



# **THE CHILDREN'S ACT, 2005 (ACT NO. 38 OF 2005)**

## **CONSOLIDATED REGULATIONS PERTAINING TO THE CHILDREN'S ACT, 2005**

***(Note:* The regulations pertaining to Children's Courts (Chapter 4 of the Act), Contribution Orders (Chapter 10 of the Act) and Child Abduction (Chapter 17 of the Act) are a responsibility of the Department of Justice and Constitutional Development and have not been incorporated into these regulations)**

**DEPARTMENT OF SOCIAL DEVELOPMENT**

**No. R**

**2010**

**CHILDREN'S ACT, 2005**

**GENERAL REGULATIONS REGARDING CHILDREN**

The Minister of Social Development has under section 306 of the Children's Act, 2005 (Act No.38 of 2005), after consultation with the Ministers for Justice and Constitutional Development, Safety and Security Health, Education, Finance, Transport, Home Affairs and Provincial and Local Government, made the regulations in the Schedule.

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## CHAPTER 1 GENERAL PROVISIONS

### Definitions

1.(1) In these Regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

**“disciplines”** means different professionals working with a person to resolve a common problem or achieve a common goal through continuous intercommunication, re-examination and evaluation;

**“Mayor”** means the appointed head of a town, city or metropolitan council;

**“positive discipline”** includes discussing any negative effects of a child’s behaviour with him or her;

**“registration holder”** means the holder of a registration of a partial care facility, an early childhood development programme, a child and youth care centre or a drop-in centre;

**“the Act”** means the Children’s Act, 2005 (Act No. 38 of 2005);

**“the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007”** means the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No.32 of 2007);

**“the Criminal Procedure Act, 1977”** means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

**“the National Register for Sex Offenders”** means the National Register for Sex Offenders established under section 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007;

**“the Social Service Professions Act, 1978”** means the Social Service Professions Act, 1978 (Act No. 110 of 1978).

(2) A reference to a Form in these Regulations is a reference to the relevant Form contained in **Annexure A**.

### Intervals of provincial profiles

2. The relevant MEC responsible for social development must compile a provincial profile in respect of the strategies concerning–

- (a) partial care, as contemplated in section 77 of the Act;
- (b) early childhood development, as contemplated in section 92 of the Act;
- (c) child protection, as contemplated in section 104 of the Act;
- (d) prevention and early intervention programmes, as contemplated in section 145 of the Act;
- (e) the provision of child and youth care centres, as contemplated in section 192 of the Act; and
- (f) drop-in centres, as contemplated in section 214 of the Act,

within one year of the incorporation of the relevant provincial strategy into the relevant national strategy and every year thereafter.

**CHAPTER 2**  
**SOCIAL, CULTURAL AND RELIGIOUS PRACTICES**  
**(Section 12 of the Act)**

**PART I**  
**VIRGINITY TESTING**

**Consent to undergo virginity test**

3.(1) Consent to undergo a virginity test by a child who is older than 16 years of age must be in a form identical to **Form 1** and must be–

- (a) completed in writing and signed by the child;
- (b) signed by the person conducting the virginity test;
- (c) accompanied by proof of the age of the child as established in terms of regulation 4(3)(b); and
- (d) *commissioned by a Commissioner of Oaths.*

(2) Where a person whose signature is required in terms of paragraph (a) or (b) of sub-regulation (1) is incapable of furnishing a signature, a thumbprint of the person must be effected on **Form 1** and duly attested by a commissioner of oaths.

(3) A child who is older than 16 years of age and who has a disability related to brain damage which renders the said child incapable of making a decision regarding a virginity test or a child with multiple disabilities who is not able to make such a decision, cannot be subjected to a virginity test.

(4) A copy of the form contemplated in sub-regulation (1) must be retained by the person performing the virginity test for a period of three years after consent, as contemplated in this regulation, has been furnished.

### **Manner of conducting virginity test**

4.(1) A person who conducts a virginity test must ensure that—

- (a) each child is tested individually and in private;
- (b) the test is conducted in a hygienic manner, which at all times includes—
  - (i) the use of a separate pair of sterile surgical gloves for each test in the case of a virginity test involving the inspection of any bodily orifice of the child being tested;
  - (ii) disposal of such surgical gloves after each virginity test in accordance with medical standards for the disposal of surgical gloves;
  - (iii) sterilisation of any instrument used in the performance of any virginity test in accordance with medical standards for the sterilisation of instruments; and
  - (iv) avoidance of direct blood contact or contact with any bodily fluid between the child undergoing the virginity test and the person performing the virginity test; and
- (c) the least invasive means of testing for virginity is used with due regard to the child's right to bodily integrity.

(2) A virginity test may be performed on a girl child only by a female person and on a boy child only by a male person.

(3) (a) No virginity test may be performed on a child unless—

- (i) the consent and the required proof of age contemplated in regulation 3 have been submitted to the person conducting the test; and
- (ii) the child has been given proper counselling by a parent, guardian or caregiver and a social service professional.

(b) The age of a child consenting to a virginity test must be established by having regard to an identity document or birth certificate of the child, an affidavit furnished by the child's parent or care-giver confirming the age of the child or an estimation of age contemplated in section 48(2) of the Act.

(4) Any person who contravenes any provision of this regulation is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

## PART II MALE CIRCUMCISION

### **Circumcision for social or cultural purposes**

5.(1) Circumcision of a male child older than 16 may only be performed—

- (a) after the child has given consent in a form identical to **Form 2**;
- (b) after proper counselling of the child by a parent, guardian, caregiver or social service professional;
- (c) in accordance with the cultural or social practices of the child concerned; and
- (d) by a medical practitioner or by a person with knowledge of the social or cultural practices of the child concerned and who has been properly trained to perform circumcisions.

(2) The medical practitioner or person contemplated in sub-regulation (1)(d) must at all times ensure that—

- (a) sterile surgical gloves are worn during the circumcision and that they are disposed of after each circumcision;

- (b) any instrument used during a circumcision is disposed of after each circumcision unless sterilised in accordance with medical standards for the sterilisation of surgical instruments;
- (c) there is no direct blood contact, contact with any body fluid or contact with any foreign substance between the child undergoing the circumcision and the person performing the circumcision or any other person or child; and
- (d) the disposal of any instruments used for circumcision including any human tissue takes place in accordance with medical standards for the disposal of surgical instruments and human tissue.

### **Circumcision for religious purposes**

6.(1) Circumcision performed for religious purposes on male children must be performed in accordance with the practices of the religion concerned and must be performed by a medical practitioner or by a person from the religion concerned who has been properly trained to perform circumcisions.

(2) The medical practitioner or person contemplated in sub-regulation (1) must ensure that—

- (a) sterile surgical gloves are worn during the circumcision and that they are disposed of after each circumcision;
- (b) any instrument used during a circumcision is disposed of after each circumcision unless sterilised in accordance with medical standards for the sterilisation of surgical instruments;
- (c) there is no direct blood contact, contact with any body fluid or contact with any foreign substance between the child undergoing the circumcision and the person performing the circumcision or any other person or child; and
- (d) the disposal of any instruments used for circumcision including any human tissue takes place in accordance with medical standards for the disposal of surgical instruments and human tissue.

- (3) Consent to the religious circumcision of a male child —
- (a) under the age of 16 years must be given by both parents of the male child and where more than one person has guardianship of the child or where a parental responsibilities and rights agreement exists, both of those persons, and must be in a form identical to **Form 3**; or
  - (b) older than 16 years must be given by the child concerned and in a form identical to **Form 3**.

### CHAPTER 3

#### PARENTAL RESPONSIBILITIES AND RIGHTS

(Sections 18 – 35 of the Act)

#### PART I

#### PARENTAL RESPONSIBILITIES AND RIGHTS AGREEMENTS

#### General requirements pertaining to parental responsibilities and rights agreements

- 7.(1) A parental responsibilities and rights agreement must
- (a) be in writing;
  - (b) be in a form identical to **Form 4**;
  - (c) contain particulars of those aspects pertaining to the care of, contact with, financial responsibility for the child; and
  - (d) contain incidental matters related to the upbringing of the child or children that are being conferred by the mother or other person having parental responsibilities and rights upon the biological father or any other person having an interest in the care, well-being and development of the child.
- (2) **Form 4** must be attached to the application for registration of the parental responsibilities and rights agreement as contemplated in sub-regulation (1).



(3) Where parental responsibilities and rights agreement is to be made an order of the High Court, that agreement may contain particulars relating to the guardianship of the child.

(4) Where parental responsibilities and rights are to be exercised in substantially the same manner by the biological father or any other person or persons having an interest in the care, well-being and development of the child with respect to more than one child in the same family, such parental responsibilities and rights agreement must be completed for each child.

(5) The applicant or applicants for the registration of a parental responsibilities and rights agreement must file copies of such agreement with the family advocate, children's court or High Court, as the case may be, to enable each co-holder of parental responsibilities and rights to retain a copy of the registered agreement.

(6) Where a family advocate is required to satisfy himself or herself as contemplated in section 22(5) of the Act that a parental responsibilities and rights agreement is in the best interests of the child, this must be done in a form identical to **Form 5**.

### **Mediation and participation of child concerning parental responsibilities and rights**

**8.(1)** A family advocate, social worker, social service professional or other suitably qualified person who conducts mediation in the case of a dispute between the biological father of the child and the biological mother of the child with regard to the fulfilment by that father of the conditions set out in section 21(1) of the Act, may certify the outcome of that mediation in a form identical to **Form 6**.

(2) A certificate of non-attendance of the mediation required by section 21(3) of the Act may be completed in a form identical to **Form 7** by a family advocate, social worker, social services professional or other suitably qualified person who has notified a respondent to attend such mediation and where such respondent has failed to attend.

(3) (a) Due consideration must be given to the views and wishes of the child or children in the development of any parental responsibilities and rights agreement, bearing in mind the child's or children's age, maturity and stage of development.

(b) Bearing in mind the child's or children's age, maturity and stage of development, such child or children must be informed of the contents of the parental responsibilities and rights agreement by the family advocate, the children's court, the High Court, a social worker, social service professional, psychologist or the child's or children's legal representative.

(4) Where a child or children referred to in sub-regulation (3) in respect of whom a parental responsibilities and rights agreement is concluded is or are not in agreement with the contents of the agreement, this should be recorded on the agreement, and the matter referred for mediation by a family advocate, social worker, social service professional or other suitably qualified person.

## **PART II PARENTING PLANS**

### **General provisions concerning application for registration of parenting plans**

9.(1) An application for the registration of a parenting plan at the office of the family advocate or for it to be made an order of court must be completed in writing in a form identical to **Form 8** and must—

- (a) be signed by the parties to the parenting plan or, if a person whose signature is required is incapable of furnishing a signature, a thumbprint of that person must be effected and duly attested by a commissioner of oaths;
- (b) contain the titles, full names, dates of birth, identity numbers or passport numbers (as the case may be), residential, work addresses, and contact details of all co-holders of parental responsibilities and rights named in the parenting plan; and
- (c) contain the full names, dates of birth, identity numbers or passport numbers (as the case may be), residential addresses and contact details of any child or children named in the parenting plan.

(2) Where parental responsibilities and rights are to be exercised in the same manner by the holders of those responsibilities and rights with respect to more than one child in the same family, the application for registration of the parenting plan must be completed for each child.

(3) The applicant or applicants for the registration of a parenting plan must file copies of such plan with the family advocate, children's court or High Court, as the case may be, to enable each co-holder to retain a copy of the registered parenting plan.

### **Preparation of parenting plans**

**10.(1)** The co-holders of parental responsibilities and rights as contemplated in section 30 and who are experiencing difficulty in exercising their responsibilities and rights as envisaged in section 33(2) of the Act must seek to agree on a parenting plan on matters referred to in section 33(3) of the Act.

(2) The parenting plan contemplated in sub-regulation (1) must be prepared:

- (a) with the assistance of a family advocate, social worker or psychologist as contemplated in section 33(5)(a) of the Act, and must be completed in writing in a form identical to **Form 9**; or
- (b) after mediation by a social worker or other suitably qualified person as contemplated in section 33(5)(b) of the Act, and must be completed in writing in a form identical to **Form 10**.

### **Participation of child in preparation of parenting plans**

**11.(1)** Bearing in mind the child's age, maturity and stage of development, such child must be consulted during the development of a parenting plan, and granted an opportunity to express his or her views, which must be accorded due consideration.

(2) When a parenting plan has been agreed the child must, bearing in mind the child's age, maturity and stage of development, be informed of the contents of the parenting plan by the family advocate, a social worker, social service professional, psychologist, suitably qualified person or the child's legal representative.

**CHAPTER 4**  
**PARTIAL CARE**  
**(Sections 76 – 90 of the Act)**

**Types of partial care**

12.(1) For the purposes of registration of partial care the following different types of partial care may be provided:

- (a) early childhood development services as contemplated in section 91(2) of the Act for children up to school going age;
- (b) an after school service, other than a service provided by a school as defined in the South African School's Act 1996, (Act No. 84 of 1996), for a child attending a primary school or a secondary school;
- (c) a private hostel; and
- (d) temporary respite care services for children including children with disabilities.

(2) For purposes of this Chapter "after school service" means the provision of meals, homework support, sporting activity support, life skills education and guidance and counselling support.

(3) For purposes of this Chapter "private hostel" means a place which is operating during school terms and where children sleep over, are provided with meals, healthcare, life skills education, where their laundry is done and where the children receive guidance and counselling support, school attendance support, sporting activity support and cultural activity support.

(4) For purposes of this Chapter “temporary respite care services” means a temporary service offered to children and to children with disabilities which is aimed at the provision of temporary care and relief and includes day care or sleepover, the provision of meals, school attendance support, sporting activity support, health care and laundry facilities and assistance with personal hygiene.

### **National norms and standards for partial care**

**13.** The national norms and standards for partial care contemplated in section 79 of the Act are contained in **Part I of Annexure B**.

### **Application for registration of partial care facility**

**14.(1)** Subject to the provisions of sub-regulation (2), an application for the registration, conditional registration, the reinstatement or renewal of registration of a partial care facility must be lodged with the provincial head of social development of the province where the facility is situated in a form identical to **Form 11**.

(2) If the performance of the functions contemplated in sections 80 and 81 of the Act has been assigned in terms of section 88 of the Act to the municipal manager of a municipality, an application contemplated in sub-regulation (1) must be lodged with that municipal manager.

(3) An application contemplated in sub-regulation (1) must contain the following:

- (a) The particulars of the applicant;
- (b) the physical and postal address of the partial care facility;
- (c) the type or types of partial care in respect of which the application is made;
- (d) the number of children that will be accommodated in each of the types of partial care in respect of which the application is made;
- (e) the qualifications, skills and experience of the applicant in partial care in type or types of partial care in respect of which the application is made; and

- (f) a description of the contents of the programmes and services to be offered, including the aims and objectives.

(4) An application contemplated in sub-regulation (1) must be accompanied by the following additional documents:

- (a) A business plan containing –
  - (i) the business hours of the partial care facility;
  - (ii) the fee structure;
  - (iii) the day care plan;
  - (iv) the staff composition; and
  - (v) the disciplinary policy;
- (b) the constitution of the partial care facility which must contain the following information:
  - (i) The name of the partial care facility;
  - (ii) the type or types of services to be provided;
  - (iii) the composition, powers and duties of the management;
  - (iv) the powers, obligations and undertaking of management to delegate all authority with regard to care, behaviour management and development of children to the head of the partial care facility, where applicable;
  - (v) the procedure for amending the constitution; and
  - (vi) a commitment from the management to ensure compliance with the national norms and standards for partial care facilities reflected in Annexure B;
- (c) an original copy of the approved building plans or a copy of the building plans that has been submitted for approval if the application for the approval of the building plans is still under consideration;
- (d) an emergency plan;
- (e) clearance certificates to the effect that the name of the applicant and the name of any employee do not appear in Part B of the National Child Protection Register, or the National Register for

Sex Offenders issued by the Director-General and the Director-General of Justice and Constitutional Development, respectively; and

- (f) a health certificate issued by the local municipality in whose area the facility is to operate confirming compliance with the structural health requirements of that municipality.

### **Consideration of application for registration of partial care facility**

**15.(1)** The provincial head of social development or, where the function has been assigned to a municipal manager in terms of section 88 of the Act, the municipal manager or the social service professional, where the municipal manager has delegated the function to consider applications for the registration of a partial care facility to such social service professional concerned in terms of section 88 (3) of the Act, may, subject to section 83 of the Act, grant an application contemplated in regulation 14(1) for a period not exceeding five years.

(2) On granting an application contemplated in regulation 14(1), the provincial head of social development or, where the function has been assigned to a municipal manager in terms of section 88 of the Act, the municipal manager or social service professional concerned, must issue to the applicant a certificate of registration or conditional registration or for the reinstatement or renewal of registration in a form identical to **Form 12**.

(3) In rejecting an application for registration of a partial care facility, the provincial head of social development or the municipal manager, where the function has been assigned to him or her in terms of section 88 of the Act or the social service professional concerned, where the municipal manager has delegated such function to him or her in terms of section 88 (3) of the Act, must duly inform the applicant of the refusal in a form identical to **Form 13** by registered post and must furnish reasons for such rejection to the applicant.

### **Appeal against certain decisions**

**16.(1)** An appeal contemplated in section 86(1) of the Act must be in a form identical to **Form 14**.

(2) The MEC may, upon receipt of the applicant's or registration holder's written appeal and the provincial head of social development's reasons for the decision confirm, vary or set aside that decision.

(3) An appeal contemplated in section 88(6) of the Act must be in a form identical to **Form 15**.

(4) The municipal council may, upon receipt of the applicant's or registration holder's written appeal and the official in the employ of the municipality's reasons for the decision confirm, vary or set aside that decision.

### **Exemption from registration as partial care facility**

**17.** Partial care provided during excursions, training programmes, social activities, cultural activities, sporting activities, camps or other activities, including overnight partial care, organised and provided by a religious denomination, a social organisation, a cultural organisation or a sports club is exempted from registration in terms of section 80 of the Act.

### **Management of partial care facility**

**18.(1)** A register or registers must be kept by a partial care facility or provider of a partial care service in which the following particulars must be entered:

- (a) The full name, sex, date of birth and identity number of each child;
- (b) the names, addresses and contact particulars of the child's parent, primary care-giver or family members;
- (c) the date of the child's admission to the partial care facility and the date of discharge from partial care;



- (d) any disability, chronic medical condition or dietary requirement and any other critical information for the care and development of the child; and
- (e) any period of absence of the child from the partial care facility.

(2) A partial care facility or the provider of a partial care service must keep a separate file in respect of each child in which the following information must be filed:

- (a) All documents relating to the child received at the time of admission;
- (b) any document or correspondence relating to the child;
- (c) reports and notes by the provider of a programme within a partial care facility on any developmental delay or disability of the child with particular reference to any possible deviation from the normal development of the child having regard to his or her age;
- (d) reports and notes by the provider of a programme within a partial care facility on any irregular behavioural pattern of the child; and
- (e) reports and notes on any injury or bruise observed during the daily care of the child, including any observations which may relate to the possible abuse of the child.

(3) A file must be kept of each staff member employed at a partial care facility including any period of absence from the partial care facility.

(4) A disciplinary register must be kept in which the name of the child, the nature of the behaviour in respect of which discipline was imposed and the nature of the disciplinary measure must be recorded.

(5) Any register or file kept in terms of this regulation must be kept for a period of at least three years after the date of termination of the partial care service in respect of a child at a partial care facility.

(6) Any irregular or dysfunctional behaviour of a child in a partial care facility must be brought to the attention of the parent or the caregiver of the child.

(7) Quarterly progress reports must be furnished to the parent or the caregiver of each child in a partial care facility.

### **Employment of staff at partial care facility**

19.(1) Any person employed at a partial care facility in a managerial or supervisory capacity or who is directly involved in the partial care of a child must possess the following skills:

- (a) The ability to implement a programme for early childhood development, where applicable, at the level in respect of which that partial care facility has been registered;
- (b) the ability to write reports and notes;
- (c) the ability to identify irregular and dysfunctional behaviour in a child;
- (d) basic numeracy skills;
- (e) a basic knowledge about child development; and
- (f) the ability to assess age related developmental milestones.

(2) Any person employed at a partial care facility after registration of the facility in terms of these Regulations must provide his or her employer with—

- (a) a certified copy of his or her identity document or work permit;
- (b) proof of his or her skills; and
- (c) clearance certificates to the effect that his or her name does not appear in Part B of the National Child Protection Register, or the National Register for Sex Offenders issued by the Director-General and the Director-General of Justice and Constitutional Development, respectively.

(3) An employee at a partial care facility who works with a child in such facility must be able to communicate with the child in a language, including sign language, which such child understands.

### **Closure of partial care facility**

**20.(1)** When—

- (a) the registration or conditional registration of a partial care facility has been cancelled as contemplated in section 84 of the Act; or
- (b) a written notice of enforcement instructing a person or organisation operating an unregistered partial care facility to terminate its operation has been issued under of section 85 of the Act,

that person or organisation must be allowed a period of not more than 90 days in order to wind up the affairs of that facility and to allow the parents or care-givers of children in that facility to make alternative arrangements for partial care.

(2) When a person or organisation providing partial care intends to terminate its operation, such person or organisation must give the parents or care-givers of children admitted at such a facility a period 90 days written notice of such intention.

### **Inspection of partial care facility**

**21.(1)** All partial care facilities must be subjected to inspection and monitoring to determine compliance with these Regulations and Part I of Annexure B.

