



THE CHILDREN'S ACT 38 OF 2005

CONSOLIDATED DRAFT REGULATIONS

PERTAINING TO THE CHILDREN'S ACT, 2005

**(INCLUDING REGULATIONS PERTAINING TO BILL 19 OF 2006
NOW ACT 41 OF 2007 BUT HEREINAFTER REFERRED TO AS
THE BILL)**

(Note 1: For ease of distinction, regulations pertaining to the Act are indicated in black font, while those pertaining to the Bill are reflected in blue font)

(Note 2: 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 Justice and Constitutional Development responsibilities and are attached to these regulations)

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CHAPTER 1 GENERAL PROVISIONS

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it and, unless the context otherwise indicates –

“**Register**” means the National Child Protection Register established by Part 2 of Chapter 7 of the Act;

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

2. Intervals of provincial profiles

The relevant MEC 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 after 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

3. Consent to undergo a virginity test

(1) Consent to undergo a virginity test by a child who is 16 years of age or older must be in a form substantially corresponding with **Form 1** and must be –

- (a) completed in writing and signed by the child;
- (b) signed by the person conducting the virginity test; and
- (c) accompanied by proof of the age of the child as provided for in regulation 4(3)(b).

(2) Where a person whose signature is required in terms of paragraph (a) or (b) of subregulation (1) is incapable of furnishing a signature, a thumbprint must be effected and duly attested by a commissioner of oaths.

(3) A copy of the form referred to in subregulation (1) must be retained by the person performing the virginity test for a period of 12 months after consent as contemplated in this regulation has been furnished.

4. Manner of conducting virginity test

- (1) The person who conducts a virginity test must ensure that –
- (a) each child is tested individually and in private;
 - (b) such test is conducted in a hygienic manner, which includes –
 - (i) the use of a separate pair of sterile surgical gloves for each test in the case of a virginity test involving the penetration of any bodily orifice of the child being tested;
 - (ii) the disposal of such surgical gloves after each virginity test in accordance with medical standards for the disposal of surgical gloves;

- (iii) the sterilization of any instrument used in the performance of any virginity test in accordance with acceptable medical practice; and
 - (iv) the 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 only be performed on a girl child by a female person.

(3) (a) No virginity test may be performed on a child unless the person conducting the test is satisfied that the child concerned is 16 years of age or older.

(b) The age of a child consenting to a virginity test must be established by having regard to an identity document or birth certificate, 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.

5. Suitability of persons to perform virginity tests

(1) No person whose name appears in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), may perform a virginity test upon a child.

(2) Any person who contravenes 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.

6. Disclosure of results of virginity test

Consent to disclose the results of a virginity test must be completed in writing in a form substantially corresponding with **Form 2** and signed by the child concerned or, if such child is incapable of furnishing a signature, a thumbprint must be effected and duly attested by a commissioner of oaths.

7. Good practice guidelines and charges levied for virginity testing

The Minister for Health may –

- (a) from time to time prescribe the fees that may be levied for the performance of a virginity test by notice in the *Gazette*;
- (b) develop culturally appropriate good practice guidelines concerning the manner in which virginity tests may be performed; and
- (c) develop public awareness about any potentially negative consequences of virginity testing.

PART II

MALE CIRCUMCISION

8. Consent to circumcision

Consent by a male child older than 16 years to circumcision must be in a form substantially corresponding with **Form 3**.

9. Religious circumcision

(1) Circumcision performed for religious purposes on male children under the age of 16 years 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 subregulation (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 be disposed of after each circumcision unless sterilised in accordance with medical standards for the sterilisation of surgical instruments;
- (d) 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; and
- (e) the disposal of any instruments used for circumcision including any human tissue must be in compliance with any applicable legal provision and 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 12 years; or
 - (b) over the age of 12 years but below the age of 18 years,
- must be in a form substantially corresponding with **Form 4**.

