the rights and duties in the relationship between adopted children and close relatives of the adoptive parents. The rights and duties in the relationship between an adopted child and his or her parents and other close relatives shall terminate with the establishment of the adoptive relationship.

Article 23 An adopted child may adopt his or her adoptive father's or adoptive mother's surname, and may also retain his or her original surname, if so agreed through consultation between the parties concerned.

Article 24 Any act of adoption contravening the provisions of Article 55 of the General Principles of the Civil Law of the People's Republic of China and those of this Law shall be of no legal validity.

Any act of adoption ruled to be invalid by a people's court shall be of no legal validity from the very start of the act.

CHAPTER IV TERMINATION OF THE ADOPTIVE RELATIONSHIP

Article 25 No adopter may terminate the adoptive relationship before the adoptee comes of age, except when the adopter and the person having placed out the child for the adoption agree to terminate such relationship. If the adopted child involved reaches the age of 10 or more, his or her consent shall be obtained.

Where an adopter fails to perform the duty of rearing the adoptee or commits maltreatment, abandonment, or other acts of encroachment upon the lawful rights of the minor adopted child, the person having placed out the child for adoption shall have the right to demand termination of the adoptive relationship. Where the adopter and the person having placed out the child for adoption fail to reach an agreement thereon, a suit may be brought in a people's court.

Article 26 Where the relationship between the adoptive parents and an adult adopted child deteriorates to such a degree that their living together in a same household becomes impossible, they may terminate their adoptive relationship by agreement. In the absence of an agreement, they may bring a suit in a people's court.

Article 27 To terminate an adoptive relationship, the parties concerned shall conclude a written agreement. Where the adoptive relationship was established through registration with a civil affairs department, the parties shall complete the procedure for registering the termination of the adoptive relationship at a civil affairs department. Where the adoptive relationship was notarized, the parties shall have the termination of the adoptive relationship also notarized at a notarial agency.

Article 28 Upon termination of an adoptive relationship, the rights and duties in the relationship between an adopted child and his or her adoptive parents and their close relatives shall also terminate, and the rights and duties in the relationship between the child and his or her parents and their close relatives shall be restored automatically. However, with respect to the rights and duties in the relationship between an adult adopted child and his or her parents and their close relatives, it may be decided through consultation as to whether to restore them.

Article 29 Upon termination of an adoptive relationship, an adult adopted child who has been reared by the adoptive parents shall provide an amount of money to support the adoptive parents who have lost ability to work and are short of any source of income. If the adoptive relationship is terminated on account of the maltreatment or desertion of the adoptive parents by the grown-up adopted child, the adoptive parents may demand a compensation from the adopted child for the living and education expenses paid during the period of adoption.

If the parents of an adopted child request the termination of the adoptive relationship, the adoptive parents may demand an appropriate compensation from the parents for the living and education expenses paid during the period of adoption, except if

the adoptive relationship is terminated on account of the maltreatment or desertion of the adopted child by the adoptive parents.

Article 30 Whoever abducts and traffics in a child under the cloak of adoption shall be investigated for criminal responsibility in accordance with the Decision of the Standing Committee of the National People's Congress Regarding the Severe Punishment of Criminals Who Abduct and Traffic in or Kidnap Women or Children.

Whoever abandons an infant shall be imposed upon a fine of not more than 1,000 yuan by a public security organ; if the circumstances are so flagrant as to constitute a crime, the offender shall be investigated for criminal responsibility in accordance with Article 183 of the Criminal Law.

Whoever sells his or her own child shall be punished in accordance with the provisions in the second paragraph of this Article.

CHAPTER VI SUPPLEMENTARY PROVISIONS

Article 31 The people's congress and its standing committee in a national autonomous area may, on the basis of the principles of this Law and in the light of the local conditions, formulate adaptive or supplementary provisions.

The relevant regulations of a national autonomous region shall be submitted to the Standing Committee of the National People's Congress for the record. The relevant regulations of an autonomous prefecture of autonomous county shall be submitted to the standing committee of the provincial or autonomous region's people's congress for approval before coming into force, and shall also be submitted to the Standing Committee of the National People's Congress for the record.

Article 32 The State Council may, in accordance with this Law, formulate measures for its implementation.

Article 33 This Law shall enter into force as of April 1, 1992.