(2) The inspection and monitoring contemplated in sub-regulation (1) must be executed by a person designated by the provincial head of social development.

(3) All inspections and monitoring visits must be followed by a report that must be submitted to the provincial head of social development and the management of the partial care facility.

(4) Inspection of a partial care facility must take place every five years or may take place at shorter intervals if inspection is a condition for registration or where inspection of the facility becomes necessary for the cancellation of a registration referred to in section 84(2) (a) of the Act.

(5) Inspection as a result of a written complaint may at any time be ordered by the provincial head of social development.

### **Assignment of functions to municipalities**

**22.(1)** Before a provincial head of social development may assign functions to a municipal manager as contemplated in section 88 of the Act, he or she must conduct a needs assessment on the assignment of the functions referred to in that section in consultation with the municipality concerned.

(2) Before assigning all or part of the functions contemplated in section 88 of the Act, a provincial head of social development must be satisfied that the municipality concerned has—

- (a) adequate staff, including social service professionals, who are suitably qualified and skilled;
- (b) the ability to render assistance to build capacity to ensure compliance with the relevant norms and standards; and
- (c) the capacity to manage the functions to be assigned.

(3) An agreement between the provincial head of social development and a municipality contemplated in section 88(2) of the Act must be in writing and signed by both parties in the presence of two witnesses.

(4) An agreement between a provincial head of social development and a municipality contemplated in section 88(2) of the Act must contain the following particulars:

- (a) A strategic plan containing a business plan for a period of three years, an operational plan for a period of one year and a budget for a period of three years;
- (b) a service level agreement;
- (c) an organogram for the establishment responsible for the administration of the assigned functions; and
- (d) a provision to the effect that the items contemplated in paragraphs (a), (b) and (c) must be reviewed and updated annually.

**CHAPTER 5**  
**EARLY CHILDHOOD DEVELOPMENT**  
**(Sections 91 – 103 of the Act)**

**National norms and standards for early childhood development**

**23.** The national norms and standards for early childhood development programmes contemplated in section 94 of the Act are contained in **Part II of Annexure B**.

**Application for registration of early childhood development programme**

**24.(1)** Subject to the provisions of sub-regulation (2), an application for the registration or conditional registration of an early childhood development programme or the renewal of such programme must be lodged with the provincial head of social development of the province where the early childhood development programme is to be provided and must be in a form identical to **Form 16**.

(2) If the performance of the functions contemplated in sections 96 and 97 of the Act has been assigned to the municipal manager as contemplated in section 102 of the Act, an application referred to in sub-regulation (1) must be lodged with the municipal manager or a social service professional in the employ of the municipality and to whom the municipal manager has delegated such function.

(3) An application contemplated in sub-regulation (1) must contain the following:

- (a) The name and identity number of the applicant;
- (b) the physical and postal address of the applicant;
- (c) the contact particulars of the applicant;
- (d) the particulars of the early childhood development programme in respect of which the application is made;
- (e) an implementation plan for the early childhood development programme in respect of which the application is made;
- (f) the staff composition of people who will be responsible to provide the early childhood development programme;

- (g) the financial statements of the partial care facility or child and youth care centre; and
- (h) a clearance certificate issued by the Director-General and the Director-General of Justice and Constitutional Development, respectively to the effect that the name of the applicant and staff members do not appear in Part B of the National Child Protection Register or the National Register for Sex Offenders.

### **Consideration of application for registration of early childhood development programme**

**25.(1)** The provincial head of social development or, where the function has been assigned to a municipal manager in terms of section 102 of the Act, the municipal manager or social service professional concerned, may grant an application contemplated in regulation 24(1) for a period not exceeding five years.

(2) On granting an application contemplated in regulation 24(1), the provincial head of social development or, where the function has been assigned to a municipal manager in terms of section 102 of the Act, the municipal manager or social service professional concerned, must issue to the applicant a certificate of registration or conditional registration or renewal of registration in a form identical to **Form 17**.

(3) In rejecting an application for registration of an early childhood development programme, the provincial head of social development or, where the function has been assigned to a municipality in terms of section 102 of the Act, the municipal manager or social service professional concerned, must duly inform the applicant of the refusal in a form identical to **Form 18** by registered post and must furnish reasons for such rejection to the applicant.

### **Appeal against certain decisions**

**26.(1)** An appeal contemplated in section 101(1) of the Act must be in a form identical to **Form 19**.

(2) The MEC may, upon receipt of the applicant's or registration holder's written appeal and the provincial head of social development's reasons for the decision confirm, vary or set aside that decision.

(3) An appeal contemplated in section 102(6) of the Act must be in a form identical to **Form 20**.

(4) The municipal council may, upon receipt of the applicant's or registration holder's written appeal and the official in the employ of the municipality's reasons for the decision confirm, vary or set aside that decision.

### **Qualification, skills and training required for early childhood development programmes**

**27.** An applicant for registration of an early childhood development programme must possess the following qualifications, skills and training:

- (a) (i) The National Certificate in Early Childhood Development at National Qualification Framework (NQF) Level 1 to 6 of the South African Qualifications Authority;
- (ii) an appropriate early childhood development qualification;
- or
- (iii) a minimum of three years experience of working in the early childhood development field;
- (b) appropriate knowledge about early childhood development;
- (c) the ability to identify, record and report on the progress and developmental needs of the child to inform early childhood development opportunities and interventions;
- (d) the ability to design and produce stimulating indoor and outdoor activities and routines according to the developmental needs of the children;
- (e) the ability to stimulate, extend and promote all-round development through appropriate adult-child, adult-adult and child-child interactions to enhance emotional, cognitive, spiritual, physical and social development;

- (f) the ability to create awareness of, promote and ensure the all-round safety, protection, security, rights and development of the child according to his or her needs in conjunction with community resources;
- (g) the ability to provide early childhood development programmes that are appropriate to the needs of the children to whom the services are provided, including children with disabilities, chronic illnesses or other special needs; and
- (h) the ability to implement systems, policies and procedures and to manage physical, financial and human resources.

### **Assessment and compulsory monitoring of early childhood development programmes**

**28.**(1) All early childhood development programmes must be subjected to assessment and monitoring to determine compliance with the national norms and standards for early childhood development contained in Part II of Annexure B and the assessment must be in a form identical to **Form 21**.

(2) The assessment and monitoring contemplated in sub-regulation (1) must, subject to sub-regulation (3), be executed by a person designated by the provincial head of social development.

(3) The assessment and monitoring contemplated in sub-regulation (1) must, where the power or function has been delegated to the municipal manager, be executed by such municipal manager or by a social service professional where the municipal manager has delegated his or her power or function to such social service professional.

(4) All assessment and monitoring visits must be followed by a full report and development plan that must be submitted to the provincial head of social development and the management of the early childhood development programme.

(5) Assessment and monitoring of early childhood development programmes must take place every two years.



## **Assignment of functions to municipalities**

**29.(1)** Before a provincial head of social development may assign functions to a municipal manager as contemplated in section 102 of the Act, he or she must conduct a needs assessment on the assignment of the functions referred to in that section in consultation with the municipality concerned.

(2) Before assigning all or part of the functions contemplated in section 102 of the Act, a provincial head of social development must be satisfied that the municipality concerned has—

- (a) adequate staff, including social service professionals, who are suitably qualified and skilled;
- (b) the ability to render assistance to build capacity to ensure compliance with the relevant norms and standards; and
- (c) the capacity to manage the functions to be assigned.

(3) An agreement between a provincial head of social development and a municipality contemplated in section 102(1) of the Act must be in writing and signed by both parties in the presence of two witnesses.

(4) An agreement between a provincial head of social development and a municipality contemplated in section 102(1) of the Act must contain the following particulars:

- (a) A strategic plan containing a business plan for a period of three years, an operational plan for a period of one year and a budget for a period of three years;
- (b) a service level agreement;
- (c) an organogram for the establishment responsible for the administration of the assigned functions: and
- (d) a provision to the effect that the particulars contemplated in paragraphs (a), (b) and (c) must be reviewed and updated annually.

## **CHAPTER 6**

**CHILD PROTECTION SYSTEM**  
**(Sections 104 – 110 and 142(a) – (f) of the Act)**

**National norms and standards for child protection services**

**30.** The national norms and standards for child protection services contemplated in section 106 of the Act are contained in **Part III of Annexure B**.

**Criteria for designation as child protection organisation**

**31.(1)** An organisation complies with the criteria for a child protection organisation contemplated in section 107(1) of the Act if such organisation, upon application to be designated as a child protection organisation, has shown that it—

- (a) is a legal person and is registered with the appropriate authority or in terms of service-specific related legislation which requires registration;
- (b) is registered as a nonprofit organisation in terms of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), is affiliated to a nonprofit organisation that is so registered or can provide proof that the organisation is in the process of registering under the said Act;
- (c) has the necessary capacity and expertise to deliver statutory services in terms of the Act, and that its operation conforms with the MEC for social development's plan for the delivery of child protection services in the relevant province;
- (d) has a constitution that embraces the provision of child protection services;
- (e) has the ability to provide effective and efficient services which also accommodate the needs of children with disabilities;
- (f) promotes an equitable distribution of services, taking into account historical imbalances, including race, gender, disability and the urban and rural areas;
- (g) promotes inclusiveness and representation in the management and organisation of services;

- (h) is able to account for the utilisation of financial awards made by the Department or the Provincial Department of Social Development in an acceptable manner and in terms of the prescripts of the Public Finance Management Act, 1999 (Act No.1 of 1999), with particular emphasis on the efficiency, economy and effectiveness of programmes and best practice financial management; and
- (i) supports and commits itself to partnerships and collaboration with emerging organisations.

(2) An application to be designated as a child protection organisation must include a business plan which contains the following:

- (a) Biographic information of the organisation;
- (b) information on the management board, staff, volunteers and current beneficiaries of the organisation;
- (c) objectives, outputs and outcomes; and
- (d) activity-based budgets reflecting the amount of funds required and the purposes for which such funds will be utilised.

(3) An application to be designated as a child protection organisation must be accompanied by the following documents or certified copies thereof:

- (a) The organisation's most recent audited financial statements or, if audited statements cannot be furnished, such financial statements as are available accompanied by a sworn statement as to why audited statements cannot be furnished;
- (b) proof of such registration as may be required;
- (c) social workers' certificates of registration issued under section 17 of the Social Service Professions Act, 1978;
- (d) the organisation's constitution and, if available, its code of conduct;
- (e) confirmation of the organisation's banking details; and
- (f) the organisation's audited financial statements.

(4) The Director-General or the provincial head of social development may designate an appropriate organisation that complies with the requirements specified in sub-regulations (1), (2) and (3) as a child protection organisation for a period not exceeding five years.

(5) An organisation which has been designated as a child protection organisation in terms of section 107 of the Act or deemed to be designated in terms of section 108 of the Act must submit to the Director-General or to the provincial head of social development a new application for designation in accordance with this regulation at least 90 days before the expiry of the period of designation referred to in sub-regulation (4) or section 108(2) of the Act, as the case may be.

### **Quality assurance to evaluate child protection organisation prior to withdrawal of designation**

**32.(1)** A quality assurance referred to in section 109(2) of the Act must be conducted to evaluate a child protection organisation prior to the withdrawal of the designation as a child protection organisation.

(2) The quality assurance contemplated in subregulation (1) must be conducted by the Director-General or by the provincial head of social development and must consist of the assessment of the following:

- (a) the business plan and financial statements of the organisation;
- (b) adherence to the criteria for designation as a child protection organisation and to the national norms and standards for child protection;
- (c) implementation of the designated child protection services;
- (d) whether individuals, families, communities and other organisations are receiving an effective and efficient service and whether they are satisfied with the quality of service so received;
- (e) monitoring and evaluation framework and the impact of the services received;
- (f) compliance and implementation of the appropriate legislation; and
- (g) any service delivery challenges.

### **Reporting of abuse or deliberate neglect of child**

**33.(1)** A report by a person contemplated in section 110(1) of the Act, who on reasonable grounds concludes as provided for in that section that a child has been abused in a manner causing physical injury, sexually abused, emotionally abused or deliberately neglected, must be made to the relevant authority in a form identical to **Form 22** by completing that form to the best of that person's ability and by including in the form such particulars as are available to him or her.

(2) The provincial department of social development, designated child protection organisation or police official to whom a report contemplated in sub-regulation (1) has been made, must submit the particulars of the abuse in a form identical to **Form 23** to the Director-General for inclusion in Part A of the National Child Protection Register.

### **Request for removal of alleged offender**

**34.** A request by a provincial department of social development or a designated child protection organisation for the removal of an alleged offender from his or her home or from the place where he or she resides as contemplated in section 110(7)(b) of the Act, must—

- (a) contain particulars regarding the alleged offender; and
- (b) in writing in a form identical to **Form 24**.

### **Broad risk assessment framework to guide decision-making in provision of designated child protection services**

**35.(1)** The aim of the broad risk assessment framework contemplated in section 142(c) of the Act is to provide guidelines for—

- (a) identification of children who are being abused or deliberately neglected;
- (b) assessment of risk factors to support a conclusion of abuse and neglect on reasonable grounds as contemplated in section 110 of the Act;

- (c) investigation by a provincial department of social development or a designated child protection organisation upon receipt of a report of the abuse or neglect of a child; and
  - (d) appropriate protective measures to be taken in respect of a child.
  
- (2) The broad risk assessment framework includes the following guidelines:
  - (a) The presence of indicators of physical abuse, including bruises in any part of the body; grasp marks on the arms, chest or face; variations in bruising colour; black eyes; belt marks; tears around or behind the ears; cigarette or other burn marks; cuts; welts; fractures; head injuries; convulsions that are not due to epilepsy or high temperature; drowsiness; irregular breathing; vomiting; pain; fever or restlessness;
  
  - (b) the presence of emotional and behavioural indicators of physical, psychological or sexual abuse, including aggression; physical withdrawal when approached by adults; anxiety; irritability; persistent fear of familiar people or situations; sadness; suicidal actions or behaviour; self-mutilation; obsessive behaviour; neglect of personal hygiene; age of child demonstrating socially inappropriate sexual behaviour or knowledge; active or passive bullying; unwillingness or fearfulness to undress or wearing layers of clothing;
  
  - (c) the presence of developmental indicators of physical, psychological or sexual abuse, including failure to thrive; failure to meet physical and psychological developmental norms; withdrawal; stuttering; unwillingness to partake in group activities; clumsiness; lack of coordination or orientation or observable thriving of children away from their home environment;
  
  - (d) the presence of indicators of deliberate neglect, including underweight; reddish scanty hair; sores around the mouth; slight water retention on the palm or in the legs; extended or slightly

hardened abdomen; thin and dry skin; dark pigmentation of skin, especially on extremities; abnormally thin muscles; developmental delay; lack of fatty tissue; disorientation; intellectual disability; irritability; lethargy, withdrawal, bedsores and contractures;

- (e) a disclosure of abuse or deliberate neglect by the child; or
- (f) a statement relating to a pattern or history of abuse or deliberate neglect from a witness relating to the abuse of the child.

(3) A person who, due to the presence of indicators referred to in sub-regulation (2), suspects that a child has been sexually abused, or abused in a manner causing physical injury or deliberately neglected, must assess the total context of the child's situation in accordance with the following guidelines:

- (a) Many indicators may be non-specific to abuse or neglect;
- (b) a cluster or pattern of indicators as opposed to a single isolated indicator will provide support for a conclusion of abuse or neglect;
- (c) information about specific times of any incidents, places where incidents have taken place and the context within which incidents have taken place, which must be noted in writing, may provide support for a conclusion of abuse or neglect;
- (d) abuse may be unintentional, but failure on the part of the parent or care-giver to prevent abuse of the child may amount to neglect;
- (e) abuse may be physical, psychological or sexual without any visible indicators and is likely to exist if the child continuously reports threats of harm or punishment;
- (f) a series of minor incidents, any of which may, when considered in isolation, not amount to abuse or neglect, may constitute abuse or neglect when considered together;
- (g) the child's age, personality and temperament should be taken into account;
- (h) discrepancies in the rendition of incidents by the child and his or her parent or care-giver may either provide or diminish support for a conclusion of abuse or neglect; and

- (i) any unexplained delay in seeking medical treatment for a child who is seriously injured, should be considered as a possible indicator of abuse or neglect.

(4) The provincial department of social development or the designated child protection organisation to whom a report has been made in terms of section 110(1), (2) or (4) of the Act must—

- (a) make an assessment of the indicators referred to in sub-regulation (2) by taking the guidelines in sub-regulation (3) into account; and
- (b) if a further investigation is required –
  - (i) establish the facts surrounding the circumstances giving rise to the concern;
  - (ii) evaluate the child's parental circumstances, including parental characteristics, mental stability, maturity; physical or emotional impairment, substance abuse, capabilities, temperament, employment status, level of support given to the parent or care-giver by friends; the capacity and disposition of the parent or care-giver to give the child guidance and to give adequate and appropriate support to a child with disabilities; emotional bonding between the parent or care-giver and the child; and a history of parental abuse or neglect of the child;
  - (iii) evaluate the child's family circumstances, including family violence; inappropriate discipline; dependency; marital stress; and family or parental composition;
  - (iv) evaluate the child's environmental circumstances, including poverty; overcrowding; homelessness; isolation; high mobility of the parents; the presence of social, environmental or financial stress; and the type of neighbourhood and community;
  - (v) identify sources who may verify the alleged abuse;
  - (vi) identify the level of risk that the child's safety or well-being is exposed to, including factors indicating that the child has suffered, or is likely in the near future to suffer, a non-



accidental physical injury due to conditions which his or her parent or care-giver has failed to correct, or due to their having failed, to provide adequate protection; that the child is displaying symptoms of emotional damage and the unwillingness of the parent to address the problem or to seek assistance; that the child has been sexually abused by a member of the household; and that the child is in need of medical treatment, without which he or she will suffer severe ill-effects;

- (vii) identify actual and potential protective and supportive factors in the home and broader environment to minimise risk to the child; and
- (viii) decide on the appropriate protective measures or intervention as provided for in the Act.

(5) In deciding upon the appropriate protective measures or intervention as provided for in the Act, the provincial department of social development or a designated child protection organisation must take account of the following:

- (a) The total context of the child's situation, given his or her age, and the level of risk that the child is exposed to, bearing in mind that certain injuries may be more prevalent in younger than older children;
- (b) the feasibility of prevention and early intervention measures to protect the child, as well as other measures that would minimise the level of risk yet allowing the child to remain in his or her home environment, including the removal of the alleged abuser;
- (c) the emotional risk to the child involved in a sudden, unprepared removal; and
- (d) the placement of the child in alternative care be considered only in cases where a serious and immediate danger to the child outweighs the trauma involved in such a removal.

### **Criteria for determining suitable persons to investigate child abuse or neglect**

**36.** A person is suitable to conduct investigations into cases of alleged child abuse or neglect as contemplated in section 142(d) of the Act if such person—

- (a) is a registered social worker in terms of the Social Service Professions Act, 1978, and is employed—
  - (i) by the Department or a provincial department of social development; or
  - (ii) by a designated child protection organisation;
- (b) has sufficient experience in the field of child protection or is working under the supervision of a person who has at least five years experience in child protection;
- (c) has not been found unsuitable to work with children and has no previous convictions relating to child abuse;
- (d) upholds the rights of the child and children's best interests; and
- (e) is able to work in a multi-disciplinary team with the objective of securing the best protection plan based on a child's developmental needs.

### **Powers and responsibilities of persons suitable to investigate child abuse or neglect**

**37.** A person who is suitable in terms of regulation 36 to conduct investigations into cases of alleged child abuse or neglect, and who has received a report alleging the abuse or neglect of a child, must—

- (a) investigate that report in accordance with regulation 35 within a reasonable time that may be required by the severity of the case;
- (b) in cases of sexual abuse cases refer the child, within 72 hours, to a medical health professional for medical treatment;
- (c) if necessary, accompany the child or cause the child to be accompanied to a police station for purposes of laying a complaint;

- (d) if necessary, accompany the child or cause the child to be accompanied to a medical facility for purposes of medical treatment;
- (d) facilitate counselling and support to reduce trauma to the child and his or her family members, and if necessary, refer the child to other relevant disciplines;
- (e) co-ordinate the available and applicable child protection services to ensure the safety and well-being of the child;
- (f) develop and implement a child protection plan in consultation with the child, his or her parents, guardian or care-giver and, if required, other relevant disciplines;
- (g) review the child protection plan on a six-monthly basis or earlier, depending on the severity of the abuse or neglect;
- (h) ensure that the prescribed particulars of the child are recorded in Part A of the National Child Protection Register; and
- (i) take the protective measures contemplated in the Act prescribed in Section 151 and 152 of the Act.

**Conditions for examination or assessment of abused or neglected children and consent of such children**

**38.(1)** A child who is suspected of having been abused or neglected must, upon the examination or assessment of such child—

- (a) be addressed, in a language which he or she can understand;
- (b) be accompanied by a support person of the child's choice, unless he or she is of sufficient maturity and mental capacity to understand the reasons for the assessment or examination and expresses a wish not to be accompanied by such person;
- (c) be treated with empathy, care and understanding, with due regard to the child's right to privacy and confidentiality;
- (d) as far as possible be examined or assessed in a child-friendly environment;
- (e) not be subjected to the presence of any other person who is not required to be present at the examination or assessment; and

(f) not be subjected to cruel or degrading language.