CHAPTER 3

PARENTAL RESPONSIBILITIES AND RIGHTS

(Sections 18 – 35 of the Act)

PART I

PARENTAL RESPONSIBILITIES AND RIGHTS AGREEMENTS

10. General requirements pertaining to a parental responsibilities and rights agreement

(1) An application for the registration of a parental responsibilities and rights agreement or for a parental responsibilities and rights agreement to be made an order of court must be in writing in a form substantially corresponding with **Form 5** and must –

- (a) be signed by the mother of the child or any other person or persons having parental responsibilities and rights in respect of the child or children and by the biological father of the child or children or other person having an interest in the care, well-being and development of the child or children upon whom parental

responsibilities and rights are being conferred or, if a person whose signature is required is incapable of furnishing a signature, a thumbprint must be effected and duly attested by a commissioner of oaths;

- (b) include the title, full names, date of birth, identity number or passport number, as the case may be, residential and work address and contact details of the mother of the child or children or any other person or persons having parental responsibilities and rights in respect of the child or children;
- (c) include the title, full names, date of birth, identity number or passport number, as the case may be, residential and work address and contact details of the biological father of the child or children or any other person or persons having an interest in the care, well-being and development of the child or children upon whom parental responsibilities and rights are being conferred;
- (d) include the full names, date of birth, identity number or passport number, as the case may be, residential address and contact details of any child or children concerned; and
- (e) where applicable, include the name and signature of the family advocate responsible for registering the agreement.

(2) 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, only one such parental responsibilities and rights agreement must be completed.

(3) The applicant or applicants for the registration of a parental responsibilities and rights agreement must file sufficient 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.

(4) Where the family advocate is required to satisfy himself or herself that a parental responsibilities and rights agreement is in the best interests of the child, this must be done in a form substantially corresponding with **Form 6**.

(5) No person may divulge or publish for the information of the public or any section of the public any particulars of a parental responsibilities and rights agreement without the consent of the parties to the agreement and the child or children in respect of whom the agreement has been registered or made an order of court, where such child is of sufficient age and maturity to furnish such consent.

11. Contents of parental responsibilities and rights agreements

(1) A parental responsibilities and rights agreement must contain particulars of those aspects pertaining to the care of, contact with, financial responsibility for, and 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 other person having an interest in the care, well-being and development of the child including, but not limited to, particulars similar to those referred to in relation to parenting plans as provided for in regulation 16(1)(a) – (q).

(2) The particulars referred to in subregulation (1) must be specified on **Form 5** or must be attached to the application for registration of the parental responsibilities and rights agreement in the form of –

- (a) written documentation containing the relevant details relating to care, contact, financial responsibility or any other matters incidental to the exercise of parental rights and responsibilities; or
- (b) a parenting plan completed in a form substantially corresponding with **Form 7**.

(3) Where a parental responsibilities and rights agreement is to be confirmed by a High Court, such agreement may contain particulars relating to the guardianship of the child or children.

12. Mediation where dispute arises between biological father and biological mother concerning the fulfillment of conditions for acquisition of parental responsibilities and rights

(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 fulfillment by that father of the conditions set out in paragraph (a) or (b) of section 21(1) of the Act, may certify the outcome of that mediation in a form substantially corresponding with **Form 8**.

(2) A certificate of non-attendance of the mediation required by section 21(3) of the Act may be completed in a form substantially corresponding with **Form 9** 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) Non-attendance by a person of the mediation required by section 21(3) of the Act on two occasions without good reason must be construed as an unwillingness to submit to mediation and forms a basis for the institution of legal proceedings to determine the parental responsibilities and rights of the biological father of the child.

13. Participation of child or children with respect to parental responsibilities and rights agreements

(1) (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.

(2) Where a child or children of sufficient age and maturity and stage of development, and 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, psychologist or social service professional.

PART II
PARENTING PLANS

14. General provisions concerning an application for registration of parenting plans

(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 substantially corresponding with **Form 10** 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 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 and 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 such rights and responsibilities with respect to more than one child in the same family, only one application for registration of the parenting plan must be completed.

