

The following was published in the *Stabroek News* on the 21<sup>st</sup> August 2000 under the caption "**Amendment to the Adoption Act is very badly drafted**" and in the *Guyana Chronicle* on the 20<sup>th</sup> August 2000 under the caption "**Guyanese living abroad cannot adopt children here**".

17<sup>th</sup> August 2000.

Dear Editor,

The *Adoption of Children Act*, Cap. 46:04 was amended in 1997 by Act No. 23 of 1997. The main purpose of the amendment was to allow Guyanese or former Guyanese living abroad to adopt Guyanese children living in Guyana.

A new section 9(4) states "Where the applicant is not domiciled in Guyana, he shall, in addition to any other prescribed requirements, furnish the court with a certificate from the Guyanese diplomatic mission or consulate in the country in which he is resident, or such other office or person as may be prescribed, stating that the applicant is a suitable person to be entrusted with the child concerned."

The mandatory requirement of a "certificate" from our diplomatic offices abroad is unworkable and unenforceable for many reasons. Powers are given to persons and not offices, and the parameters of these powers ought to be defined. Particulars such as the contents and form of the "certificate" ought to be provided for with precision. In addition, the offices abroad are not equipped with the necessary resources to carry out such a function. It seems as if these offices were never consulted before this provision was drafted or subsequently.

Alternatively, the certificate may be obtained from "such other office or person as may be prescribed." Well, what is this "other office" and who is the other

“person”? The amendment failed to address these issues. As presently drafted, these glaring omissions can only be provided for by Regulations, So that until Regulations prescribe the details, the provision is totally useless. The necessary mechanisms and procedures have to be put in place to ensure that a provision can be made workable. Legislation must be realistic. For instance, how is it possible for a New York office to verify that an applicant living in New York or California is suitable to be entrusted with a child residing in Guyana.

The consequence of this inadequate drafting has led to legislation which was touted in Parliament in 1997 as being “very important and most urgent” to be inoperable and ineffective. In fact no adoption by a Guyanese living abroad can be validly processed under this provision although this law has been in force for almost three years.

Like many other pieces of legislation, this Act is a glaring example of poor draftsmanship. What we have is a cacophony of misused words and phrases. The provision ought to be repealed and entirely new provisions drafted. The legislation should be done urgently and competently so as to allow for the successful implementation of the policy. It is a waste of our scarce resources to draft legislation that is vague, incomplete, incomprehensible and unenforceable.

This state of affairs is a travesty and must be agonising both for children who are in need of adoption and for suitable applicants.

Yours faithfully,

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