(2) A child must, prior to his or her being examined or assessed for purposes of establishing whether such child has been abused or neglected, consent, either verbally or in writing, to the assessment or examination if such child is of sufficient maturity and has the mental capacity to understand the reasons for the examination or assessment: Provided that an assessment or examination may proceed in the absence of a child's consent if it is deemed to be in the best interests of such child, in which case the reasons for proceeding with the assessment or examination must be noted in writing by the person doing the assessment or examination and explained to the child and to his or her parent, guardian or care-giver.

**CHAPTER 7**  
**THE NATIONAL CHILD PROTECTION REGISTER**  
**(Sections 111 – 128 and 142(g) – (k) of the Act)**

**PART I**  
**PART A OF NATIONAL CHILD PROTECTION REGISTER**

**Contents of Part A of National Child Protection Register**

**39.(1) (a)** A provincial department of social development or a designated child protection organisation must notify the Director-General in writing of a report relating to a child in need of care and protection or a report relating to the abuse or deliberate neglect of a child as contemplated in sections 110(5) and 114(1)(a) of the Act made by any person referred to in section 110(1), (2) or (4) of the Act, within 21 days of conclusion of the investigation by that department or organisation if the department or organisation is satisfied that the safety or well-being of the child concerned is at risk and that the report is not frivolous or obviously unfounded.

(b) The notification contemplated in paragraph (a) must-

- (i) if not submitted electronically, be contained in a sealed envelope marked confidential;
- (ii) reflect the particulars set out in section 114(2)(a) of the Act and in sub-regulation (4)(a); and

(iii) be in a form identical to **Form 22**.

(c) The Director-General must upon receipt of the notification, cause the particulars set out in the notification to be included in Part A of the National Child Protection Register forthwith.

(2) (a) The Director-General must be notified in writing of the conviction of a person on a charge as contemplated in section 114(1)(b) of the Act, or of a finding as contemplated in section 114(1)(c) of the Act, by the registrar or clerk of the court concerned, as the case may be, within 14 days of such conviction or finding.

(b) The notification contemplated in paragraph (a) must—

(i) if not submitted electronically, be contained in a sealed envelope marked confidential;

(ii) reflect the particulars set out in section 114(2)(b) and (c) of the Act and in sub-regulation (4)(b) and (c); and

(iii) be in a form identical to **Form 25**.

(c) The Director-General must upon receipt of a notification contemplated in paragraph (a), cause the particulars set out in the notification to be included in Part A of the National Child Protection Register forthwith.

(3) A registrar or clerk of the court who has notified the Director-General of a conviction of a person as contemplated in sub-regulation (2), must inform the Director-General in writing of any successful appeal against or review of such conviction within seven days of receipt of a notice of the outcome of the appeal or review, upon which the Director-General must remove the name and particulars of the relevant person from Part A of the National Child Protection Register forthwith.

(4) The particulars to be included in Part A of the National Child Protection Register in terms of section 114(2) of the Act must include—

(a) in the case of section 114(2)(a) of the Act relating to reports of abuse or deliberate neglect made to the Director-General-

(i) the child's passport number, where applicable;

(ii) the whereabouts of the alleged perpetrator;

(iii) the persons with whom the child was living at the time of the incident;

- (iv) previous history of abuse or deliberate neglect of the child, if any; and
  - (v) the title, full names, surname, physical address and capacity of the person who reported the abuse or deliberate neglect of the child;
- (b) in the case of section 114(2)(b) of the Act relating to convictions on charges involving abuse or deliberate neglect-
- (i) the child's passport number, where applicable;
  - (ii) the convicted person's alias or nickname, passport number, driver's license number or relevant prisoner identification number, where applicable; and
  - (iii) the particulars of the court in which the trial took place and the case number; and
- (c) in the case of section 114(2)(c) of the Act relating to a finding by a children's court that a child is in need of care and protection because of abuse or deliberate neglect-
- (i) the child's passport number, where applicable; and
  - (ii) the particulars of the children's court in which the finding was made and the case number.

### **Inquiries on information in Part A of National Child Protection Register**

**40.(1)** An inquiry by anyone in terms of section 117 of the Act to establish whether or not his or her name appears in Part A of the National Child Protection Register, must be—

- (a) directed to the Director-General;
- (b) contained in a sealed envelope marked confidential;
- (c) accompanied by a certified copy of the affected person's birth certificate, identity document or passport; and
- (d) in a form identical to **Form 26**.

(2) If the person making the inquiry in terms of sub-regulation (1) is a child below the age of 12 years, such child must be assisted in making the inquiry by his or her parent, guardian, care-giver or by a designated social worker, unless it is demonstrated to the

satisfaction of the Director-General that the child is of sufficient maturity to make the inquiry on his or her own.

(3) In furnishing reasons for the inclusion of an affected person's name in Part A of the National Child Protection Register as contemplated in sub-regulation (1)(d), the Director-General must provide-

- (a) particulars regarding the date, time and place of the incident or act that led to the inclusion of the affected person's name in Part A of the National Child Protection Register; and
- (b) a brief description of the incident or act that led to the inclusion.

## **PART II**

### **PART B OF NATIONAL CHILD PROTECTION REGISTER**

#### **Contents of Part B of National Child Protection Register**

**41.** The particulars to be included in Part B of the National Child Protection Register in terms of section 119 of the Act of a person found unsuitable to work with children in terms of section 120 of the Act must be in a form identical to **Form 27**.

#### **Findings to be reported to Director-General**

**42.(1) (a)** A notification contemplated in section 122(1) of the Act must be forwarded to the Director-General within 21 working days of a finding that a person is unsuitable to work with children.

- (b) A notification contemplated in sub-regulation (1) must—
- (i) be contained in a sealed envelope marked confidential;
  - (ii) indicate whether any appeal or review of the finding has been lodged by the affected person or is likely to be lodged;
  - (iii) reflect the particulars, set out in section 119 of the Act and in regulation 41, of the person found in terms of section 120 of the Act to be unsuitable to work with children; and
  - (iv) be in a form identical to **Form 28**.

(2) In the event that a relevant administrative forum contemplated in section 122(1) of the Act, has no official or staff member acting in the capacity of registrar or clerk of the court, the person responsible for convening the meeting or hearing of the administrative forum where the finding of the unsuitability of a person to work with children was made must notify the Director-General of the finding as contemplated in section 122 of the Act and sub-regulation (1).

(3) The Court which has considered an appeal against or reviewed a finding that a person is unsuitable to work with children in terms of section 121 of the Act, must notify the Director-General in writing of any successful appeal against or review of such finding within seven days of receiving notice of the outcome of the appeal or review.

(4) Upon receipt of a notice in terms of sub-regulation (3) the Director-General must remove the name and particulars of the relevant person from Part B of the National Child Protection Register forthwith.

### **Consequences of entry of name in Part B of National Child Protection Register**

**43.** Further to the provisions of section 123(1) of the Act relating to types of prohibited employment or activity of a person whose name appears in Part B of the National Child Protection Register, no such person may-

- (a) be employed or involved in any position, where he or she will be placed in a position of authority, supervision or care of a child;
- (b) be employed or involved in any position, where he or she will be able to gain access to a child or to a place or places where children are present or congregate;
- (c) own or have any economic or business interest in any entity, business concern or trade relating to the supervision or care of a child if such interest would cause that person to have direct access to or would place him or her in a position of authority, supervision or care of a child.



## **Establishment of information in Part B of National Child Protection Register**

**44.(1) (a)** An inquiry by an employer (“the applicant”) in terms of section 126(1) or (2) of the Act to establish whether or not the name of a person (“the affected person”) appears in Part B of the National Child Protection Register prior to or during his or her employment, must be –

- (i) directed to the Director-General;
- (ii) contained in a sealed envelope marked confidential;
- (iii) accompanied by an authentic letterhead or other form of appropriate identification of the applicant, duly signed by an authorised representative of the applicant;
- (iv) accompanied by a certified copy of the identity document or passport of the person whose signature is required in terms of subparagraph (iii); and
- (v) in a form identical to **Form 29** which must contain the following particulars–
  - (aa) the name under which the applicant’s business is conducted, its physical address, postal address, telephone numbers and any other relevant contact details;
  - (bb) details of the position that will be or is held by the affected person; and
  - (cc) the full names and surname, including any alias or nickname, identity number or passport number or driver’s license number, physical address, postal address, telephone numbers and any other relevant contact details of the affected person.

**(b)** An inquiry by a person (“the affected person”) in terms of section 126(3) of the Act to establish whether or not his or her name appears in Part B of the National Child Protection Register, must be –

- (i) directed to the Director-General;
- (ii) contained in a sealed envelope marked confidential;
- (iii) accompanied by a certified copy of the affected person’s birth certificate, identity document or passport; and
- (iv) in a form identical to **Form 30** which must contain the following particulars–
  - (aa) the full names, surname, physical address and postal address of the affected person; and

(bb) a request for the furnishing of reasons why the affected person's name was included in Part B of the National Child Protection Register in the event that such an entry is found.

(2) In furnishing reasons for the inclusion of an affected person's name in Part B of the National Child Protection Register as contemplated in sub-regulation (1)(b)(iv)(bb), the Director-General must give—

(a) particulars regarding the date, time and place of the incident or act that led to the inclusion of the affected person's name in Part B of the National Child Protection Register; and

(b) a brief description of the incident or act that led to the inclusion.

(3) The Director-General must respond to an inquiry in terms of sub-regulation (1) within the periods referred to in section 126(5) of the Act by way of a form determined by the Director-General.

(4) The Director-General must, upon each entry of a person's name in Part B of the National Child Protection Register as being unsuitable to work with children, notify the affected person of such entry in writing within 21 working days of such entry by way of a form determined by the Director-General.

### **Removal of name from National Child Protection Register**

**45.(1)** (a) An application to the Director-General for the removal of a person's name and information from Part B of the National Child Protection Register based on an erroneous entry as contemplated in section 128(2)(b) of the Act must be accompanied by an affidavit by such person and must be in a form identical to **Form 31**.

(b) The Director-General must notify the applicant of the outcome of an application contemplated in paragraph (a) within 21 working days of receipt of the application by way of a form determined by the Director-General.

(2) An application to a court for the removal of a person's name and any information relating to that person from Part B of the National Child Protection Register in terms of

section 128(3) of the Act, unless the application is based on an erroneous entry of that person's name and information in the National Child Protection Register—

- (a) must be accompanied by proof of the rehabilitation of that person, which must include—
  - (i) a report, obtained at the applicant's own cost, compiled by a psychologist or psychiatrist duly registered or deemed to be registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), or a social worker registered in terms of the Social Service Professions Act, 1978, to the effect that the applicant has been rehabilitated and is unlikely to commit another act or offence similar to that which has led to the inclusion of the applicant's name in Part B of the National Child Protection Register;
  - (ii) an outline of the steps taken by the applicant to rehabilitate himself or herself since the time of entry of the applicant's name in Part B of the National Child Protection Register;
  - (iii) an official document obtained from the South African Police Service confirming that the applicant has not been convicted of any offence in relation to a child during the period that the applicant's name had been included in Part B of the National Child Protection Register up until the time of making the current application; and
  - (iv) an affidavit by the applicant that no proceedings with regard to the maltreatment, abuse, deliberate neglect or degradation of a child are pending against him or her in any court or administrative forum at the time of making the current application; and
- (b) may only be lodged, in the case where that person—
  - (i) has been convicted of an offence in relation to a child, which conviction gave rise to the inclusion of that person's name in Part B of the National Child Protection Register, and sentenced to –
    - (aa) a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as

contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, for a period of at least six months without the option of a fine, whether the sentence was suspended or not, after a period of 10 years has lapsed after that person has been released from prison or the period of suspension has lapsed;

(bb) a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, for a period less than six months without the option of a fine, whether the sentence was suspended or not, after a period of seven years has lapsed after that person has been released from prison or the period of suspension has lapsed;

(cc) any other form of lesser punishment or compliance with an order of court, after a period of five years has lapsed since the inclusion of that person's particulars in Part B of the National Child Protection Register;

(ii) is alleged to have committed an offence in relation to a child, which alleged offence gave rise to the inclusion of that person's name in Part B of the National Child Protection Register, in respect of whom a court has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, after a period of five years has lapsed after that person has recovered from the mental illness or mental defect in question and is discharged in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), from any restrictions imposed upon him or her.

(3) In considering an application in terms of section 128(3) of the Act and sub-regulation (2), the court -

- (a) may direct the applicant to submit such other information as the court may consider necessary in order to satisfy it that the applicant has been rehabilitated;
- (b) may require the applicant to be evaluated by an additional registered psychologist or psychiatrist or social worker designated by the court, at the applicant's own cost or at state expense in the case of an indigent applicant;
- (c) may have regard to evidence submitted by or on behalf of the victim of the incident or act that led to the inclusion of the applicant's name in Part B of the National Child Protection Register; or
- (d) may cause the application to be investigated by a designated social worker, psychologist or psychiatrist; and
- (e) must have due regard to the provisions of section 128(4) of the Act

(4) The clerk or registrar of the court, as the case may be, must notify the Director-General in writing, in a form identical to **Form 32**, of the finding of the court regarding an application for the removal of a person's name and information from Part B of the National Child Protection Register within 14 days of such finding, upon which the Director-General, if the application for removal had been successful, must cause the name and information to be removed forthwith.

(5) The Director-General must notify each person of the removal of his or her name and information from Part B of the National Child Protection Register upon the direction of a court within 14 working days of such removal by way of a form determined by the Director-General.

### **Updating of information in Part B of National Child Protection Register**

**46.** A person whose name has been included in Part B of the National Child Protection Register and who has been duly informed of such inclusion in terms of

section 127(3) of the Act, must notify the Director-General of any change in his or her name or names, sex, identity number, physical or postal address within 14 days of such change.

## **CHAPTER 8**

### **PROTECTIVE MEASURES RELATING TO HEALTH OF CHILDREN**

#### **(Section 129 of the Act)**

#### **Consent by Minister to medical treatment of or surgical operation on child in certain circumstances**

**47.** An application to the Minister for the Minister to consent to the medical treatment of or surgical operation on a child in terms of section 129(7) and (8) of the Act must be made in writing in a form identical to **Form 33**.

#### **Consent by child to performance of surgical operation**

**48.(1)** Consent by a child to the performance of a surgical operation must be completed in writing by the person performing such operation or by a representative of the institution at which such operation is going to be performed, and signed by the child and must be furnished in a form identical to **Form 34**.

(2) A parent or guardian who duly assists a child to consent to the performance of a surgical operation on such child must assent to this in writing on the same form contemplated in sub-regulation (1).

#### **Consent to surgical operation of child where parent is a child below 18 years of age**

**49.** The parent or guardian of a child parent who duly assists such child parent to consent to the performance of a surgical operation on the child concerned, must assent to this in writing in a form identical to **Form 35**.

**CHAPTER 9**  
**OTHER PROTECTIVE MEASURES**  
**(Section 137 of the Act)**

**Duties of supervising adult in relation to child-headed households**

**50.** An adult designated in terms of section 137(2) of the Act to supervise a recognised child-headed household must, subject to the provisions of section 137(6) of the Act—

- (a) facilitate psychological, social and emotional support to all members of that household when required;
- (b) ensure that all members of that household who are by law required to attend school or who are required to attend an appropriate education programme, do so;
- (c) assist with the supervision of homework of members of that household;
- (d) educate the members of that household with regard to basic health and hygiene and, if possible, sexually transmitted infections depending on the age and maturity of the child;
- (e) assist with the health care requirements of any member of that household, including the supervision of the taking of medicine and assistance to members with disabilities and ensuring that the children access health care facilities and that their health needs are met;
- (f) assist the members of that household with legal documentation when required;
- (g) compile a roster indicating the responsibility of various members of that household in relation to domestic chores in consultation with the members of the household to prepare children for independent living;
- (h) in consultation with a social worker or a social service professional, attempt to reconnect the members of the household with their parents or relatives and supervise contact between the

- children and relatives or parents where it is deemed appropriate by the social worker or social service professional;
- (i) engage the members of that household in issues that affect the household;
  - (j) ensure proper provision of resources due to that household, if any, in terms of section 137(5)(a) of the Act for that household's basic needs;
  - (k) ensure, subject to paragraph (j), proper utilisation of available resources and adherence to a financial budget;
  - (l) keep record of all expenditure of that household;
  - (m) utilise available and applicable child protection services to ensure the safety and well-being of the members of that household if and when required;
  - (n) assist the member heading that household with his or her responsibilities;
  - (o) be available to a child when the child requires services after hours;
  - (p) report incidents of abuse to the relevant authority in a form identical to **Form 22**; and
  - (q) report any death within that household to a police official and to the provincial head of social development.

### **Accountability of supervising adult regarding administration of money**

**51.(1)** An adult designated in terms of section 137(2) of the Act must, for purposes of accountability—

- (a) in consultation with the members of such household, bearing in mind the varying financial needs of different members of such household, develop a monthly expenditure plan reflecting available financial resources and payment;
- (b) ensure that the monthly expenditure plan is signed by the child at the head of such household; and
- (c) submit the monthly expenditure plan, duly signed as contemplated in paragraph (b), to an organ of state or a non-governmental



organisation, as the case may be, which designated the adult to supervise the child-headed household, together with the original documents, receipts, invoices and other documentation that may serve as proof of the expenditure incurred.

(2) The organ of state or a non-governmental organisation which designated the adult referred to in sub-regulation (1) may, upon the absence of a counter-signature as contemplated in that sub-regulation or, if there is reason to believe that there is a misappropriation or maladministration of money, cause the matter to be investigated and may take the steps that may be required by the circumstances, including the institution of criminal charges against that adult and the replacement of the adult by another supervising adult.

**CHAPTER 10**  
**PREVENTION AND EARLY INTERVENTION**  
**(Sections 143 – 149 of the Act)**

**National norms and standards for prevention and early intervention programmes**

**52.** The national norms and standards for prevention and early intervention programmes contemplated in section 147 of the Act are contained in **Part IV of Annexure B.**

**CHAPTER 11**  
**CHILDREN IN NEED OF CARE AND PROTECTION**  
**(Sections 150 – 160 of the Act)**

**Removal of child to temporary safe care**

**53.** (1) A person authorised by a court order, a designated social worker or a police official who removes a child and places such child in temporary safe care-

- (a) in terms of a children's court order contemplated in section 151(2) of the Act; or
- (b) without a court order in terms of section 152(1) of the Act,

must complete a form identical to **Form 36** and submit it to the temporary safe care as soon as is practicable.

- (2) The person or police official referred to in sub-regulation (1) must –
- (a) give the relevant parent, guardian, care-giver, next of kin, social worker, religious counsellor, medical practitioner, psychologist, psychiatrist, legal representative, child and youth care worker or any other person, approved by the designated social worker, access to the child at all reasonable times, subject to the terms of the court order and provided that such access is in the best interests of the child; and
  - (b) notify the designated social worker immediately of any difficulties with such placement and of any change in the child's residential address.

**Bringing of child before children's court to decide whether child is in need of care and protection**

**54.** (1) A child –

- (a) whose placement in temporary safe care has been confirmed by a presiding officer; or
- (b) who is not in temporary safe care but is the subject of an investigation as to whether he or she is in need of care and protection,
- (c) who is a victim of trafficking and has been returned to the Republic as contemplated in section 286(1) of the Act; or
- (d) who is a victim of trafficking and is found in the Republic as contemplated in section 289(1) of the Act,

must be brought or caused to be brought before the children's court of the district where the child resides, is found or happens to be, by a designated social worker or, in the case of a child referred to in paragraph (b), be brought by his or her parent, guardian or care-giver for a decision on whether the child is in need of care and protection by not later than 90 days after –

- (i) the removal of the child to temporary safe care, in the case of a child contemplated in paragraph (a);

- (ii) the commencement of the investigation, in the case of a child contemplated in paragraph (b);
- (iii) the date of return of the child to the Republic, in the case of a child contemplated in paragraph (c); or
- (iv) the date upon which the child was found in the Republic, in the case of a child contemplated in paragraph (d).

(2) The parent, guardian or care-giver of a child as contemplated in sub-regulation (1)(a), (b) or (c) must be notified by the clerk of the court to attend proceedings of the children's court where a decision will be made as to whether the child is in need of care and protection in a form identical to **Form 37**.

### **Report by designated social worker**

**55.(1)** A report by a designated social worker compiled in terms of section 155(2) of the Act must be in a form identical to **Form 38** and must—

- (a) contain an introduction and personal details of the social worker;
- (b) reflect a history of and background to the matter to be decided by the children's court;
- (c) give reasons for the removal of the child, if applicable;
- (d) address any relevant factors referred to in section 150 of the Act;
- (e) contain details of previous interventions and family preservation services that have been considered or attempted;
- (f) contain an evaluation of the matter to be decided by the children's court;
- (g) indicate whether, after investigation, the child concerned is considered to be in need of care and protection;
- (h) contain a recommendation as to which order or orders in terms of section 156 of the Act, including an order in terms of section 46 of the Act, would be appropriate to the child;
- (i) list sources of information;
- (j) contain recommendations, where necessary, regarding measures to assist the child's parent, guardian or care-giver, including-
  - (i) counselling;
  - (ii) mediation;

- (iii) prevention and early intervention services;
- (iv) family reconstruction and rehabilitation;
- (v) behaviour modification;
- (vi) problem solving; and
- (vii) referral to another suitably qualified person or organisation;
- (k) contain an assessment of the therapeutic, educational, cultural, linguistic, developmental, socio-economical and spiritual needs of the child; and
- (l) address any written request by a presiding officer to the designated social worker concerned.