(3) The application for registration of a parenting plan must be accompanied by –

- (a) written particulars of the parenting plan as specified in regulation 16(1)(a) – (q) and, where applicable, regulation 16(2), concerning the manner of exercise of their respective responsibilities and rights by the co-holders of the parental responsibilities that have been agreed upon; or
- (b) a parenting plan completed in a form substantially corresponding with **Form 7**.

(4) The applicant or applicants for the registration of a parenting plan must file sufficient 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.

(5) No person may divulge or publish for the information of the public or any section of the public any particulars of a parenting plan without the consent of the parties to the parenting plan and the child or children in respect of whom the parenting plan has been registered or made an order of court, where such child is of sufficient age and maturity to furnish such consent.

15. Parenting plans prepared with the assistance of a family advocate, social worker or psychologist, or after mediation by a social worker or other suitably qualified person

(1) A statement by a family advocate, social worker or psychologist to the effect that a parenting plan was prepared with the assistance of such family advocate, social worker or psychologist, as contemplated in section 33(5)(a) of the Act, must be completed in writing in a form substantially corresponding with **Form 11**.

(2) A family advocate who confirms that a parenting plan which was prepared without the assistance of a family advocate, social worker or psychologist, complies with the best interests of the child or children concerned, may do so in writing in a form substantially corresponding with **Form 11**.

(3) A statement by a social worker or other suitably qualified person to the effect that a parenting plan was prepared after mediation by such social worker or other suitably qualified person, as contemplated in section 33(5)(b) of the Act, must be completed in writing in a form substantially corresponding with **Form 12**.

16. Particulars relating to the co-exercise of parental responsibilities that may be included in a parenting plan

(1) The particulars related to the co-exercise of parental responsibilities and rights that may be specified in a parenting plan include, but are not limited to –

- (a) details concerning the person with whom the child or children will reside and for which specified periods, and the manner in which the child or children is to be cared for;
- (b) details concerning responsibilities for the maintenance of the child or children, including, but not limited to, the amounts payable, the allocation of such amounts for the child's or children's accommodation, schooling, clothing, extra-mural or sporting activities, medical and other aspects of the child's or children's health care, overall care and upbringing, and whether one or more co-holder of parental responsibilities and rights will be responsible for such payments;
- (c) details concerning parental responsibilities and rights in respect of contact with the child or children including, but not limited to, specified periods of time during which specified contact will take place, and including, but not limited to, the specifics of the forms that such contact may take and the responsibility for the costs of ensuring such contact;
- (d) details concerning contact on any special days, public holidays or during holiday periods;
- (e) the financial responsibility to be borne by a co-holder of parental responsibilities and rights for any travel costs that may be incurred in giving effect to contact with the child or children;
- (f) the way in which decisions in respect of a child or children's life or lives are to be exercised by bearers of parental responsibilities and rights, with due regard to the provisions of section 31 of the Act and the desirability of mediation and reconciliation;
- (g) the roles and responsibilities of any co-holders of parental rights and responsibilities regarding the child or children's education, health care and participation in cultural or religious activities;
- (h) the manner in which effect will be given to obligations to consult the co-holder or parental responsibilities and rights as required by section 31 of the Act;

- (i) the specific steps to be taken in instances where co-holders of parental responsibilities and rights disagree upon a decision or decisions, or where there is a dispute about the exercise of parental responsibilities and rights, with due regard to mediation and the desirability of reconciliation;
- (j) the person or persons who will bear the costs of any dispute resolution undertaken;
- (k) the care of the child or children by persons other than the co-holders of parental responsibilities and rights;
- (l) contact with other family members or the extended family;
- (m) guidance of the child or children's behaviour in a manner consistent with the objectives of the Act;
- (n) the accommodation of any special needs that a child or children may have;
- (o) any obligation to notify the family advocate, the High Court, the children's court or any co-holder of parental responsibilities and rights of a change of address or contact details of the holder of parental responsibilities and rights or of the child or children;
- (p) the procedure to be followed in the event of a material change in circumstances relating to the holder of parental responsibilities and rights or to the child; and
- (q) the termination or amendment of the parenting plan.