(2) A permanency plan must explore the following options, taking into account that the first option is the most desirable and the last option the least desirable:

- (a) If the child is to be removed from the care of his or her parent, guardian or care-giver, the possibility of placing the child in foster care with relatives or non-relatives as geographically close to the parent or care-giver as possible to encourage visiting by the parent or care-giver;
- (b) the possibility of adoption of the child by relatives;
- (c) the possibility of a relative or relatives obtaining guardianship of the child;
- (d) the possibility of adoption of the child by non-relatives, preferably of similar ethnic, cultural and religious backgrounds; or
- (e) the possibility of placing the child in foster care with relatives or non-relatives or with a cluster foster care scheme.

(3) A permanency plan approved by a children's court must, unless the children's court, in terms of section 157(1)(b)(v) of the Act, directs otherwise, be evaluated by the social worker concerned within six months of its implementation and thereafter at intervals of six months with a view to establishing, unless he or she had been adopted or placed in foster care, whether the child may be returned to the care of his or her parent or care-giver.

## **Abandoned or orphaned children**

**56.**(1) If it appears to a designated social worker that a child has been abandoned or orphaned, whether for purposes of determining if such child is in need of care and protection or if such child can be made available for adoption, such social worker must cause an advertisement to be published in at least one local newspaper circulating in the area where the child has been found calling upon any person to claim responsibility for the child.

(2) In determining whether a child has been abandoned or orphaned for purposes of section 150(1)(a) of the Act, a presiding officer must-

- (a) be satisfied that the child has been abandoned or orphaned ;
- (b) be furnished with a copy of the advertisement contemplated in sub-regulation (1) and be satisfied that, for the purposes of-
  - (i) section 150(1)(a) of the Act, a period of at least one month has lapsed since the publication of the advertisement; or
  - (ii) section 157(3) of the Act, a period of at least three months has lapsed since the publication of the advertisement,and that no person has claimed responsibility for the child;
- (c) have regard, in the case of an orphaned child, to the death certificate or certificates of the child's parent or parents, guardian or care-giver, obtained by the social worker concerned, or, if such certificate cannot be obtained, to an affidavit by a person or persons who can testify to the death of the child's parent, guardian or care-giver; and
- (d) have regard, in the case of an abandoned child, to an affidavit, setting out the steps taken to trace the child's parent, guardian or care-giver, by the social worker concerned to the effect that the child's parent, guardian or care-giver cannot be traced and an affidavit by any other person, if any, who can testify to the fact that the child has had no contact with his or her parent, guardian or care-giver for a period of at least three months.

**CHAPTER 12**  
**ALTERNATIVE CARE**  
**(Sections 167 – 179 of the Act)**

**Manner and criteria for approval of person, facility, place or premises for temporary safe care**

57.(1) Subject to sub-regulation (2), approval to provide temporary safe care to a child must be in writing in a form identical to **Form 39** a copy of which must be handed to the relevant person, the head of the relevant place, facility or premises immediately upon approval.

(2) Approval to provide temporary safe care to a child may not be granted to a person, facility, place or premises unless the relevant provincial head of social development or the person authorised to grant approval is satisfied that-

- (a) the child will be cared for in a healthy, hygienic and safe environment in line with the reasonable standards of the community where the temporary safe care is to be provided;
- (b) the child will be provided with adequate nutrition and sleeping facilities;
- (c) the person responsible for providing the child with temporary safe care has not been found to be unsuitable to work with children in terms of section 120 of the Act and is willing to provide such care;
- (d) the area in which the child is to be placed in temporary safe care will not be severely disruptive to the child's daily routine; and
- (e) care will be provided in accordance with the definition of "care" in section 1 of the Act.

**Limitations and conditions for leave of absence of child from alternative care**

58.(1) Leave of absence may, subject to sub-regulation (2), be granted to a child in alternative care in terms of section 168(1) of the Act at any time and for a period not exceeding six weeks at any given moment.

- (2) No leave of absence may be granted to a child in alternative care—
- (a) unless the leave will serve the best interests of the child;
  - (b) unless suitable arrangements for the accommodation, care and supervision of the child have been made by a social worker for the duration of the child's leave; and
  - (c) where such leave is based only on staff shortages or on an absence of developmental programmes at a child and youth care centre during the holiday period.

### **Fees payable on transfer or provisional transfer of child in alternative care**

59.(1) For the purposes of section 171(1) of the Act, the monthly fees payable by a provincial department of social development in respect of a child in alternative care in that province, must, upon transfer of that child to a child and youth care centre, or a person in whose care or temporary safe care that child has been placed in that province, be paid by the provincial department of social development to a child and youth care centre, or a person in whose care or temporary safe care that child has been transferred and placed.

(2) The fees referred to in sub-regulation (1) are payable from the date of arrival of the child at the person or centre referred to in that sub-regulation.

(3) For the purposes of section 171(2) of the Act, the monthly fees payable by a provincial department of social development in respect of a child in alternative care in that province ("sending province"), must, upon transfer of that child to a child and youth care centre or to a person in another province ("receiving province"), be terminated by the sending province and must be paid, in accordance with the rates applicable in the receiving province.

(4) The fees referred to in sub-regulation (3) are payable from the date of arrival of the child in the receiving province, by the provincial department of social development in such other province until the child is transferred, removed or discharged from the child and youth care centre or from the care of a person in such other province.

## **Procedures before issue of notice of provisional transfer of child from alternative care**

**60.(1)** The procedure for assessing the best interest of the child before the issue of a notice of provisional transfer of the child from alternative care as contemplated in section 174(1) of the Act comprises of an assessment-

(a) which must be conducted by a designated social worker in consultation with —

- (i) the parent, guardian or care-giver of the child or the person in whose custody the child had been prior to placement in alternative care, if available, and provided that their parental responsibilities and rights have not been terminated; or
- (ii) the foster parent, the head of the child and youth care centre or the head of the facility, place or premises where the child had been placed in temporary safe care, as the case may be; and
- (iii) the child himself or herself; and

(b) which must take account of—

- (i) the child's basic need for love, parental care and permanent family life;
- (ii) the child's need for protection and security;
- (iii) the child's physical and psychological well-being;
- (iv) the ascertainable wishes and feelings of the child, considered in the light of his or her age and understanding;
- (v) the likely effect on the child of any changes in his or her circumstances;
- (vi) the child's age, sex, background and any individual characteristics;
- (vii) the harm which the child has suffered; and
- (viii) the capability of the child's immediate family or family members to meet the child's needs; and

(c) the outcome of which must be contained in a report that addresses all factors referred to in paragraph (b).



(2) Before a child can be reunited with his or her immediate family or other family members and a notice of provisional transfer of the child from alternative care as contemplated in section 174(1) of the Act can be issued a designated social worker rendering family reunification services, must compile a report in consultation with-

- (a) the parent, guardian or care-giver of the child or the person in whose custody the child had been prior to placement in alternative care;
- (b) the foster parent, the head of the child and youth care centre or the head of the facility, place or premises where the child had been placed in temporary safe care, as the case may be; and
- (c) the child himself or herself; and

(3) A report contemplated in sub-regulation (2) must -

- (a) be based on the developmental assessment of the child and his or her ecological circumstances, and which report must reflect the existing and future individual developmental and permanency plans for the child to meet developmental and permanency goals as stipulated in the plans;
- (b) reflect the incidence of parental contact or contact by relatives with the child during the period of his or her placement in alternative care; and
- (c) include a fully motivated recommendation-
  - (i) on the possibility or desirability of reunifying the child with his or her immediate family or other family members; and
  - (ii) if family reunification is desirable, on the nature of activities which can be employed to promote an environment conducive to the development of the strengths and skills of the parent, guardian, care-giver, family members and the child.

(4) The reports contemplated in sub-regulations (1)(c) and (2) may be combined in a single report and must be submitted to the provincial head of social development as soon as possible.

### **Procedure before issue of notice of discharge of child from alternative care**

**61.** The procedure for assessing the best interest of the child and for the reunification of the child with his or her immediate family or other family members as prescribed in

regulation 60 apply with the necessary changes required by the context in respect of the discharge of a child from alternative care.

**Manner in which children in alternative care must be transferred or provisionally transferred, their residential care programmes changed, be removed or permanently discharged from alternative care**

**62.(1)** A child in alternative care—

- (a) who is to be transferred from a child and youth care centre or person to another child and youth care centre or person in terms of section 171 of the Act;
- (b) whose residential care programme has been changed and is to be transferred to another child and youth care centre or person in terms of section 172 of the Act;
- (c) who is to be removed from current alternative care to a specified place of temporary safe care in terms of section 173 of the Act;
- (d) who is to be provisionally transferred to another form of care in terms of section 174 of the Act; or
- (e) who is to be discharged from alternative care in terms of section 175 of the Act,

must be accompanied by a social worker, social service professional or escort, who must, be employed by the provincial department of social development or by an designated child protection organisation.

(2) The travel arrangements for the child and the social worker, social service professional or escort for the purposes of sub-regulation (1) must be made by the child and youth care centre, or a person in whose care or temporary safe care the child is or the provincial department of social development.

(3) The costs related to the transport of a child in terms of this regulation, including the costs of an escort, must be paid for out of funds made available for this purpose by the provincial department of social development.

(4) A child who is being transported in terms of this regulation—

- (a) may not be transported in the back of a marked police vehicle;
- (b) must be allowed such reasonable breaks as may be required given the distance that is to be travelled;
- (c) must have access to water and food if the distance to be travelled exceeds 100 kilometres; and
- (d) must be given access to adequate overnight facilities, shelter and food in the event that the distance to be travelled requires staying over.

**Manner in which applications for extension of alternative care beyond 18 years of age are to be made**

**63.** An application for the extension of placement in alternative care as contemplated in section 176(2) of the Act must be made in terms of regulation 28(3)(d) of the Regulations relating to the application for and payment of social assistance and the requirements or conditions in respect of eligibility for social assistance made under the Social Assistance Act 2004 (Act No. 13 of 2004).

**Serious injury, abuse or death of child in alternative care**

**64.** Serious injury, abuse or death of any child in alternative care must be reported in terms of section 178(1) or (2) of the Act in a form identical to **Form 40**.

**CHAPTER 13**  
**FOSTER CARE**  
**(Sections 180 – 190 of the Act)**  
**PART I**  
**FOSTER CARE**

**Responsibilities of foster parents**

**65.(1)** A foster parent has the responsibility of providing for the day to day needs of a foster child placed in his or her care, in accordance with the definition of "care" in section 1 of the Act, which includes the responsibility to-

- (a) ensure that any social assistance or financial contribution from the child's biological parent or parents is used towards the upbringing of the child and in the child's best interests;
- (b) not obstruct contact between the foster child and his or her biological family members and other persons with an interest in the well-being and development of the child, including contact as provided for in any foster care plan or order of court assigning parental responsibilities and rights referred to in section 188(1)(d) or (e) of the Act, if such contact is in the best interests of the child and if those biological family members and other persons are available for the purposes of maintaining contact with the child;
- (c) ensure that if the child is of school-going age, he or she attends school on a regular basis;
- (d) co-operate with a designated child protection organisation or designated social worker towards the eventual re-unification of the child with his or her biological parents or family members, as the case may be, where this is indicated in the permanency plan;
- (e) co-operate with a designated child protection organisation or designated social worker in any review of the possible extension of the foster care order;
- (f) permit a designated child protection agency or designated social worker to have access to his or her home and to the child concerned, for the purposes of monitoring of the foster care placement, provision of reunification services, review of the foster care order or for any other matter relevant to the foster care placement;
- (g) respect the views of the child and generally promote his or her well-being, best interests and physical, emotional and social development, and, where applicable, participation in early childhood development programmes;
- (h) guide the behaviour of the child in a humane manner and not impose any form of physical violence or punishment, or humiliating or degrading forms of discipline;

- (i) where a foster care plan has been formulated in accordance with section 188(1)(e) of the Act, comply with the provisions of such plan;
- (j) ensure that where the child is from a different cultural, linguistic or religious background, the child is assisted to maintain links with his or her culture, language or religion; and
- (k) ensure that the child is treated in a manner substantially similar to other children living in the same household, except where the special needs of that child or any other child in the household require otherwise.

(2) A foster parent must notify the designated social worker or designated child protection organisation, as the case may be, of any change of address.

(3) A foster parent may not designate the day to day care of a foster child to any other person for a continuous period of one week without agreeing thereto with the designated social worker or designated child protection organisation.

(4) A foster parent must notify the designated social worker or designated child protection organisation, as the case may be, within 14 days, of any material changes in his or her living circumstances, or his or her family's living circumstances, which are likely to have a material effect on the foster placement.

### **Rights of foster parents**

**66.(1)** A foster parent has the right to take all day to day decisions necessary for the care, upbringing and development of the foster child in his or her care.

(2) A foster parent has the right to reasonable privacy of home life, and not to be subjected to threats, harassment and undue intrusions upon the exercise of his or her foster care responsibilities by biological parents or family members of the foster child.

(3) A foster parent has the right to be informed by the designated social worker or the designated child protection organisation, as the case may be, of any fact or

occurrence that may substantially affect the foster placement of the child in his or her care.

(4) A foster parent has the right to apply for the adoption of the child and has the right to be informed of any application to adopt the foster child in his or her care.

(5) A foster parent may give notice that he or she has been informed of a pending application for the adoption of a foster child in his or her care, and that he or she does not wish or is unable to adopt the child or to submit an application for the adoption of the foster child, in a form identical to **Form 41**.

(6) A foster parent has the right to ongoing training and support from a social worker in order to enable such foster parent to deal effectively with a foster child and the child's biological parents.

(7) A foster parent has the right to be informed about any investigation or assessment of his or her psycho-social background.

(8) A foster parent has the right to be informed about the foster child's educational history, assessments and achievements to ensure the foster child's optimal educational needs.

## **PART II**

### **CLUSTER FOSTER CARE**

#### **Requirements for approval of organisation to manage and provide cluster foster care**

**67.** No organisation shall manage any cluster foster care scheme unless such organisation –

- (a) is registered as a non-profit organisation in terms of the Non-profit Organisations Act, 1997 (Act No. 71 of 1997); and
- (b) has been approved by the provincial head of social development to provide cluster foster care.

## Requirements for registration as cluster foster care scheme

**68.** (1) Any organisation contemplated in section 183(1)(a) of the Act that wants to operate or manage a cluster foster care scheme must apply for that scheme to be registered with the provincial department of social development in a form identical to **Form 42**.

(2) Upon granting an application contemplated in sub-regulation (1) the provincial head of social development must issue to the applicant a certificate of registration in a form identical to **Form 43** and may impose such conditions as he or she deems necessary or expedient.

(3) In rejecting an application for registration of a cluster foster care scheme, the provincial head of social development must duly inform the applicant of the rejection in a form identical to **Form 44** by registered post and must furnish written reasons for such rejection.

(4) Where a non-profit organisation seeks registration for more than one cluster foster care scheme such organisation must complete a form in respect of each scheme.

(5) A head of a provincial department of social development may deregister a registered cluster foster care scheme if such scheme has failed to comply with any condition of registration or if such a scheme has failed to comply with any requirement for registration, provided that 90 days notice is given to the cluster foster care scheme in a form identical to **Form 45** of the intention to deregister such scheme.

(6) A cluster foster care scheme which has received a notice contemplated in sub-regulation (5) may make representations to the head of the department of social development of that province in a form identical to **Form 46** within the 90 days notice contemplated in sub-regulation (5).

(7) If a cluster foster care scheme is deregistered as contemplated in sub-regulation (5) after consideration of the representations contemplated in sub-regulation (6), the

scheme must be notified thereof, together with the reasons for such decision, in a form identical to **Form 47**.

### **Functioning and management of cluster foster care scheme**

**69.(1)** A non-profit organisation managing or operating a registered cluster foster care scheme must, in respect of schemes under its management or operation -

- (a) keep proper financial records of all social assistance and other monies received for the provision of social services for the support of the foster children placed in such scheme by a children's court; and
  - (b) operate or be managed according to a written plan or agreement containing details-
    - (i) of the financial management, the programmes and services to be delivered in terms of that plan or agreement.
    - (ii) about the system of assessment of children placed in cluster foster care and their placement with active members of the scheme who are to be assigned responsibility for them;
    - (iii) on how disputes concerning the management, operation or day to day functioning of the scheme are to be resolved, and how decisions are to be taken regarding transfer of children between, or placement with, foster parents who are active members of the scheme assigned responsibility for foster children;
    - (iv) on the management of the behaviour of children in cluster foster care, and must include a prohibition of physical punishment, humiliating or degrading forms of discipline of such children; and
    - (v) relating to mechanism by which foster children in a cluster foster care scheme can record any complaint regarding abuse or exploitation.
- (2) An organisation contemplated in sub-regulation (1) must submit to the provincial head of social development an annual report containing-
- (a) an annual financial report of income received and expenditure incurred;
  - (b) a report on the number of children and duration of each child placed in cluster foster care over the annual period;



- (c) a report on the number of children allocated per active member of an organisation contemplated in section 183(1)(a) of the Act;
- (d) a report on the number of active members of the organisation providing foster care to whom responsibility for the foster care of the children in the scheme have been assigned;
- (e) the number of active members per physical address and details concerning any transfer of children between active members;
- (f) details of child protection services rendered and in respect of which children in the cluster foster care scheme these services have been rendered;
- (g) details concerning the delivery of programmes or support to children in cluster foster care or to active members of the organisation providing foster care to whom responsibility for the foster care of the children in the scheme have been assigned;
- (h) any detail concerning the provision of services to meet the needs of children with special needs;
- (i) the extent to which the rights of children in cluster foster care have been met; and
- (j) achievements and challenges.

(3) An organisation contemplated in sub-regulation (1) must ensure that clearance certificates, to the effect that the names of any active members providing foster care to children in the scheme do not appear in Part B of the Register or the National Register for Sex Offenders, issued by the Director-General and the Director-General of Justice and Constitutional Development, respectively.

- (4) An organisation contemplated in sub-regulation (1) must have-
- (a) in its employ at least one person registered as a social worker with the Council for Social Services Professions for every 50 children served by the cluster foster care scheme or schemes that it manages or operates; or
  - (b) entered into a formal agreement with a designated child protection organisation to provide the required social work services.

(5) An organisation contemplated in sub-regulation (1) must ensure that the transfer of children between foster parents who are active members of that organisation is carried out in accordance with the procedure determined in section 171 of the Act.

### **Contents of written plan or agreement**

**70.** A written plan or agreement contemplated in regulation 69(1)(b) may include details in respect of—

- (a) visits by the manager or his or her designated subordinate from an organisation contemplated in section 183(1)(a) of the Act to the household of an active member of such organisation to whom responsibility for foster care of the child has been assigned;
- (b) the roles and responsibilities of active members of the organisation to whom responsibility for foster care of a child has been assigned; and
- (c) cost saving mechanisms to be adopted to the benefit of the children in the cluster foster care scheme.

### **Provision of services by cluster foster care scheme**

**71.** A cluster foster care scheme must promote the best interests of the children in cluster foster care by providing services which—

- (a) provide support, mentoring, supervision and advice to active members of an organisation to whom responsibility for foster care of a child or children in the cluster foster care scheme has been assigned;
- (b) require the active members of an organisation to whom responsibility for foster care of children has been assigned to:
  - (i) ensure that the children in cluster foster care benefit from educational and health services, including early childhood development services;
  - (ii) fulfil the special needs of any child in cluster foster care, including chronic illness or a disability, by providing

- psychological, rehabilitation and therapeutic programmes for children with such needs;
- (iii) ensure that the rights of children in cluster foster care are respected, protected, promoted and fulfilled; and
  - (iv) fulfil the social, cultural and religious needs of any child in cluster foster care.
- (c) assist the active members of an organisation to whom responsibility for foster care of children has been assigned to obtain the basic necessities of life themselves, including by providing access to income-generation projects and skills development programmes as appropriate;
  - (d) ensure that a foster care plan as contemplated in section 188(1)(e) of the Act is compiled in respect of each child in cluster foster care, as soon as possible, but not later than 21 days after the child's placement in the cluster foster care scheme;
  - (e) develop appropriate parenting skills and the capacity of active members of an organisation to safeguard the well-being of the children, including the promotion of positive, non-violent forms of discipline;
  - (f) prevent the neglect, exploitation, abuse, inadequate supervision of children or other failures to meet children's needs on the part of active members of an organisation;
  - (g) assist a young person with the transition when leaving cluster foster care after reaching the age of 18; and
  - (h) involve active members of an organisation, as well as the children in cluster foster care, in identifying and seeking solutions to their problems.

**CHAPTER 14**  
**CHILD AND YOUTH CARE CENTRES**  
**(Sections 191 – 212 of the Act)**

**National norms and standards for child and youth care centres**

**72.** The national norms and standards for child and youth care centres contemplated in section 194 of the Act are contained in **Part V of Annexure B.**

**Rights of children in child and youth care centres**

- 73.** Every child who is cared for in a child and youth care centre has the right to-
- (a) be informed promptly, in a language which he or she understands, of the reason for his or her admission or detention, as the case may be;
  - (b) have his or her parent, guardian, next of kin or significant other person informed, within 48 hours of admission, of the place to which he or she has been admitted or in which he or she is being detained, as the case may be, and of the reason for his or her admission or detention, as the case may be;
  - (c) regular communicate with and be visited by his or her parent or parents, guardian, next of kin, social worker, probation officer, case manager, religious counsellor, health care professional, psychologist, legal representative, child and youth care worker, unless a court order or his or her care or development programme indicates otherwise or unless he or she chooses otherwise.
  - (d) adequate nutrition, clothing, nurturing and to be given the same quality of care as other children in the child and youth care centre;
  - (e) be consulted and to express his or her views, according to his or her abilities, about significant decisions affecting him or her;
  - (f) reasonable privacy, possession and protection of his or her personal belongings;
  - (g) be informed that prohibited items in his or her possession may be removed and withheld;

- (h) be informed of the behaviour that is expected of him or her by service providers, the consequences of his or her failure to meet the expectations of service providers, and assistance that he or she can expect from the service providers regarding the attaining of such behavioural expectations;
- (i) care and intervention which respects, protects and promotes his or her cultural, religious, linguistic heritage and the right to learn about and maintain this heritage;
- (j) positive discipline appropriate to the his or her level of development;
- (k) education or training appropriate to his or her level of maturity, aptitude and ability;
- (l) respect and protection from exploitation and neglect;
- (m) opportunities of learning and developing his or her capacity to demonstrate respect and care for others;
- (n) the necessary support and to an interpreter if language or disability is a barrier to consulting with them on decisions affecting his or her custody or care and development;
- (o) privacy during discussions with people referred to in paragraph (c) unless a court order or his or her care or development programme indicates otherwise or unless he or she chooses otherwise; and
- (p) have access to community activities and structures unless a court order or his or her care or development programme indicates otherwise.

### **Complaints procedure in child and youth care centre**

**74.** (1) Each child and youth care centre must have a written complaints procedure, approved by the centre's management board, which must –

- (a) be appropriate to the age and stage of development of the children residing at the centre;
- (b) allow for children to complain about particular incidents or staff members;
- (c) be accessible to the children;
- (d) be structured in such a manner that it does not cause conflict;
- (e) encourage restorative justice interventions, where appropriate; and

- (f) allow for fair procedures for those who have allegations made against them.
- (2) A child must, upon admission to the centre, be informed of the complaints procedure.

**Core components and implementation of programmes relating to the developmental, therapeutic and recreational needs of children.**

**75.** (1) The core components of programmes to meet the developmental, therapeutic and recreational needs of children at a child and youth care centre are-

- (a) with regard to developmental programmes –
  - (i) life skills;
  - (ii) independent living for children disengaging from the residential care programme;
  - (iii) victim empowerment;
  - (iv) family preservation;
  - (v) after care;
  - (vi) promotion of the rights of children; and
  - (vii) income generating activities.
  
- (b) with regard to therapeutic programmes –
  - (i) developmental assessment;
  - (ii) psycho-social support;
  - (iii) individual counselling;
  - (iv) group counselling;
  - (v) trauma counselling;
  - (vi) grieve counselling;
  - (vii) play therapy;
  - (viii) family therapy including parenting plans, stress management, conflict resolution, positive communication, positive discipline and behaviour change; and
  - (ix) counselling to children in child labour, commercial sexual

exploitation and child trafficking.

(c) with regard to recreational programmes –

- (i) sport;
- (ii) art;
- (iii) drama;
- (iv) dancing;
- (v) singing; and
- (vi) board games

(2) In order to implement the programmes referred to in sub-regulation (1) the following must be done -

- (a) a strategy for implementation must exist;
- (b) the programmes must be approved by the provincial head of social development;
- (c) quality assurance of the programmes must be undertaken;
- (d) impact assessment of programmes must be undertaken;
- (e) programmes must be evaluated and reviewed; and
- (f) awareness of the availability of programmes must be raised.

### **Behaviour management in child and youth care centres**

**76.(1)** The manager and staff of a child and youth care centre must promote approaches to positive discipline by—

- (a) ensuring that children are provided with the skills and support which enable constructive and effective social behaviour;
- (b) demonstrating the expected behaviour by modelling this in their attitudes and interactions with the children;
- (c) ensuring that children feel respected, and physically, emotionally and socially safe when service providers provide positive discipline; and

- (d) ensuring, through programmes and effective role modelling, that children are given opportunity and encouragement to demonstrate and practise positive behaviour.
- (2) The following behaviour management actions are expressly prohibited:
- (a) Group punishment for individual behaviour;
  - (b) threats of removal, or removal from a programme;
  - (c) humiliation or ridicule;
  - (d) physical punishment;
  - (e) deprivation of basic rights and needs such as food and clothing;
  - (f) deprivation of access to family members or significant other persons;
  - (g) denial, outside of the child's specific development plan, of visits, telephone calls or correspondence with family members and significant other persons;
  - (h) isolation, except for medical reasons, from service providers or other children admitted to the place of care, other than for the immediate safety of those children or those service providers only after all other possibilities have been exhausted and then under strict adherence to policy, procedure, monitoring and documentation;
  - (i) restraint, other than for the immediate safety of the children or service providers and as an extreme measure, which measure must be governed by specific policy and procedures compliant with sub-regulations (3), (4) and (5), may be undertaken only by service providers trained in such measure, and must be thoroughly documented and effectively monitored;
  - (j) assignment of exercise or inappropriate chores;
  - (k) undue influence by service providers regarding their religious or personal beliefs including sexual orientation or cross-gendered identity;
  - (l) measures which demonstrate discrimination on the basis of cultural or linguistic heritage, gender, race, religion, sexual orientation or cross-gendered identity;



- (m) verbal, emotional or physical harm;
- (n) punishment by another child; and
- (o) behaviour modification such as punishment or reward systems or privilege systems, other than as a treatment or development technique within a documented individual treatment or development programme which is developed by a team including the child and monitored by an appropriately trained multi-disciplinary team.

(3) A child may be isolated from other children, only if he or she cannot be managed and is deemed to be a danger to himself, herself or others, for a period of no longer than two hours, for the purposes of providing support and giving him or her time to regain control and dignity.

(4) (a) Any child isolated from other children must be under the constant observation of a social worker, child and youth care worker or psychologist, and must be provided with physical care, emotional support, and counselling which assists in re-integration into the group as soon as possible.

(b) No child may be isolated or locked up as a form of discipline or punishment.

(c) The room where a child is isolated may not be a bathroom or toilet, a windowless room, a basement room, vault or store-room.

(5) A register must be maintained which details the reasons for and the period of a child's isolation, together with a report on the support and counselling provided and the response of the child during the period of isolation.

### **Reporting responsibilities of staff**

**77.** The following incidents must be reported by staff members to the manager of the child and youth care centre within an hour of the discovery or reporting of the incident:

- (a) Removal or any attempted removal of a child from the child and youth care centre or programme by anyone who is not permitted to do so;

- (b) any situation in which restraint, isolation, or prohibited behaviour management measures are used;
- (c) accident or illness requiring medical attention or hospitalisation;
- (d) allegations of physical, psychological, emotional, sexual or verbal abuse;
- (e) absence of a child or young person from the centre without permission, or as otherwise agreed within the individual development plan;
- (f) interventions by security personnel or the South African Police Service;
- (g) the death or injury of a child;
- (h) any criminal charge or conviction of a service provider, volunteer or other adult involved with the centre;
- (i) any substance abuse by a service provider while on duty or when he or she arrives on duty under the influence of alcohol or drugs or he or she deals in drugs;
- (j) any strike by workers at the centre; or
- (k) any other unusual circumstances that are likely to affect the safety or well-being of any child at the centre.

### **Application for registration of child and youth care centre**

**78.(1)** An application for the registration, conditional registration of a child and youth care centre by an organisation referred to in section 197 of the Act or renewal of such registration must be lodged with the provincial head of social development of the province in which the facility is situated in a form identical to **Form 48**.

(2) An application contemplated in sub-regulation (1) must contain the following particulars:

- (a) The particulars of the applicant;
- (b) the physical and postal address of the child and youth care centre;
- (c) the constitution of the applicant;
- (d) the committees functioning under the management board of the applicant, if any, and the nature of their functions;

- (e) the staff composition employed at a child and youth care centre, including staff for the care of children with special needs or disabilities;
- (f) the extent of the premises, buildings and playgrounds;
- (g) particulars on rooms and amenities for use by children;
- (j) particulars of the children that will be or are being cared for at the child and youth care centre;
- (k) access to the building by children with disabilities; and
- (l) a business plan containing-
  - (i) a vision;
  - (ii) a mission;
  - (iii) a child protection plan;
  - (iv) short, medium and long term goals
  - (v) action plans indicating the measures in terms of which those goals referred in sub-paragraph (iv) are to be achieved;
  - (vi) a detailed description of the programme or programmes to be offered in terms of section 191(2) of the Act; and
  - (vii) a certificate issued by the relevant authority to the effect that the child and youth care centre complies with national and local building regulations.
- (m) the financial statements of the child and youth care centre including an exposition of the funds available to operate the child and youth care centre;
- (n) a daily menu and a daily programme of the child and youth care centre;
- (o) an emergency plan; and
- (p) clearance certificates issued by the Director-General and the Director-General of Justice and Constitutional Development, respectively to the effect that the names of any member of the management board appointed in terms of regulation 84 and that of any employee do not appear in Part B of the National Child Protection Register or the National Register for Sex Offenders, respectively.

(3) A provincial head of social development may allocate a designated social worker or social service professional to render assistance to an applicant in the preparation of an application for registration.

### **Notice and objection to application**

**79.** The provincial head of social development who has received an application for the registration of a child and youth care centre must:

- (a) publish a notice that such an application has been received by him or her, in a local newspaper circulating in the area where the child and youth care centre is or will be situated in at least three official languages within 14 days of the receipt of such an application; and
- (b) indicate in the notice referred to in paragraph (a) that the application is available for scrutiny, comment and objection for a period of 21 days after publication of the notice.

### **Consideration of application**

**80.(1)** The provincial head of social development must after receipt of the application as contemplated in regulation 78 consider the application in terms of section 200 of the Act.

(2) Upon granting an application contemplated in regulation 78(1) the provincial head of social development must issue the certificate contemplated in section 200(1)(b) of the Act in a form identical to **Form 49** and impose such conditions as he or she may consider necessary.

(3) The provincial head of social development may grant the application referred to in sub-regulation (2) for a period not exceeding five years.

(4) In refusing an application for registration or the renewal of registration of a child and youth care centre, the provincial head of social development must duly inform the applicant of the refusal in a form identical to **Form 50** by registered post and must furnish reasons for such refusal.

## **Amendment of registration**

**81.** If there is a deviation from the conditions and requirements for registration, in terms of the Act, on which the initial application for registration was granted, the holder of a registration of a child and youth care centre must, within 30 days of becoming aware of such deviation, apply to the provincial head of social development in the relevant province for an amendment of the registration.

## **Required skills of staff of child and youth care centres**

**82.** The persons contemplated in section 209(1) must have some of the training and skills referred to in regulation 75 (1): Provided that where any such person is a professional whose profession requires registration, such person must be registered with the relevant professional body.

## **Interviewing process for manager and staff at child and youth care centre**

**83.(1)** In addition to any requirements contained in any other law relating to the appointment of staff, the following requirements must be adhered to:

- (a) The position must be advertised by a person or organisation (registration holder) referred to in section 209(1) of the Act, in at least one local newspaper circulating in the area where the child and youth care centre is located;
- (b) the names and *curricula vitarum* submitted must be screened by the interviewing panel that will interview the candidate;
- (c) the shortlist of candidates must be subjected to thorough reference checking; and
- (d) in the case of support staff referred to in regulation 82(e), the person or organisation (registration holder) referred to in section 209(1) of the Act can decide whether or not that position must be advertised and if so how.

(2) An interviewing panel must be appointed by a person or organisation (registration holder) referred to in section 209(1) of the Act and must include-

- (a) at least two members of the management board where members of the management board have already been appointed;
- (b) at least one person who has a qualification in child and youth care; and
- (c) a community representative from the community where the child and youth care centre is situated.

(3) When selecting a suitable candidate to be appointed as the manager of a child and youth care centre, the interviewing panel must consider whether the candidate-

- (a) is a registered professional from an appropriate discipline;
- (b) has specialised knowledge of child and youth care work,
- (c) has proven leadership ability;
- (d) is able to demonstrate management and administration skills; and
- (e) has knowledge and experience of the particular programme or programmes that the child and youth care centre is registered to provide.

(4) In the case of support staff referred to in regulation 82(e) a person or organisation (registration holder) referred to in section 209(1) of the Act, can decide how the interview panel is to be constituted.

### **Appointment of management board**

**84.(1)** If a child and youth care centre is established and operated by a department, a provincial department of social development, or municipality in terms of section 197 of the Act, the management board must be appointed according to the following procedure:

- (a) a call for nominations for members of the board must be advertised by the Minister, MEC or the Mayor in a local newspaper in the area where the child and youth care centre is situated, and must be published in at least three official languages;
- (b) any person may be nominated, provided that the nomination is made in writing and is accompanied by a *curriculum vitae* of the nominee, as well as a letter indicating that he or she agrees to the nomination;

- (c) Upon receipt of the nominations a short list of candidates of not more than 15 candidates must be submitted to the Minister, MEC or the Mayor;
- (d) the Minister, MEC or the Mayor must, from the list referred to in paragraph (c), and subject to sub-regulation (4) and paragraphs (e) to (g), appoint the following:
  - (i) not more than two from the public service;
  - (ii) not more than three from the community in which child and youth care centre is situated;
  - (iii) one member from the health profession;
  - (iv) one member of staff;
  - (v) one member who is a representative of residents of the child and youth care centre; and
  - (vi) the manager of the child and youth care centre;
- (e) no person with a conflict of interests, or a potential conflict of interests may be appointed to a management board;
- (f) subject to paragraph (g), a board is appointed for a period of five years; and
- (g) in order to allow for effective leadership transition, the Minister, MEC or the Mayor may extend the period of membership of any four members appointed by him or her, for a second five year period.

(2) If a child and youth care centre is a privately operated child and youth care centre, the management board must be appointed by the registration holder in terms of the same procedure as contemplated in sub-regulation (1) and subject to the provisions of sub-regulations (3) and (4).

(3) The registration holder may, instead of persons referred to in sub-regulation (1)(d)(i), appoint any other person that he or she deems appropriate.

(4) No person who has not submitted a clearance certificate, to the effect that his or her name does not appear in Part B of the National Child Protection Register or the National Register for Sex Offenders, issued by the Director-General and the Director-General of

Justice and Constitutional Development, respectively, may be appointed to a management board.

(5) Any vacancy on a management board must be filled in the same manner in which the member who vacates that office was appointed, provided that any member so appointed shall hold office for the unexpired portion of the period for which the member whose office became vacant was appointed.

(6) A member of a management board must vacate office if –

- (a) at any stage, he or she ceases to comply with the provisions of sub-regulation (1)(d), (3) or (4);
- (b) he or she resigns after giving at least 30 days notice in writing to the chairperson, Minister, MEC Mayor or registration holder referred to in 208(2)(b) of the Act, whichever is appropriate; or
- (c) in the case of a chairperson, he or she resigns by way of a letter to the Minister, MEC or Mayor in respect of a board constituted in terms of 208(2)(a) of the Act or to the registration holder, in respect of a board constituted in terms of section 208(2)(b) of the Act;

### **Functioning of management board**

**85.** A management board appointed in terms of regulation 84 must function according to the following procedures:

- (a) A management board must meet at least four times a year;
- (b) a chairperson must be elected at the first meeting of the board;
- (c) the quorum for a meeting of the management board is constituted by a simple majority of its members;
- (d) the decisions of the board must as far as possible be made by consensus, but where the matter is put to the vote, a simple majority prevails, and where the votes are split equally the chairperson has the casting vote;
- (e) the board may request the attendance of or a report by any member of staff, and may be addressed by any child who is



- resident at the centre, either at the request of the child or at the board's own request;
- (f) minutes must be taken at all meetings, which must include a summary of the discussions and a record of all decisions taken;
  - (g) the minutes of the previous meeting must be circulated together with an agenda at least two weeks prior to the following meeting, provided that if the meeting is called urgently, this rule may be dispensed with by the chairperson; and
  - (h) the board may decide on its own procedures regarding matters on which these regulations are silent, provided that there is consensus regarding such procedures, failing which the procedure set out in paragraph (d) must be followed.

### **Responsibilities of management board**

86.(1) The management board must ensure that-

- (a) its members are trained in the legal framework in terms of which child and youth care centres operate; and
- (b) its members perform their duties in good faith and in a manner they reasonably believe to be in the best interests of the children residing in the child and youth care centre.

(2) A management board must-

- (a) provide support and advice to the manager;
- (b) evaluate the performance of the manager;
- (c) review and approve the annual budget for the child and youth care centre;
- (d) monitor, review and approve the business plan of the centre; and
- (e) ensure that assets of the centre are maintained and protected.

(3) A management board must ensure that it receives regular written reports from the manager.

## **Management system**

**87.**(1) The manager of a child and youth care centre is responsible for the day to day operation of the child and youth care centre.

(2) The manager and the management board must strive for a co-operative relationship characterised by openness and trust.

(3) The management board is responsible for the approval of policy.

## **Constitution or founding document of child and youth care centre**

**88.**(1) Every child and youth care centre must operate according to a constitution or founding document.

(2) A constitution or founding document must, include the following particulars:

- (a) the name of the organisation operating the child and youth care centre;
- (b) the name of the child and youth care centre;
- (c) the objectives of the child and youth care centre;
- (d) principles of the child and youth care centre, if any;
- (e) the structure of the child and youth care centre, including the management board and the appointment of members;
- (f) financial matters;
- (g) general administration;
- (h) procedure for amendment of the constitution or founding document; and
- (i) dispute resolution procedures.

## **Quality assurance process**

**89.**(1) Every child and youth care centre must undergo a quality assurance process, as required by section 211(1) of the Act and in terms of section 211(2) of the Act, within two years of registration of such centre.

(2) The quality assurance process must be repeated periodically, at intervals of not more than three years from the date on which the previous quality assurance process was finalised.

(3) Notwithstanding the provisions of sub-regulations (1) and (2) and subject to section 211(2) of the Act, the provincial head of social development may order a quality assurance process at any time, where she or he has reason to believe that such centre has failed to comply with any provision of the Act and any regulations made in terms of the Act.

(4) An independent quality assurance team contemplated in section 211(2)(b) of the Act must be appointed by the provincial head of social development.

(5) A team contemplated in sub-regulation (4) must-

- (a) include members from the government and the non-government sector;
- (b) include at least one individual who has specific knowledge, skill and practical experience in the provision of designated child protection services;
- (c) have a team leader appointed by the provincial head of social development; and
- (d) include any person the provincial head of social development may deem appropriate.

### **Appeal against certain decisions**

**90.** An applicant or a registration holder aggrieved by a decision of a provincial head of social development may appeal against such decision to the MEC for social development of that province in a form identical to **Form 51** within 90 days of the receipt of such decision.

**CHAPTER 15**  
**DROP-IN CENTRES**  
**(Sections 213 – 227 of the Act)**

**National norms and standards for drop-in centres**

**91.** The national norms and standards for drop-in centres contemplated in section 216 of the Act are contained in **Part VI of Annexure B**.

**Application for registration of drop-in centre**

**92.(1)** Subject to the provisions of sub-regulation (2), an application for the registration, conditional registration or renewal of registration of a drop-in centre must be lodged with the provincial head of social development of the province where the facility is situated in a form identical to **Form 52**.

(2) If the performance of the functions contemplated in sections 217 and 218 of the Act has been assigned to a municipal manager or delegated to a social service professional in the employ of the municipality, an application contemplated in sub-regulation (1) must be lodged with the municipal manager of that municipality.

(3) An application contemplated in sub-regulation (1) must, in addition to **Form 52**, be accompanied by the following:

- (a) A business plan containing the-
  - (i) business hours of the drop-in centre;
  - (ii) staff composition;
  - (iii) supporting documents of the skills and training of staff members as required by regulation 95;
  - (iv) disciplinary policy and rules; and
  - (v) organisational structure.
  
- (b) clearance certificates to the effect that the name of the applicant and the name of any employee do not appear in Part B of the National Child Protection Register or the National Register for Sex Offenders issued by

the Director-General and the Director-General of Justice and Constitutional Development, respectively.

### **Granting or rejection of application for registration**

**93.**(1) Upon granting an application referred to in regulation 92(1), the provincial head of social development or, where the function has been assigned to a municipal manager in terms of section 225 of the Act, the municipal manager or social service professional concerned, must issue to the applicant a certificate of registration, conditional registration or renewal of registration in a form identical to **Form 53**.

(2) The registration contemplated in sub-regulation (1) may be for a period not exceeding five years.

(3) In rejecting an application for registration of a drop-in centre, the provincial head of social development or, where the function has been assigned to a municipality in terms of section 225 of the Act, the municipal manager or social service professional concerned, must duly inform the applicant of the refusal in a form identical to **Form 54** by registered post or by hand delivery.

### **Management of drop-in centre**

**94.**(1) A register or registers must be kept by a drop-in centre in which the following particulars must be entered:

- (a) The full name, gender, date of birth and identity number of each child;
- (b) the names, addresses and contact particulars of a child's parent, primary care-giver or family member;
- (c) the date of a child's admission to the drop-in centre and date of termination of attendance of the drop-in centre or, in the case of irregular attendance, the dates attended; and
- (d) any disability, chronic medical condition or dietary requirement and any other critical information for the care and development of a child.