(2) Where a parenting plan is to be registered by a High Court, such plan may contain particulars relating to the guardianship of the child or children.

17. Participation of child or children with respect to parenting plans

(1) Bearing in mind the child's or children's age, maturity and stage of development, such child or children must be consulted during the development of a parenting plan involving them, and granted an opportunity to express their views, which must be taken into account and accorded due consideration.

(2) When a parenting plan has been agreed, the child or children must, bearing in mind their age, maturity and stage of development, be informed of the contents of the parenting plan 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.

18. Requirements for persons suitably qualified to mediate disputes concerning fulfillment of conditions for the acquisition of parental responsibilities and rights and to provide assistance in the development of parenting plans

(1) A person is suitably qualified to mediate disputes concerning fulfillment of conditions for the acquisition of parental responsibilities rights and to provide assistance in the development of parenting plans if he or she –

- (a) has at least five years' expertise in mediation, arbitration, restorative justice or other forms of alternative dispute resolution after attainment of his or her professional qualification;
- (b) belongs to a recognised body aimed at the education and professional development of mediators;
- (c) possesses a recognised qualification in child development, child psychology or in early childhood development and has at least five years' experience after attainment of such qualification;
- (d) is an admitted attorney or an advocate of the High Court with at least five years' experience in child and family law; or
- (e) possesses any other similar qualification which renders him or her suitably qualified to mediate disputes or provide assistance in the development of parenting plans, or who, due to practical experience, can be regarded as being suitably qualified.

(2) A person who alleges that he or she is suitably qualified to mediate disputes concerning fulfillment of conditions for the acquisition of parental responsibilities and rights or to provide assistance in the development of parenting plans must substantiate this allegation by providing details of the grounds on which he or she believes that suitable qualification exists, and, where appropriate, furnish written proof of any expertise, qualification or membership of a professional body.

(3) The substantiation referred to in subregulation (2) must be provided on **Form 12, Form 8 or Form 9**, as the case may be.

CHAPTER 4

BIOGRAPHICAL AND MEDICAL INFORMATION CONCERNING GENETIC PARENTS (Section 41 of the Act)

19. Access to biographical and medical information concerning genetic parents

Further to the provisions of section 41(3) of the Act, the Director-General may require a person to receive counselling before any information relating to biographical and medical information concerning genetic parents is disclosed in terms of section 41(1) of the Act.

CHAPTER 5

PARTIAL CARE

(Sections 76 – 90 of the Act)

20. Categories of partial care facilities

For purposes of registration of a partial care facility the following different types of partial care may be provided for:

- (a) A crèche, providing partial care for a child from birth to an age of 3 years;
- (b) an educare centre, providing partial care for a child from three years until school going age;
- (c) an after school centre, providing partial care for a child attending a primary school;
- (d) a private hostel, providing partial care for children attending a primary or a secondary school;
- (e) a temporary respite care facility, providing temporary full-time partial care for a child during the temporary absence of his or her parent or parents or the caregiver of the child; and
- (f) a place of care providing partial care for children with disabilities who require a high level of support.

21. Exemption from registration as a partial care facility

(1) 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.

(2) Partial care organised or provided by casinos or shopping centres or any other similar partial care organised and provided irregularly and for limited periods during the absence of a child's parent, parents or care-giver is exempted from registration in terms of section 80 of the Act.

(3) Notwithstanding the provisions of subregulation (2) a partial care facility or provider of a partial care service referred to in that subregulation must comply with the national norms and standards for partial care contemplated in section 79 of the Act and reflected in Annexure A to these regulations.

(4) A provincial head of social development or, where the function has been assigned to a municipality in terms of section 88 of the Act, the municipal manager, may by way of a written notice of enforcement instruct a partial care facility contemplated in subregulation (2) to terminate its operation in the event of non-compliance with the norms and standards referred to in subregulation (3).