(2) A drop-in centre must keep a separate file in respect of each child in which the following information must be filed:

- (a) All documents relating to the child, received at the time of admission;
- (b) any document or correspondence relating to the child;
- (c) reports and notes by the provider of a programme within the drop-in centre on the development of the child with particular reference to any irregular behavioural pattern or possible deviations from the normal development of the child having regard to his or her age; and
- (d) reports and notes on any injury to or bruises on the child observed during the child's admission at the drop-in centre including any observations which may relate to the possible abuse of the child.

(3) A file must be kept of each staff member employed at, or volunteer providing services at, a drop-in centre.

(4) A disciplinary register must be kept in which the name of the child, the nature of the behaviour and the disciplinary measure imposed.

(5) Any register or file kept in terms of this regulation must be kept for a period of at least three years after the date of termination of attendance by a child at a drop-in centre.

(6) Any irregular or dysfunctional behaviour of a child in a drop-in centre must be brought to the attention of the parent or the care-giver of the child, where their whereabouts are known.

(7) Quarterly progress reports must be furnished to the parent or the caregiver of each child in a drop-in centre, where their whereabouts are known.

### **Skills and training of persons employed at or engaged in drop-in centre**

**95.**(1) Any person rendering services to children at a drop-in centre, excluding persons who do not work directly with such children, must possess the following skills:

- (a) The ability to implement a development programme in a drop-in centre;
- (b) report-writing skills;
- (c) skills or training on the identification of irregular and dysfunctional behaviour in a child;
- (d) basic numeracy skills; and
- (e) skills or training on child development.

(2) Any person employed at or engaged at a drop-in centre after registration of the centre in terms of these Regulations must provide his or her employer with-

- (a) a certified copy of his or her identity document; and
- (b) proof of his or her skills or training.

(3) Any person rendering services to children at a drop-in centre and who works directly with a child in such centre must be able to communicate with the child in a language, including sign language, which such child understands.

(4) If a drop-in centre renders services to children with special developmental and behavioural needs, one or more persons with specialised skills in dealing with such children must be employed or available to provide such specialised services.

### **Assignment of functions to municipalities**

**96.**(1) Before assigning all or part of the functions contemplated in section 225 of the Act, a provincial head of social development must be satisfied that the municipality concerned has-

- (a) adequate staff, including social service professionals, who are suitably qualified and skilled;
- (b) the ability to render assistance to build capacity to ensure compliance with the relevant norms and standards; and

- (c) the capacity to manage the functions to be assigned.
- (2) An agreement between a provincial head of social development and a municipality contemplated in section 225(2) of the Act must be in a form identical to **Form 55**

### **Appeal against certain decisions**

- 97.(1)** An appeal by an applicant or a registration holder aggrieved by a decision of a provincial head of social development must be in a form identical to **Form 56**.
- (2) An appeal by an applicant or a registration holder aggrieved by a decision of an official in the employ of a municipality must be in a form identical to **Form 57**.

## **CHAPTER 16**

### **ADOPTION**

**(Sections 228 – 253 of the Act)**

### **Register on Adoptable Children and Prospective Adoptive Parents**

- 98.(1)** An adoption social worker who is satisfied that a prospective adoptive parent has met the requirements of sections 231(2) of the Act and section 123(1)(c) of the Act must apply for such a person's name to be registered in the Register on Adoptable Children and Prospective Adoptive Parents referred to in section 232 of the Act.
- (2) An application as contemplated in sub-regulation (1) must be in a form identical to **Form 58**.
- (3) An adoption social worker who is satisfied that a child is adoptable as contemplated in section 230(3) of the Act must apply for such a child's name to be registered in the Register on Adoptable Children and Prospective Adoptive Parents referred to in section 232 of the Act.



(4) An application as contemplated in sub-regulation (3) must be in a form identical to **Form 59**.

(5) An application as contemplated in this regulation must be lodged with the Director-General.

(6) The Director-General must inform a prospective adoptive parent and the adoption social worker who applied for registration or the renewal of such registration of his or her decision and provide the relevant registration number.

### **Applications for and consent to adoption of children**

**99.**(1) An application for the adoption of a child may be lodged by any person contemplated in section 231(1) of the Act.

(2) An application contemplated in sub-regulation (1) must be in a form identical to **Form 60** and must be lodged with the clerk of the court in the district where the child is resident.

(3) An application contemplated in sub-regulation (1) must:

(a) in the case of the adoption of a foster child, be accompanied by a written statement of the child's foster parent, in a form identical to **Form 41**,

(b) subject to section 236(1) to (3) of the Act, be accompanied by a written consent of each parent regardless of whether they are married or not, in a form identical to **Form 61**, and of the child, where such child is a child referred to in section 233(1)(c) of the Act, in a form identical to **Form 62**, as required by section 233(1)(a) or section 233(1)(c) of the Act, as the case may be. Provided that if the parent is a child that parent is assisted by his or her guardian; or

(c) subject to section 236(1) to (3) of the Act, in the case of any other person who holds guardianship in respect of the child, be accompanied by a

written consent of that guardian, as required by section 233(1)(b) of the Act in a form identical to **Form 63**; and

- (d) be accompanied by a report from an adoption social worker that the applicant is a prospective adoptive parent.
- (4) The consent forms referred to in sub-regulation (3)(b) and (c) must be signed in the presence of a presiding officer of the children's court as contemplated in section 233(6)(a) of the Act or in the case of consent given outside the Republic by a person referred to in regulation 100 as contemplated in section 233(6)(b) of the Act.

### **Consent outside the Republic**

**100.** If consent to adoption is given outside the Republic, it must be signed in the presence of an officer in the service of a South African diplomatic or consular mission, or by a judge, magistrate, justice of the peace or public officer of the country concerned.

### **Verification of consent**

**101.**(1) Before a presiding officer verifies the consent referred to in regulations 99 and 100 in terms of section 233(6) of the Act, he or she must inform the person giving the consent-

- (a) of the effect of an adoption order; and
- (b) of the right to withdraw the consent in terms of regulation 102

(2) The presiding officer, in the case of consent given inside the Republic, or the persons referred to in regulation 100, in the case of consent given outside the Republic, must verify the identity of the person giving such consent against a valid identity document or a valid passport.

### **Withdrawal of consent**

**102.**(1) A parent or guardian who wishes to withdraw the consent must do so in writing, in a form identical to **Form 64**, in the presence of any presiding officer within 60 days of such consent

(2) A child who wishes to withdraw the consent must do so in writing, in a form identical to **Form 65**, in the presence of any presiding officer within 60 days of such consent.

### **Format for post adoption agreements**

**103.**(1) A post adoption agreement contemplated in section 234 of the Act must be in a form identical to **Form 66**.

(2) A party to a post adoption agreement must inform all other parties to such an agreement of any change to any of the particulars referred to in sub-regulation (1) within seven days of such change.

### **Steps to establish details of person who consents to adoption**

**104.**(1) In order to establish the name and address of each person whose consent for an adoption is required in terms of section 233 of the Act, the clerk of the children's court must request the relevant accredited child protection organisation or the relevant adoption social worker to provide him or her with the name and address of such persons.

(2) If the name or address of the person whose consent for adoption is required is not known, the relevant accredited child protection organisation or the relevant adoption social worker may employ a tracing agency or may place an advert in a newspaper in order to obtain the required details.

### **Manner of recording information in the adoptions register**

**105.**(1) The clerk of the children's court must submit the original of the following documents to the Adoption Registrar designated as such in terms of section 247 of the Act:

- (a) the application for adoption;
- (b) every consent to the adoption as may be required;
- (c) the order of adoption and two copies thereof; and
- (d) the child's identity document or birth certificate or where these are not available, a sworn statement to that effect by an adoption social worker.

(2) Upon receipt of the documents contemplated in sub-regulation (1) the Adoption Registrar must register such information in the adoption register.

(3) After completion of the registration contemplated in sub-regulation (2) the Adoption Registrar must enter the date of registration and the registration number on each order of adoption and must forward-

- (a) a copy of the order of adoption referred to in sub-regulation(1)(c) and the original identity document or birth certificate to the adoptive parents; and
- (b) the remaining copy of the adoption order to the relevant clerk of the children's court.

### **Rescission of an order of adoption**

**106.**(1) If the High Court concerned rescinds an order of adoption in terms of section 243 of the Act, the Registrar of that Court must submit a copy of the court order to the clerk of the relevant children's court.

(2) The clerk of the relevant children's court must, upon receipt of the court order, notify the Director-General of Home Affairs in terms of the Births, Marriages and Deaths Registration Act, 1992 (Act No. 51 of 1992), of that order.

(3) The clerk of the court referred to in sub-regulation (2) must submit one copy of the court order to the Adoption Registrar who must deregister the adoption.

### **Fees payable to accredited child protection organisations**

**107.** The following fees, which must be reviewed annually, must be paid to an accredited child protection organisation in respect of an inter-country adoption:

<b>SERVICE</b>	<b>MAXIMUM AMOUNT</b>
(a) Group orientation	R250, 00 per session;
(b) Interview/counselling	R250, 00 per hour;
(c) Home visits	R400, 00 per hour;
(d) Home study report	R500, 00 per report;
(e) Court processes	R500, 00 per day;
(f) Birth registration	R170, 00 per hour;
(g) Administration costs	R170, 00 per hour;
(h) After-care services	R500, 00 once-off payment; and
(i) Origin enquiry/tracing	R200, 00 per hour.

### **Accreditation to provide adoption services**

**108.** Any adoption social worker who has registered a speciality in adoption services in terms of the Social Service Professions Act, 1978 (Act no. 110 of 1978) and any organisation designated as a child protection organisation in terms of section 107 of the Act may apply for accreditation in terms of section 251(1) of the Act.

### **Advertisements**

**109.** A child protection organisation accredited to provide adoption services may, for purposes of recruitment, publish advertisements in one national newspaper and one local newspaper circulating in the area where such organisation has its business premises.

## CHAPTER 17

### INTER-COUNTRY ADOPTION

(Sections 254 – 273 of the Act)

#### Accreditation to provide inter-country adoption services

**110.** Any organisation designated as a child protection organisation in terms of section 107 of the Act may apply to the Central Authority for accreditation in terms of section 259(1) of the Act.

#### Report on person in convention or non- convention country applying to adopt child from Republic

**111.(1)** In addition to the requirements set out in article 15 of the Hague Convention on Inter-country Adoption, the report on an applicant required by section 261(2) or 262(2) of the Act must include-

- (a) identifying information with certified copies of supporting documents;
- (b) a medical report of the applicant's health status;
- (c) a police clearance certificate;
- (d) proof of citizenship and permanent residence;
- (e) the applicant's ethnic, religious and cultural background;
- (f) a detailed assessment by an adoption social worker;
- (g) information regarding the applicant's own childhood;
- (h) information regarding other significant family members of the applicant;
- (i) information about the character of the applicant;
- (j) details of the attitude of other family members towards the adoption;
- (k) plans for integration with siblings, where applicable;
- (l) plans for relocation of the child from the Republic to the place where the applicant resides;

- (m) a description of the adoption counselling that has been received by the applicant;
- (n) the applicant's ability to undertake inter-country adoption; and
- (o) the reasons why the applicant wishes to adopt a child.

(2) In the event of more than one applicant applying jointly for the adoption of a child, the information set out in sub-regulation (1) must be provided in respect of each applicant.

**Report on child in the Republic to be adopted by person from convention or non-convention country**

**112.(1)** In addition to the requirements set out in article 16 of the Hague Convention on Inter-country Adoption, the report on a child required by section 261(3) or 262(3) of the Act must be a comprehensive child study report compiled by an adoption social worker employed by a designated child protection organisation.

- (2) The report contemplated in sub-regulation (1) must include-
- (a) identifying information of the child with an original birth certificate or identity document, or where these are not available, a sworn statement from the social worker to supplement the lack of documentary information;
  - (b) detail regarding the child's language, culture, race and religion;
  - (c) a medical report confirming the health status of the child, and where applicable, a description of any special needs of the child;
  - (d) information about the child's natural parents, where such information is known, including-
    - (i) a description of the counselling they have received;
    - (ii) whether they have consented to the adoption; and
    - (iii) if their consent is not required, the reasons for such non-requirement;
  - (e) information regarding the sibling or siblings of the child, where applicable;

- (f) comprehensive information regarding the efforts that have been made to provide suitable alternative care within the Republic;
- (g) the views of the child concerning the adoption, where the child is capable of forming his or her own view; and
- (h) the child's consent, if he or she is ten years of age or older, which must be annexed to the report.

**Order for adoption of child from Republic by person from convention country or non-convention country**

**113.** The order for adoption granted in terms of section 261(5) or 262(5) of the Act must be issued by the children's court in a form identical to **Form 67**.

**Return of child following withdrawal of consent by Central Authority to adoption by person in convention or non-convention country**

**114.(1)** Where the Central Authority of the Republic withdraws its consent to an inter-country adoption given to a convention country pursuant to section 261(6) or 262(6) of the Act, the Central Authority of the Republic must forward a letter setting out the withdrawal of consent to the Central Authority in the convention country with whom the agreement was made, requesting co-operation for the return of the child to the Republic.

(2) The letter contemplated in sub-regulation (1) must be forwarded electronically or through a postal service.

(3) The request for co-operation contemplated in sub-regulation (1) must be stipulated in specific terms, including the time when and the place where the child has to be handed over to an identified representative of the Central Authority of the Republic.

(4) The Central Authority of the Republic must appoint an escort to accompany a child on his or her return to the Republic, who must be a suitably qualified or experienced person employed by the Department or by a designated child protection organisation.



(5) The costs related to the return of the child, including the costs of the person appointed to escort the child, must be paid for out of funds made available for this purpose by the Central Authority of the Republic.

(6) The Central Authority of the Republic must, within seven days of the child's arrival in the Republic, effect an appropriate amendment to the adoption register established in terms of section 247 of the Act and notify the Director-General of the Department of Home Affairs of the child's return.

**Short Title**

**115.** These Regulations are called the General Regulations Regarding Children, 2010

## **ANNEXURE B**

### **NATIONAL NORMS AND STANDARDS**

(Sections 79; 94; 106; 147; 194 and 216 of the Act)

#### **PART I**

#### **NATIONAL NORMS AND STANDARDS FOR PARTIAL CARE**

For the purposes of section 79(2) of the Act, the following are national norms and standards for partial care:

##### **1. A safe environment for children**

- (a) Children must experience safety and feel cared for whilst at the partial care facility.
- (b) Premises inside and outside must be safe, clean and well-maintained.
- (c) Equipment used must be safe, clean and well-maintained.
- (d) There must be adult supervision at all times.
- (e) The structure must be safe and weatherproof.
- (f) Floors must be covered in washable and easy to clean material that is suitable for children to play and sleep on and walls must be safe and easy to clean.
- (g) All reasonable precautions must be taken to protect children and staff from the risk of fire, accidents or other hazards.
- (h) Safety measures must be undertaken when transporting children. Such safety measures include ensuring that—
  - (i) transport operators transporting children are registered, suitably trained, screened against Part B of the Child Protection Register and possess the necessary licences and permits as prescribed by the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), and other relevant national transport policies and regulations determined by the Department of Transport;
  - (ii) the requirements published by the Minister of Transport periodically in terms of the National Land Transport Transition Act, 2000 are adhered to;

- (iii) transport is appropriate to the ages of children transported and that it is accessible and suitable to children with disabilities and other special needs;
- (iv) transport providers comply with safety measures regulated by the Department of Transport, including adherence to speed limits, and that all passengers are seated regardless of the transport mode used;
- (v) vehicles used to transport children are safe and have the necessary safety characteristics, such as windows and doors opening instructions, safety equipment and appropriate speed devices;
- (vi) children are not transported in open vehicles;
- (vii) there is an adult supervisor in a vehicle transporting children under the age of nine years; and
- (viii) there is no overloading of children in vehicles.

**2. Proper care for sick children or children who become ill**

- (a) Staff must have the ability to identify children who are ill and be able to refer them for appropriate health services.
- (b) Policies and procedures relating to the health care of children whilst at the partial care facility must be in place. Such policies and procedures must cover the following:
  - (i) Criteria for identifying ill children;
  - (ii) safe keeping of all medication at a partial care facility;
  - (iii) procedures for dealing with children who are ill; and
  - (iv) guidelines for preventing the spread of diseases at the partial care facility.
- (c) The following procedure regarding children who are ill must be adhered to:
  - (i) After identifying children who are ill, the illness or problem must be reported to the parent(s), care-giver or family as soon as possible;
  - (ii) the child must be removed from other children to a safe place or room designed to care for ill children;
  - (iii) any child assessed to have an infectious disease (measles, chickenpox, etc) must be immediately isolated from other children and referred to the nearest hospital or clinic for further assessment and treatment;
  - (iv) if a child is already on prescribed medication, that child must receive the medication as prescribed and as advised by the parents; and

- (v) in cases of emergency, the child must be taken to the nearest hospital or clinic for treatment and appropriate referral.
- (d) The following medical records must be kept:
  - (i) up-to date records of each child's medical history;
  - (ii) records of each child's immunisation programme and Vitamin A schedule; and
  - (iii) records of health incidents and accidents occurring at the facility.
- (e) Every partial care facility must have a first-aid kit.

### **3. Adequate space and ventilation**

- (a) The partial care facility must have adequate ventilation and sufficient light.
- (b) Space for different activities and functions must be clearly demarcated.
- (c) Where applicable, new buildings and alterations to buildings must comply with the building standards as set out by the National Building Regulations and Building Standard Act, 1997 (Act No.103 of 1997).

### **4. Safe drinking water**

- (a) Safe and clean drinking water must always be available.
- (b) Where water is not from a piped source, it must be treated and made safe using approved national health guidelines for the treatment of water by adding one teaspoon of bleach to 25 litres of water.
- (c) All water containers must be covered at all times.

### **5. Hygienic and adequate toilet facilities**

- (a) Partial care facilities catering for toddlers must have potties, toilets and washbasins.
- (b) Toilet and hand washing facilities must be reachable for children over the age of three years.
- (c) For children up to the age of three years—
  - (i) there must be appropriate toilets;
  - (ii) where there are no sewerage or ablution facilities, potties must be made available;

- (iii) every child under the age of three years must have his or her own potty;
  - (iv) waste from potties must be disposed of hygienically;
  - (v) potties must be cleaned after use and disinfected in a properly demarcated area; and
  - (vi) there must be a clearly demarcated nappy changing area with a surface that can be easily cleaned. This area must be situated away from the food preparation area.
- (d) For children between the ages of three and six years—
- (i) where sewerage systems are available, there must be one toilet and one hand washing basin for every 20 children;
  - (ii) where no sewerage facilities are available, an appropriate toilet must be available at the partial care facility or immediately adjacent to the partial care facility;
  - (iii) where no running water is available, there must be a minimum of 25 litres of drinkable water supplied on a daily basis;
  - (iv) where no washbasins are available, one suitable container for every 20 children must be made available, provided that such container is cleaned and changed regularly and closed; and
  - (v) all toilets must be safe and hygienic.
- (e) For children of six years and older, there must be—
- (i) hygienic and safe toilets; and
  - (ii) one toilet and one hand washing basin for every 20 children.
- (f) There must be adult supervision at all times when children use the toilet.
- (g) Where applicable the local authority regulations and by-laws in respect of physical characteristics of building and health requirements must be adhered to.

## **6. Safe storage of anything that may be harmful to children**

- (a) Medicine, cleaning substances and any dangerous substances must be kept out of reach of children.
- (b) Medicine and dangerous substances must be kept in separate locked or childproof cupboards.
- (c) Dangerous objects, materials, sharp instruments and utensils must be kept out of reach of children.

- (d) Dangerous substances may not be used in the vicinity of children.
- (e) Electrical plugs must be covered.
- (f) Paraffin, gas and other electric appliances must be kept out of reach of children.
- (g) Cleaning agents must be kept in clearly marked containers and out of reach of children.

**7. Access to refuse disposal services or other adequate means of disposal of refuse generated at the partial care facility**

- (a) Where possible, refuse must be disposed of according to municipality regulations.
- (b) Waste disposal methods must be safe and covered.
- (c) Waste must be kept out of reach of children.
- (d) Waste disposal areas must be disinfected regularly.

**8. A hygienic area for the preparation of food for children**

- (a) There must be a separate, clean and safe area for the preparation of food as well as for cleaning up after food preparation.
- (b) There must be a separate clean and safe area for serving food to the children.
- (c) There must be cooling facilities for storage of perishable food.
- (d) The food preparation area must be clearly marked and out of reach of children.
- (e) There must be a sufficient supply of clean water as well as cleaning agents.
- (f) There must be sealed containers to store all prepared food before serving such food.

**9. Measures for the separation of children of different age groups**

- (a) Where possible, children must be separated into the following age categories in separate rooms or places to ensure their development:
  - (i) Children under the age of 18 months;
  - (ii) children between the ages of 18 and 36 months;
  - (iii) children between the ages of three and four years; and
  - (iv) children between the ages of four and six years.

- (b) Where a partial care facility provides after care facilities to children of school going age, these children must be kept separate from the the children in the abovementioned age groups in order to ensure that they are able to rest and complete their homework upon their return from school.
- (c) Where more than 50 children are enrolled for a full day at a partial care facility, there must be a separate room or place to be used as an office and as a sickbay.

**10. The drawing up of action plans for emergencies**

- (a) Reasonable precautions to protect children from risk of fire, accidents and other hazards must be taken.
- (b) Policies and procedures for dealing with structural and environmental emergencies and disasters must be in place.
- (c) Emergency procedures with relevant contact details must be visibly displayed.
- (d) Emergency plans must include evacuation procedures.
- (e) Emergency plans must be up-to-date, regularly tested and reviewed.
- (f) Staff must be trained in dealing with emergencies.
- (g) Children must be made aware of emergency procedures.

**11. The drawing up of policies and procedures regarding health care at the partial care facility**

Policies must—

- (a) include procedures to deal with infectious diseases at the partial care facility;
- (b) include procedures for dealing with the medical needs of sick children and of children with chronic illnesses;
- (c) ensure that there are standards relating to cleanliness and hygiene at the partial care facility;
- (d) ensure that there is an adequate supply of cleaning agents and towels at the partial care facility;
- (e) provide for the training of staff in first aid;
- (f) include record keeping and registers pertaining to storage and use of medicines at the partial care facility;
- (g) promote confidentiality when dealing with health related information;

- (h) encourage staff to take care of their health, undergo regular medical check-ups, and must include procedures to deal with contagious diseases contracted by staff in order to prevent transmission to children; and
- (i) promote ongoing staff training and development on keeping a healthy environment, identifying illnesses, preventing the spread of diseases and infectious diseases as well as promoting universal health precaution.

**PART II**  
**NATIONAL NORMS AND STANDARDS FOR EARLY CHILDHOOD DEVELOPMENT**  
**PROGRAMMES**

For the purposes of section 94(2) of the Act, the following are national norms and standards for early childhood development programmes:

**1. The provision of appropriate developmental opportunities**

Programmes must—

- (a) be delivered by members of staff who have the knowledge and training to deliver developmental programmes;
- (b) be appropriate to the developmental stages of children;
- (c) respect and nurture the culture, spirit, dignity, individuality, language and development of each child;
- (d) provide opportunities for children to explore their world; and
- (e) be organised in a way that each day offers variety and creative activities.

**2. Programmes aimed at helping children to realise their full potential**

- (a) Children must receive care, support and security.
- (b) Programmes must promote children's rights to rest, leisure and play through the provision of a stimulating environment.
- (c) Programmes must promote self discovery.
- (d) Programmes must be evaluated and monitored.
- (e) Programmes must promote and support the development of motor, communication and sensory abilities in children.



- (f) Programmes must promote self control, independence and developmentally appropriate responsibility.
- (g) Activities must promote free communication and interaction amongst children.
- (h) Programmes must respect and nurture the culture, spirit, dignity, individuality, language and development of each child.

**3. Caring for children in a constructive manner and providing support and security**

- (a) Creative play and exploratory learning opportunities must be provided to children.
- (b) Programmes must adhere to the following conditions:
  - (i) Toilet facilities must be safe and clean for children;
  - (ii) where there are no sewerage facilities, sufficiently covered potties must be available;
  - (iii) every child under the age of three years must have his or her own potty;
  - (iv) for ages three to six years, one toilet and one hand washing basin must be provided for every twenty children;
  - (v) there must be a place for the bathing of children;
  - (vi) discipline must be effected in a humane way and promote integrity with due regard to the child's developmental stage and evolving capacities. Children may not be punished physically by hitting, smacking, slapping, kicking or pinching;
  - (vii) programmes must adhere to policies, procedures and guidelines related to health, safety and nutrition practices. These must relate to—
    - (aa) practices aimed at preventing the spread of contagious diseases;
    - (bb) at least one meal per day must be provided;
    - (cc) all meals and snacks should meet the nutritional requirements of children; and
    - (dd) where children are bottle-fed, a suitable facility must exist for cleaning the bottles; and
    - (ee) children must be supervised by an adult at all times.
- (c) Programmes must meet the following requirements in relation to staff:
  - (i) Staff must be trained in implementing early childhood development programmes;

- (ii) staff must be equipped with basic information, knowledge and skills to recognise children's serious illnesses and how to deal with those;
- (iii) staff must be trained in first aid;
- (iv) the staff-to-child ratio must—
  - (aa) for children between the ages one month and 18 months be, 1:6;
  - (bb) for children between the ages 18 months and three years be 1:12;
  - (cc) for children between the ages three and four years be 1:20; and
  - (dd) for children between the ages five and six years, 1:30; and
- (v) for every staff member stipulated above, there must be an assistant.

#### **4. Ensuring development of positive social behaviour**

- (a) Programmes must promote understanding of and respect for diversity in gender, language, religion and culture.
- (b) Activities must include parents and care-givers in the development of positive social behaviour in children.
- (c) Programmes must promote the development of positive social values.
- (d) Programmes must be conducted in a non-discriminatory manner.
- (e) Staff must demonstrate behaviour that promotes positive behaviour by modelling attitudes and interactions with children.

#### **5. Respect for and nurturing of the culture, spirit, dignity, individuality, language and development of each child**

- (a) Programmes must promote appreciation and understanding for children's culture and language.
- (b) Educators must utilize one medium of instruction in class.
- (c) Children must be allowed to communicate in the language of their choice and preference outside class.
- (d) Cultural diversity must be encouraged and respected by educators and children alike.
- (e) Programmes may, where appropriate, facilitate late birth registration.
- (f) Programmes must contribute to the development of a sense of identity in children.

**6. Meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of children**

- (a) Programmes must be appropriate to the developmental stages and evolving capacity of children.
- (b) Programmes must ensure that parents and care-givers are involved in the development of children.
- (c) Programmes must provide education and support to parents, caregivers and families to fulfil their responsibilities towards child-rearing and the holistic development of their children.
- (d) Programmes must be accessible to especially vulnerable children in their homes.
- (e) For children up to three years of age, programmes should, as much as possible, include household visits for increased accessibility to children.
- (f) Programmes must promote cognitive development in children.
- (g) Programmes must promote the development of fine sensory and motor skills in children.
- (h) Activities must promote a positive relationship between the centre, families and the community.
- (i) Programmes must teach age appropriate self control and independent behaviour.
- (j) Existing community resources and strengths must be utilised in promoting the development of children.
- (k) The emotional needs of children must be addressed and children must be encouraged to express their emotions in a safe, supportive and protective environment.
- (l) Parents, care-givers and families of vulnerable children, children with disabilities and child-headed households must be provided with information, knowledge and skills to promote the development of their children.
- (m) Children must be enabled to develop a positive sense of identity and self worth.
- (n) Programmes must be based on an integrated approach.
- (o) Children should feel valued and respected when participating in activities.

**PART III**  
**NATIONAL NORMS AND STANDARDS FOR CHILD PROTECTION**

For the purposes of section 106(2) of the Act, the following are national norms and standards for child protection:

**1. Prevention and early intervention programmes**

Prevention and early intervention programmes must—

- (a) strengthen and support family structures and build capacity;
- (b) be aimed at the improvement of the well-being of families and children;
- (c) if applicable, reunify and reintegrate family members;
- (d) be aimed at the identification of high risk families and children;
- (e) be family centred with family members seen as the main focus;
- (f) focus on the strengths and capabilities of family members;
- (g) if applicable, provide for the development of family plans in participation with family members;
- (h) enable family members to take responsibility and accountability for their involvement in programmes;
- (i) take the needs of children into account and the safety of the children in particular;
- (j) if applicable, provide for assessment and permanency planning;
- (k) if applicable, be based on a multi-disciplinary and inter-sectoral approach;
- (l) be sensitive to the linguistic needs, religious and cultural values of children and their families;
- (m) be home-based and community based;
- (n) make provision for the training, support and supervision of service providers; and
- (o) if applicable, ensure that early intervention decisions are based on developmental assessment.

**2. Assessment of children who have been abused or deliberately neglected**

Assessment of children who have been abused or deliberately neglected must be—

- (a) undertaken by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to conduct assessments;

- (b) undertaken within 48 hours of receipt of reports on abuse or deliberate neglect of children;
- (c) done in accordance with the broad risk assessment framework contemplated in regulation 35;
- (d) conducted by service providers who have appropriate knowledge of indicators of abuse or neglect and an understanding of the multi-disciplinary approach;
- (e) followed by informing the child, his or her parents, guardians or care-givers of the outcome of the assessment and any decisions affecting them;
- (f) conducted in a manner that involves the child, his or her family and any significant other persons and must be conducive to their participation;
- (g) sensitive to the linguistic needs, religious and cultural values of children and their families;
- (h) conducted in such a manner that the persons involved can understand the assessment and the implications thereof;
- (i) aimed at the provision of sufficient and helpful information to the child, his or her family and significant other persons;
- (j) aimed at securing an appropriate care plan and individual development plan for the child;
- (k) conducted in a safe and protected environment; and
- (l) sensitive to the child's need for support and assistance during assessment, especially for children with disabilities.

### **3. Therapeutic programmes**

Therapeutic programmes must –

- (a) be conducted by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such programmes;
- (b) take account of the assessment framework, the assessment report and any other relevant information;
- (c) be based on a multi-disciplinary and inter-sectoral approach;
- (d) be sensitive to the linguistic needs and religious and cultural values of children and their families;
- (e) be aimed at meeting the needs of the recipient as indicated during assessment;

- (f) ensure that the recipients feel emotionally and physically safe in the therapeutic situation and that information is kept confidential;
- (g) ensure that the goals, time periods and expected outcomes of all therapeutic interventions are discussed and agreed upon and that recipients understand their rights and have sufficient information to make informed choices;
- (h) assist recipients to use their strengths while they are assisted to deal with trauma;
- (i) be conducted in a non-discriminatory manner and in a comfortable, friendly and safe environment that is conducive to the best interests of recipients;
- (j) make provision for the involvement of the child, his or her family and significant other persons during therapy;
- (k) ensure that recipients are provided with the name and contact number of the case manager or social worker;
- (l) provide adequate opportunity for additional consultation and counselling;
- (m) monitor the growth and progress of recipients;
- (n) ensure that records are kept and data captured;
- (o) be aimed at the minimisation of secondary abuse and trauma;
- (p) ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously; and
- (q) be reviewed on a regular basis according to the needs of recipients.

#### **4. After care services**

After care services must—

- (a) be provided by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such services;
- (b) be based on a multi-disciplinary and inter-sectoral approach;
- (c) be sensitive to the linguistic needs, religious and cultural values of children and their families;
- (d) be rendered in a non-discriminatory manner;
- (e) ensure that recipients are provided with the name and contact number of the case manager or social worker;
- (f) ensure that after care programmes are sufficiently monitored and regularly reviewed;

- (g) ensure that records are kept and data captured on programmes available to children and on the number and identifying particulars of children attending the programme;
- (h) be aimed at the identification of high risk situations and behaviour and the appropriate minimisation of risk;
- (i) focus on the strengths and capacity of recipients; and
- (j) be home based and community based.

## **5. Family reunification and integration services**

Family reunification and integration services must—

- (a) be provided by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such services;
- (b) be based on a multi-disciplinary and inter-sectoral approach;
- (c) be sensitive to the linguistic needs, religious and cultural values of children and their families;
- (d) be rendered in a non-discriminatory manner;
- (e) strengthen and support family structures and render capacity building;
- (f) improve the well-being and resilience of families and children;
- (g) be aimed at the identification of high risk families and children;
- (h) focus on the strengths of families;
- (i) ensure that family plans are developed with the participation of all family members;
- (j) enable families to take responsibility and accountability for their involvement in programmes;
- (k) provide for the referral of recipients to other appropriate programmes;
- (l) if applicable, provide for family development, family skills training, family group conferencing and mentorship;
- (m) if applicable, address parenting skills, conflict management, role clarification, gender and partner abuse, unemployment, substance abuse and deviant behaviour;
- (n) prevent and deal with out-of-home placements with the purpose of keeping families together except where this would not be in the best interests of the child;
- (o) ensure the provision of family centred programmes; and

- (p) facilitate the participation of family members and be aimed at the empowerment of families.

## **6. Foster care services**

Foster care services, supervision and arrangements around such supervision must—

- (a) be based on a care plan and an individual development plan for the child concerned;
- (b) where applicable, include participation of the child and his or her family during the placement process;
- (c) take account of the need for maximum appropriate access to information to enable the child and his or her family to participate in decisions;
- (d) ensure support and capacity building with regard to the child and his or her foster parents;
- (e) allow foster parents to participate in the planning and drafting of a care plan and individual development plan and to be consulted and informed of plans;
- (f) be conducted in a manner that makes the child, his or her family and the foster parents aware of what is expected from them, their rights and responsibilities;
- (g) be sensitive to the religious, cultural, and linguistic background of the child;
- (h) take account of the child's physical, emotional and social needs;
- (i) be appropriate to the child's developmental needs and be based on respect for the child's individuality, strengths, dignity, cultural, religious and linguistic heritage;
- (j) encourage, ensure and provide the opportunity for choice, decision-making and the building and strengthening of rapport and relationships;
- (k) ensure that basic needs are appropriately met;
- (l) ensure that the care plan and individual development plan are based on a proper developmental assessment of the child;
- (m) allow the child to observe his or her religion, to meet with others of similar background, to dress in accordance with his or her religion and to observe dietary requirements without difficulty, ridicule or embarrassment;
- (n) ensure the provision of support and strengthening services to foster parents and the monitoring of their roles to ensure outcomes around placement;
- (o) be based on a clear written policy and procedures regarding foster care services; and



- (p) ensure that care plans and individual development plans are reviewed regularly by the social worker managing the foster care with the participation of the child and foster parents, within their respective abilities.

## **7. Integration into alternative care services**

Integration into alternative care services must—

- (a) be rendered by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render integration programmes;
- (b) be based on a multi-disciplinary and inter-sectoral approach;
- (c) be sensitive to the linguistic needs, religious and cultural values of children and their families;
- (d) be aimed at meeting the needs of recipients as indicated during assessment;
- (e) ensure that the recipients feel emotionally and physically safe in the therapeutic situation and that information is kept confidential;
- (f) be conducted in a non-discriminatory manner;
- (g) make provision for the involvement of the child, his or her family and significant other persons;
- (h) ensure that recipients understand their rights and responsibilities and are provided with sufficient information to make informed choices;
- (i) ensure that recipients are provided with the name and contact number of the case manager or social worker;
- (j) ensure that a comfortable, child-friendly and safe environment is available for children;
- (k) ensure that programmes are conducive to the best interests of recipients;
- (l) provide adequate opportunity for additional consultation and counselling;
- (m) monitor the growth and progress of recipients;
- (n) be aimed at the minimisation of secondary abuse and trauma;
- (o) ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously;
- (p) allow for the review of programmes according to the needs of recipients;
- (q) be based on a care plan and an individual development plan for the child concerned;

- (r) include participation of the child and his or her family during the placement process;
- (s) take account of the need for maximum appropriate access to information to enable the child and his or her family to participate in decisions;
- (t) be conducted in a manner that takes account of the child's physical, emotional and social needs;
- (u) be appropriate to the child's developmental needs and be based on respect for the child's individuality, strengths, dignity, cultural, religious and linguistic heritage;
- (v) encourage, ensure and provide the opportunity for choice, decision-making and the building and strengthening of rapport and relationships;
- (w) ensure that basic needs are met appropriately;
- (x) ensure that the care plan and individual development plan are based on a proper developmental assessment of the child; and
- (y) ensure that care plans and individual development plans are reviewed regularly.

## **8. Adoption services**

Adoption services must—

- (a) be rendered by relevant service providers;
- (b) take the child's needs into account;
- (c) provide for assessment of the child;
- (d) include awareness campaigns to promote adoption as part of child protection services;
- (e) be based on appropriately formulated and implemented policy and procedures;
- (f) ensure that the child and his or her family, within their respective abilities, are actively involved in all stages of the adoption process;
- (g) be based on an inter-sectoral and multi-disciplinary approach;
- (h) take account of and address the changing social, physical, cognitive and cultural needs of the child and his or her family throughout the intervention process before and after adoption;
- (i) ensure that all avenues to maintain the child within his or her own family are explored before adoption is considered;
- (j) ensure that the child's family has access to a variety of appropriate resources and support;

- (k) be based on permanency planning for children qualifying for adoption;
- (l) ensure that adoption is dealt with by expert adoption social workers functioning within a statutory accredited adoption system;
- (m) ensure that children who are to be adopted are not discriminated against with regard to race, gender, language, religion, disability or any other status and that the biological parents of children who are to be adopted are not discriminated against;
- (n) ensure that the child is involved in the decision-making process during adoption procedures;
- (o) ensure that inter-country adoption is considered as an alternative means of permanent care for a child when a suitable adoptive or foster family cannot be found nationally;
- (p) ensure that the standards of inter-country adoption conform with the Hague Convention on Inter-country Adoption;
- (q) ensure that inter-country adoption does not result in financial gain for those involved;
- (r) ensure that inter-country adoption is effected by the Central Authority;
- (s) provide for the recruitment, assessment and preparation of adoptive parents;
- (t) provide for the counselling of the child, his or her biological parents and the adoptive parents;
- (u) provide for after-care services to the adoptive family;
- (v) provide for the management of enquiries and interpretation of issues regarding descent and origin, accompanied by counselling of all parties;
- (w) provide for the tracing by an adult adopted person of his or her biological parents;
- (x) ensure that the particular needs of the child are matched with the special strengths of the adoptive family through appropriate assessment and preparation of the parties involved;
- (y) provide for assistance to prospective adoptive parents to assess their capacity to adopt and helping them to understand what parenting of an adopted child entails;
- (z) provide for assistance to adoptive parents to develop their personal and parenting skills; and
- (aa) provide for services to biological parents focusing on crisis intervention and life skills.

## **9. Permanency plans**

Permanency plans must—

- (a) be designed by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to develop such plans;
- (b) clearly identify the reasons why the child is unable to remain with his or her own family, or is being placed under court-ordered supervision with that family, at the time when the plan is being drafted;
- (c) clearly specify what it is that needs to be achieved in order to terminate court-ordered supervision or restore the child to the care of his or her family, and what services will be offered for that purpose and by whom;
- (d) give priority to enabling the child to remain in or be restored to his or her own family, while also providing for other permanent solutions such as adoption, foster care or independent living arrangements, should this not be achieved despite genuine efforts to provide the necessary services to achieve permanent placement within the child's own family;
- (e) take account of the assessment framework, the assessment report and any other relevant information;
- (f) be family centred and focused on the strengths and capacities of family members;
- (g) be based on a multi-disciplinary and inter-sectoral approach;
- (h) be sensitive to the linguistic needs, religious and cultural values of children and their families;
- (i) make provision for the involvement of the child, his or her family and significant other persons;
- (j) provide sufficient and helpful information to the child, his or her family and significant other persons;
- (k) provide assistance to cope with changes in circumstances and environment and include a specific plan for preparing, supporting and monitoring such changes;
- (l) be based on approved policy and procedures;
- (m) encourage children to identify and express emotions appropriately and empower them to find effective and positive ways to express and manage emotions;
- (n) encourage positive interaction with service providers;

- (o) encourage children to build and maintain appropriate relations with friends, service providers, family members and significant other persons;
- (p) include support to children when relations break down to cope with the impact of having contact or not having contact with family members and significant other persons;
- (q) provide for adequate health care and education opportunities;
- (r) provide such capacity and support as may be required to enable constructive and effective behaviour;
- (s) include measures for preparing children for reintegration into their families and communities;
- (t) include measures allowing children to participate in and understand changes to the permanency plan, which should only happen if it is in the best interest of the child concerned;
- (u) be reviewed regularly; and
- (v) be clear on goals and expectations.

#### **10. Education and information programmes**

Education and information programmes must—

- (a) be rendered by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such programmes;
- (b) be based on a multi-disciplinary and inter-sectoral approach;
- (c) be rendered in an appropriate and intelligible language;
- (d) include fact sheets, pamphlets, guidelines, policies and procedures;
- (e) encompass awareness-raising, training and provide access to programmes;
- (f) promote the development of a human and children's rights culture;
- (g) be aimed at the early identification of high risk families and children;
- (h) promote gender sensitivity;
- (i) promote responsible values, attitudes and behaviour; and
- (j) be based on accepted policies, legislation and programmes.

#### **11. Child-headed households**

##### **(a) General**

- (i) Siblings in a child-headed household should, as far as is reasonably possible and practicable, remain together.

- (ii) The right to family life of any child-headed household should be promoted in accordance with the objectives of the Act.
- (iii) The independent functioning of a child-headed household must be promoted as far as is reasonably possible.
- (iv) Support to child-headed households must be aimed at enhancing the capacity of the children living in the child-headed household to function as a family.

**(a) Safe and nurturing environment for children**

- (i) Children must experience safety, support, security and feel cared for while living in a child-headed household, and have their basic needs met.
- (ii) Adequate nutrition, water and means for preparing food must be available to meet the basic needs of the children in a child-headed household.
- (iii) Adequate care of the health of children living in child-headed households must be undertaken.
- (iv) Children living in child-headed households must be able to benefit from the right to rest, leisure and play.
- (v) A child-headed household must respect and nurture the culture, spirit, dignity, individuality, language and development of each child living in that household and children must be encouraged to develop positive social values.
- (vi) The resources available to the household must be used equitably to promote the well-being of all children living in a child-headed household.
- (vii) Children living in child-headed households must have access to psychosocial support.

**(c) Birth registration, social assistance, social and community services, access to education and the development of skills**

Children living in a child-headed household—

- (i) must benefit from official registration of their births in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
- (ii) must benefit from social assistance, as provided for in the Social Assistance Act, 2004 (Act No. 13 of 2004), where the relevant criteria for access to such social assistance are met;
- (iii) may benefit from emergency assistance or aid, as may from time to time be available, including food, goods or transport assistance;

- (iv) who are of school going age, must attend school regularly, and receive any necessary assistance to enable them to access education;
- (v) must have access to social services and community services generally and to resources which promote their capacities and increase their ability to participate in community life; and
- (vi) must be enabled to develop the skills necessary to participate in social and economic life.