(5) Any person employed at a partial care facility contemplated in subregulation (2) must provide clearance certificates to the effect that his or her name does not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), to his or her employer.

22. National norms and standards

The national norms and standards with which a partial care facility or provider of a partial care service referred to in regulation 20 must comply as contemplated in section 79 of the Act, are reflected in Annexure A.

23. Application for the registration of a partial care facility

(1) Subject to the provisions of subregulation (2), an application for the registration or conditional registration or for 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 that substantially corresponds with **Form 13**.

(2) If the performance of the functions contemplated in sections 80 and 81 of the Act has been assigned to a municipality, an application referred to in subregulation (1) must be lodged with the head of social services of that municipality.

(3) An application referred to in subregulation (1) must contain the following particulars:

- (a) The particulars of the applicant;
- (b) the physical and postal address of the partial care facility;
- (c) the category or categories of partial care in respect of which the application is made;
- (d) the number of children that will be accommodated in each of the categories of partial care in respect of which the application is made;
- (e) the qualifications, skills and experience of the applicant in partial care in the category or categories 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) In addition to the requirement contained in section 81(1)(c)(i) of the Act, an application referred to in subregulation (1) must be accompanied by the following 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 including an exposition of the staff members' prescribed and other skills with supporting documents and copies of any qualifications of the staff members that would enhance partial care of children; 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 category or categories of children it will cater for;
 - (iii) the composition, powers and duties of the management;
 - (iv) the powers, obligations and undertaking of management to delegate all authority with regards 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 A;
- (c) an original copy of the approved plans or a copy of the plans that has been submitted for approval if the application for the approval of the plans is still under consideration;
- (d) an emergency plan; and
- (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 Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

24. Consideration of application

(1) On granting an application referred to in regulation 23(1), the provincial head of social development or, where the function has been assigned to a municipality 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 that substantially corresponds with **Form 14**.

(2) The provincial head of social development or, where the function has been assigned to a municipality in terms of section 88 of the Act, the municipal manager or social service professional concerned, may grant an application referred to in regulation 23(1) for a period not exceeding five years.

(3) In granting an application referred to in subregulation (2), the provincial head of social development or, where the function has been assigned to a municipality in terms of section 88 of the Act, the municipal manager or social service professional concerned, may impose such conditions as he or she deems necessary or expedient.

(4) In rejecting an application for registration of a partial care facility, the provincial head of social development must duly inform the applicant of the refusal in a form that substantially corresponds with **Form 15** by registered post and must furnish reasons for such rejection to the applicant.

(5) (a) 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 that substantially corresponds with **Form 16** within 90 days of the receipt of such decision.

(b) An applicant or a registration holder aggrieved by a decision in terms of Chapter 14 of the Act by an official in the employ of a municipality in a case where any powers contained in sections 95 to 100 of the Act have been assigned to a municipality, may appeal against such decision to the municipal council concerned in a form that substantially corresponds with **Form 17** within 90 days of the receipt of such decision.

25. Management of partial care facility

(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 or primary care-giver;
- (c) the date of the child's admission to the partial care facility and the date of termination of partial care;
- (d) any chronic medical condition, any dietary requirements and any other critical information for the care and development of the child; and
- (e) any period of absence from the partial care facility, including leave, sick leave or family responsibility leave of any staff member.

(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 documents or correspondence relating to the child;
- (c) reports and notes by the provider of a programme within a partial care facility on the development of the child with particular reference to any possible deviations 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 patterns of the child; and
- (e) reports and notes on any injury or bruises 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.

(4) (a) No physical punishment may be imposed on a child in a partial care facility.

(b) No group punishment for individual behaviour may be imposed on a child in a partial care facility.

(c) Positive disciplinary measures appropriate to the child's age and maturity may be imposed at a partial care facility.

(d) 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, where their whereabouts are known.

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

(8) Monthly staff meetings in respect of which minutes are kept must be convened at each partial care facility.

26. Employment of staff at a partial care facility

(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 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 the regulations must provide –

- (a) a certified copy of his or her identity document;
- (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 Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007),

to his or her employer.