**(d) Property**

Children living in a child-headed household must be—

- (i) enabled to assume responsibility for any property or possessions belonging to that household; and
- (ii) assisted to maintain and preserve any property belonging to the household, where such children wish to preserve such property, but may freely dispose of property in the best interests of the household.

**(e) Exposure to harm**

Children living in a child-headed household—

- (i) should not be exposed to violence, abuse, maltreatment or degradation, sexual abuse or harmful or hazardous forms of child labour; and
- (ii) must as far as is reasonably possible be protected from community risk factors.

**(f) Disability, chronic illness and vulnerability**

Child-headed households in which a child with a disability or a chronic illness resides,

- (i) must be assisted to obtain any special grants, assistance devices, educational or
- (ii)- vocational programme or other form of support necessary to ensure the optimal development of such child.

**(g) Participation and consultation**

Children living in a child-headed household must—

- (i) participate in all matters affecting the functioning of the household; and
- (ii) be consulted in any investigation by a designated social worker contemplated in section 150(2) and (3) of the Act.

**(h) Monitoring and supervision**

Children living in a child-headed household—

- (i) must be encouraged to report any change in living arrangements to a designated social worker, an adult appointed in terms of section 137(2) of the Act or any other suitable adult; and
- (ii) in respect of whom an adult has been appointed in accordance with section 137(2) of the Act, or in respect of whom an investigation has been concluded in terms of section 150 of the Act, where no finding has been made that the child or children are in need of care and protection, are entitled to be visited on a regular basis, and not less than once every two weeks, for the purposes of monitoring and supervision.

**(i) Child heading the household**

The child heading the household must give effect to the norms and standards contained in this Annexure to the maximum extent reasonably possible, bearing in mind the child's age, maturity and stage of development, to ensure that other children living in the child headed-household are assured of their rights to survival and development and to protection from harm.

**PART IV**

**NATIONAL NORMS AND STANDARDS FOR PREVENTION AND EARLY INTERVENTION PROGRAMMES**

For the purposes of section 147(2) of the Act, the following are national norms and standards for prevention and early intervention programmes:

**1. Outreach services**

Outreach services must—

- (a) be aimed at reaching out to especially vulnerable children and families in order to meet the needs of the children;
- (b) be aimed at meeting the needs of children in the context of family and community;



- (c) be aimed at the development of community-based services and facilities to promote safety and well-being of children in communities;
- (d) ensure that children and families are able to access documents, including birth certificates, to facilitate access to social security and other social services;
- (e) be accessible to children in different settings, including homes, schools and partial care facilities;
- (f) ensure that children and their families have access to resources that maximise strengths and develop new capacities that promote resilience and increase their ability to benefit from existing developmental opportunities;
- (g) provide opportunities for children to identify their needs in their communities;
- (h) be based on a multi-disciplinary and inter-sectoral approach;
- (i) promote the identification of children at high risk of getting into the child care or criminal justice system;
- (j) include home-based care, community-based care, home visitation and community outreach support to particularly vulnerable children and families, including children and family members infected and affected by HIV/Aids and other chronic illnesses, children with disabilities and orphans;
- (k) teach communities to recognise the signs of abuse and deliberate neglect of children and the risk factors associated with abuse and neglect;
- (l) utilize community strengths and resources to promote neighbourhoods that enable the safety and well-being of children;
- (m) be aimed at addressing community risk factors including abuse, violence, substance abuse and crime;
- (n) be conducted in a non-discriminatory manner; and
- (o) be sensitive to language, religious, cultural norms and beliefs of communities.

## **2. Education, information and promotion programmes**

Education, information and promotion programmes must—

- (a) provide education and awareness on children's rights and responsibilities;
- (b) promote the importance of the early years, particularly early childhood development;
- (c) promote advocacy for the rights of children as well as for the needs of the most vulnerable children and families;

- (d) provide children and families with information and assistance on how to access the full range of government and civil society services available to vulnerable families and children; including health, social services, education, housing, water, electricity, food parcels, disaster relief and social assistance;
- (e) provide information and support to high risk families;
- (f) provide information and support to families affected by HIV/Aids and other chronic illnesses;
- (g) provide information and support to families of children with disabilities;
- (h) use available media and other communication measures;
- (i) be delivered in the language of the target groups;
- (j) provide information on the nature and type of services to children, families and communities;
- (k) promote values aimed at protecting children in their communities;
- (l) be provided in the language of particular communities and be sensitive to the cultural values and norms of such communities;
- (m) promote opportunities for community dialogue on matters pertaining to children; and
- (n) provide information on community risk factors and available resources to address them.

### **3. Therapeutic programmes**

Therapeutic programmes must—

- (a) provide psychosocial care and support to children and families;
- (b) promote the emotional well-being and growth of the child;
- (c) be appropriate to the developmental needs as well as the developmental stage of the child;
- (d) be delivered in an emotionally and physically safe environment and not harmful to the child;
- (e) must be conducted by service providers with appropriate training, support, supervision and mentoring;
- (f) be based on the assessment of the particular needs of each individual child and family;
- (g) assist recipients to use their strengths whilst they are assisted with their psychosocial needs;

- (h) be conducted in a non-discriminatory manner;
- (i) involve the child, his or her family and significant persons;
- (j) ensure that recipients are provided with a name and contact number of the service provider;
- (k) provide additional consultation and counselling;
- (l) ensure that proper records are kept and data captured;
- (m) be aimed at minimisation of secondary abuse and trauma;
- (n) ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously;
- (o) be reviewed on a regular basis according to the needs of the recipients; and
- (p) be sensitive to the linguistic needs, religious and cultural norms and values of children and their families.

#### **4. Family preservation**

Family preservation must—

- (a) be aimed at the identification of high risk families and children;
- (b) be aimed at preventing the recurrence of problems in the family environment that may harm children or adversely affect their development;
- (c) address factors that put children at risk of imminent removal from their environment;
- (d) address the particular needs of families in their diverse forms;
- (e) be rendered by service providers with appropriate training, support and supervision to maximise their abilities and capacity to conduct assessments and appropriate interventions;
- (f) be intensive in nature and delivered by a multi-disciplinary team within six months; seek to strengthen and support family support structures and render capacity development;
- (g) be aimed at improving the well-being and resilience of families;
- (h) be home-based and family-centred with family members seen as the main focus;
- (i) focus on and utilize the strengths of families;
- (j) ensure that family plans are developed with the participation of family members;
- (k) teach skills and develop capacity of parents, care-givers and families to address family risk factors;

- (l) enhance positive family relations and promote a family climate that promotes the care, protection and development of children;
- (m) ensure that children are safe from harm whilst in the family;
- (n) promote communication and positive relationships within families;
- (o) strengthen extended family as well as neighbourhood and community networks in promoting the well-being of the child;
- (p) promote reunification of children with their families;
- (q) ensure the participation of children, family members and other significant people in the child's life;
- (r) be based on a multi-disciplinary and inter-sectoral approach;
- (s) enable families to take responsibility and accountability for their involvement in programmes;
- (t) be sensitive to the linguistic needs, religious and cultural norms and values of children and their families; and
- (u) have a system for monitoring and assessing impact of programme.

## **5. Skills development programmes**

Skills development programmes must be—

- (a) aimed at improving children's and adult literacy;
- (b) aimed at alleviating poverty and its adverse effects on children;
- (c) aimed at creating employment and improving family income;
- (d) aimed at providing skills to enable them to care for sick and chronically ill children and children with disabilities;
- (e) sensitive to the linguistic needs, religious and cultural norms and values of children and their families; and
- (f) aimed at parenting skills and capacity development programmes.

## **6. Diversion programmes**

Diversion programmes must—

- (a) promote the child's dignity, well-being, development of sense of self-worth and ability to contribute to society;
- (b) be appropriate to the age and maturity of the child;

- (c) be based on an assessment of the particular needs of the child, using an approved developmental assessment framework which covers—
  - (i) detail on risk factors present in the child's life, including—
    - (aa) social relationships, including family and peer relationships;
    - (bb) education, including school grade, attendance and performance;
    - (cc) history of antisocial behaviour;
    - (dd) substance abuse;
    - (ee) medical or psychiatric history;
    - (ff) whether the child has been found in need of care; and
    - (gg)- the child's developmental areas that the programme is designed to address; and
  - (ii) strength assessment;
- (d) not interfere with the child's schooling;
- (e) impart useful skills;
- (f) not be exploitative, harmful or hazardous to a child's physical or mental health;
- (g) include a restorative justice element which aims at healing relationships, including the relationship with the victim;
- (h) include an element which seeks to ensure that the child understands the impact of his or her behaviour on others, including the victim of the offence, and may include compensation or restitution;
- (i) involve parents and care-givers where available;
- (j) be presented in a location which is reasonably accessible to the child;
- (k) ensure that a child who cannot afford transport in order to attend selected diversion programme should, as far as it is reasonably possible, be provided with the means to do so;
- (l) promote the participation of children in decision-making;
- (m) be provided by suitably trained persons, with regular supervision;
- (n) have a system for monitoring the child's progress, including his or her compliance with the conditions of a diversion order;
- (o) have a system for monitoring the quality of programme delivery;
- (p) adhere to national policy guidelines; and
- (q) be sensitive to the linguistic needs, religious and cultural norms and values of children and their families.

## **7. Temporary safe care**

- (a) Placement of a child in temporary safe care must be based on the assessment of the needs of the child.
- (b) Temporary safe care must promote the safety, security, dignity and well-being of the child.
- (c) Temporary safe care service providers must be properly screened and approved in the manner contemplated in regulation 57.
- (d) Temporary safe care service providers must demonstrate the ability to deliver an effective and efficient service to the child.
- (e) Temporary safe care may not be disruptive to the child's life and regular routine.
- (f) Temporary safe care must allow access to the child by relevant persons, including the parent, guardian, care-giver, next of kin or other professional as the need may be, if it is in the best interest of the child.
- (g) The identity and location of temporary safe care may not be revealed to the alleged offender or any person not acting in the best interests of the child for the protection of the child.
- (h) Temporary safe care must be sensitive to the linguistic needs, religious and cultural norms and values of children and their families.
- (i) There must be continuous monitoring and assessment of the well-being of a child in temporary safe care.

## **8. Assessment of programmes**

Assessment of programmes must—

- (a) be undertaken by service providers who have the appropriate training, support and competencies to conduct such assessments;
- (b) be conducted annually;
- (c) be undertaken in response to any well-founded report or complaint submitted to the provincial head for social development;
- (d) enable and facilitate sustained quality service delivery through support, guidance and capacity building;
- (e) be strength-based, holistic and appropriate to the cultural context of the programme;
- (f) be aimed at promoting decision-making about future programmes;

- (g) result in the development of a plan for capacity building and improved service delivery within 30 days of assessment;
- (h) be aimed at protecting and promoting the rights of children as contained in the Constitution of the Republic of South Africa, 1996, this Act and other relevant statutes;
- (i) monitor adherence to the national norms and standards made in terms of the Act and ensure that decisive and appropriate action is taken where violations of the norms and standards occur;
- (j) be done with the participation of children and programme staff;
- (k) consider the following factors:
  - (i) The degree to which the programme reached the intended target;
  - (ii) the demographic profile of the target group;
  - (iii) whether recipients are receiving quality services;
  - (iv) the impact of the intervention on children, families and communities;
  - (v) the availability and efficient utilisation of programme resources;
  - (vi) quantitative and qualitative data on targets and services rendered as required by regulatory bodies;
  - (vii) sustainability of programme efforts;
  - (viii) ability of staff to implement the programme;
  - (ix) management function, ability and competency; and
  - (x) compliance with registration conditions as well as current national statutory financial regulations;
- (l) ensure participation of families and communities;
- (m) ensure the safety and well-being of children;
- (n) be aimed at addressing and meeting the developmental needs of children;
- (o) be aimed at building community support for programmes;
- (p) ensure that programmes promote positive social values; and
- (q) may be conducted by a multi-disciplinary panel.

## PART V

### NATIONAL NORMS AND STANDARDS FOR CHILD AND YOUTH CARE CENTRES

For the purposes of section 194(2) of the Act, the following are national norms and standards for child and youth care centres:

#### 1. Residential care programmes

- (a) Children must be received in a manner and a climate which is caring and safe, and which minimises trauma and maximises developmental opportunity during engagement or admission processes.
- (b) Children must receive services in a safe environment in which they are protected from physical, social and emotional harm.
- (c) Children must be accommodated in a safe, healthy, well-maintained environment, which provides appropriate access to the community and which meet their needs in terms of privacy, safety and wellbeing..
- (d) All reasonable measures must be taken to ensure that children and staff are safe from the risk of fire, accidents and other hazards..

#### 2. Therapeutic programmes

- (a) The privacy and confidentiality of children must be respected and protected.
- (b) A child must have access to legal or other assistance to prepare for any court process that he or she is involved with.
- (c) Children must receive emotional and social care which enables quality interaction with adults and peers, and which promotes positive, sustained relationships at school and with families, significant others and friends.
- (d) Every child and youth care centre must offer a residential care programme that provides a therapeutic environment for the care and development of children.
- (e) Every child must receive an effective and appropriate developmental assessment and referral service which should lead to appropriate placement.
- (f) Every child must be provided with the capacity and support which enables constructive and offensive social behaviour.
- (g) Therapeutic programmes must be conducted by service providers with appropriate training, support, supervision and mentoring.



- (h) Therapeutic programmes must be conducted in a non-discriminatory manner.
- (i) Therapeutic programmes must minimise secondary abuse and trauma.
- (j) Therapeutic programmes must ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously.
- (k) Therapeutic programmes must be reviewed on a regular basis according to the needs of the recipients;
- (l) Therapeutic programmes must be sensitive to the linguistic needs, religious and cultural norms and values of children and their families.

### **3. Developmental programmes**

- (a) A child's development plan and programme must be based on an appropriate and competent assessment of his or her developmental needs and strengths.
- (b) Every child in a child and youth care centre must have a plan and programme of care and development.
- (c) Every child in a child and youth care centre must participate in formulating their care and development plans and must be informed of those plans.

### **4. Permanency plans for children**

- (a) Every child in a child and youth care centre must have a permanency plan based on a developmental assessment of the child.
- (b) The child must participate in the development of the permanency plan and be informed about the plan and any changes to it.

### **5. Individual development plans**

- (a) Children must receive services in accordance with their individual development plan which facilitates their well-being within a temporary programme and which enables them, where necessary, to make a successful transition to new circumstances.
- (b) Every child in a child youth care centre has the right to a permanency plan,

which include reunification, security and life-long relationships.

- (c) Every child has the right to participate in formulating his or her individual development plan and to be informed about their plan, and to be involved in decisions to make changes to their plan.
- (d) The individual development plan must be based on an appropriate and competent assessment of their developmental needs and strengths and, where reasonably possible, be in the context of their family and community environments.
- (e) The family of the child, or other persons with bonds to the child, must be involved in the child's individual development plan unless it is shown that this would not be in the best interests of the child.
- (f) There must be a review of each child's placement and individual development plan at least once every six months while the child remains in the centre.

## **6. Temporary safe care**

- (a) Every child and youth care centre must provide temporary safe care to children if appropriate and if the centre allows for it.
- (b) Every child should be placed in temporary safe care for the shortest period possible and for the minimum number of days per week appropriate to their needs.
- (c) After reception of a child, a developmental assessment must take place to evaluate a more permanent placement of the child.
- (d) Children in conflict with the law must be offered the option of diversion in a manner which protects their rights and involves them and their families in decision making.
- (e) Children must be given information about their rights and responsibilities within the programme in a manner and form which takes into account their age.

## **7. Protection from abuse and neglect**

- (a) Children in child and youth care centres should be received in a caring and safe climate which minimises trauma and maximises developmental opportunity.
- (b) The environment should protect children from physical, social and emotional

harm, and threats of harm from themselves and others.

- (c) Children must be given information about their rights and responsibilities within the programme.
- (d) Children must be informed about policy and procedure regarding reportable incidents or actions and must be provided with information and knowledge which ensure that they can use these procedures effectively when needed.

#### **8. Assessment of children**

- (a) Assessment of a child in a child and youth care centre must be undertaken by a multi-disciplinary team.
- (b) The initial assessment must take place within 48 hours of the child's admission to the centre, and there must be regular reviews of the process.
- (c) Assessment must be strengths-based, holistic and appropriate to the child's culture, language and developmental stage.
- (d) Assessment must be done with the participation of the child and, as far as it is reasonably possible, with the child's family.
- (e) The assessment process must aim to increase insight and competency and must include shared decision-making.
- (f) Assessment processes and documentation must be of such a nature that they can be used at the point of reception, and do not need to be repeated.

#### **9. Family reunification and reintegration**

Every child should have a care plan which aims to provide life-long relationships with their family or appropriate alternative and re-integration in the family and community within the shortest possible time-frame.

#### **10. Aftercare**

Children should receive after care programmes focussing on support in terms of training and education, employment, independent living, family and community integration and psychosocial support.

#### **11. Access to and provision of adequate health care**

All children in child and youth care centres must have access to health care services, and where the centre is registered to provide-

- (i) care for children with disabilities and chronic illnesses in terms of section 191(3)(a) of the Act; or
- (ii) treatment for children addicted to dependence producing substances in terms of section 191(3)(c) of the Act, such care or treatment.
- (iii) where there are a large number of babies in a centre,

such care or treatment.

## **12. Access to schooling, education and early childhood development**

- (a) All children in child and youth care centres must have access to schooling, education, other appropriate training, skills programmes or early childhood development programmes where appropriate.
- (b) The education must as far as possible, be accessed at a school or other training facility in the community.
- (c) Where children cannot access education or other appropriate training in the community, such education or training must be provided at the child and youth care centre.

## **13. Security measures for child and youth care centres**

- (a) Children must experience safety and feel cared for.
- (b) Premises must be safe.
- (c) There must be adult supervision at all times.
- (d) All reasonable precautions must be taken to protect children and staff from the risk of fire, accidents or other hazards.
- (e) A first aid kit must be available and maintained.
- (f) Where obvious signs of injury or trauma are detected, a child must be referred to a hospital or clinic for further assessment and treatment, and his or her parents or care-giver be informed thereof as soon as possible, if their whereabouts are known.
- (g) Where it is suspected that a child may have been abused and in need of child protection services, such child must be referred to a designated child protection organisation.

**14. Measures for the separation of children in secure care programmes from children in other programmes.**

- (a) Children in secure care programmes must as far as reasonably possible be kept separately from children in other programmes. Such children must be separated at night, and where they are not separated during the day this must be managed as part of a residential care programme that provides appropriate containment.
- (b) Children in secure care programmes who are awaiting trial and children in secure care programmes who have been sentenced may be housed in the same facility, provided that the child and youth care centre is registered to provide appropriate programmes for such children, and that the residential care programmes provide for appropriate containment.

**PART VI**

**NATIONAL NORMS AND STANDARDS FOR DROP-IN CENTRES**

For the purposes of section 216(2) of the Act, the following are national norms and standards for drop-in centres:

**1. A safe environment for children**

- (a) Children must experience safety and feel cared for while at a drop-in centre.
- (b) Premises inside and outside must be clean, safe and maintained to a reasonable standard.
- (c) Equipment used must be safe, clean and well maintained.
- (d) There must be adult supervision at all times.
- (e) All reasonable precautions must be taken to protect children and staff from the risk of fire, accidents or other hazards.
- (f) A first aid kit must be available and maintained, and persons providing services at a drop-in centre must be trained to administer it.

- (g) Any substances, cleaning materials or dangerous objects must be safely stored and kept out of reach of children.
- (h) Where obvious signs of injury or trauma are detected, a child must be referred to a hospital or clinic for further assessment and treatment, and his or her parents or care-giver informed as soon as possible, if their whereabouts are known.
- (i) Where it is suspected that a child may have been abused and in need of child protection services, such child must be referred to a designated child protection organisation.
- (j) Inhumane and degrading treatment and punishment of children in a drop-in centre is prohibited..

## **2. Safe drinking water**

- (a) Safe and clean drinking water must always be available.
- (b) Where water is not from a piped source, it must be treated and made safe using approved national guidelines for the treatment of water by adding one teaspoon of bleach to 25 litres of water.
- (c) All water containers must be covered at all times.

## **3. Hygienic and adequate toilet facilities**

- (a) There must be safe and hygienic toilet and hand washing facilities.
- (b) Where sewerage systems are available, there must be one toilet and one hand washing facility for every 40 children.
- (c) Where no running water is available, there must be a minimum of 25 litres of drinkable water per day, bearing in mind the period of time for which the drop-in centre is open.
- (d) Where no washbasins are available, one suitable container for every 20 children must be made available, provided that such container is cleaned regularly and closed.

## **4. Access to refuse disposal services or other adequate means of disposal of refuse**

- (a) Where possible, refuse must be disposed of according to municipality regulations.
- (b) Waste must be kept out of reach of children.

- (c) Waste disposal areas must be regularly disinfected.

**5. Hygienic area for the preparation of food**

- (a) There must be a separate, clean and safe area for the preparation of food as well as for cleaning up after food preparation.
- (b) There must be a separate space for the serving of food to children.
- (c) There must be a cooling facility for the storage of perishable food.
- (d) There must be a facility for the storage of food.