(2) An employee at a partial care facility who works directly with a child in such facility should be able to communicate with the child in a language which he or she understands.

27. Closure of partial care facility

(1) When –

- (a) the 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 in terms of section 85 of the Act,

that person or organisation must be allowed a reasonable time 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, the parents or care-givers of children in that facility must receive at least two months written notice of such intention.

28. Assignment of functions to municipalities

(1) Before a provincial head of social development may assign functions to a municipality 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) The provincial head of social development, before assigning all or part of the functions contemplated in section 88 of the Act, must be satisfied that the municipality concerned has –

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

(3) The agreement between the provincial head of social development and the municipal manager contemplated in section 88(2) of the Act must –

- (a) be reduced to writing and signed by the parties in the presence of two witnesses; and
- (b) contain a provision that the particulars referred to in subregulation (4) be reviewed and updated annually.

(4) The agreement between the provincial head of social development and the municipal manager 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; and
- (c) an organogram for the establishment responsible for the administration of the assigned functions.

CHAPTER 6
EARLY CHILDHOOD DEVELOPMENT
(Sections 91 – 103 of the Act)

29. National norms and standards

The national norms and standards for early childhood development as contemplated in section 94 of the Act are reflected in Annexure A.

30. Application for the registration of an early childhood development programme

(1) Subject to the provisions of subregulation (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 programme is provided in a form that substantially corresponds with **Form 18**.

(2) If the performance of the functions contemplated in sections 96 and 97 of the Act has been assigned to a municipality, an application referred to in subregulation (1) must be lodged with the head of social services of that municipality.

(2) An application referred to in subregulation (1) must contain the following particulars:

- (a) The particulars of the applicant;
- (b) the physical and postal address of the applicant;
- (c) the contact particulars of the applicant;
- (d) 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 including an exposition of the staff members' prescribed and other skills with supporting documents and copies of any qualifications in

- respect of the staff members 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 including an exposition of the funds available for providing the programme as applied for; and
 - (h) a clearance certificate to the effect that the name of the applicant does not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

31. Consideration of application

(1) On granting an application referred to in regulation 30(1), 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 issue to the applicant a certificate of registration or conditional registration or renewal of registration in a form that substantially corresponds with **Form 19**.

(2) 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, may grant an application referred to in regulation 30(1) for a period not exceeding five years.

(3) In granting an application referred to in subregulation (2), 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, may impose such conditions as he or she deems necessary or expedient.

(4) 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 substantially corresponding with **Form 20** by registered post and must furnish reasons for such rejection.

(5) (a) 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 that substantially corresponds with **Form 21** within 90 days of the receipt of such decision.

(b) An applicant or a registration holder aggrieved by a decision in terms of Chapter 6 of the Act by an official in the employ of a municipality in a case where any powers contained in sections 95 to 100 have been assigned to a municipality, may appeal against such decision to the municipal council concerned in a form that substantially corresponds with **Form 22** within 90 days of the receipt of such decision.

32. Skills and training

(1) The applicant must possess the following skills and training:

- (a) The National Certificate in Early Childhood Development at National Qualification Framework (NQF) Level 4 of the South African Qualifications Authority; or
- (b) an appropriate early childhood qualification; or
- (c) a minimum of three years experience of working in the early childhood development field; and
- (d) appropriate knowledge about child development;
- (e) the ability to identify, record and report on the progress and developmental needs of the child to inform early childhood development opportunities and interventions;
- (f) the ability to design and produce stimulating indoor and outdoors activities and routines according to the developmental needs of the children;
- (g) 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, social development;
- (h) 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;

- (i) 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
- (j) the ability to implement systems, policies and procedures and to manage physical, financial and human resources.

(2) Support personnel are required to undergo basic training to understand the context of early childhood development.

33. Assessment and monitoring of early childhood development programmes

(1) All early childhood development programmes must be subject to assessment and monitoring to determine compliance with the prescribed norms and standards.

(2) Assessment and monitoring must be executed by a competent official or person designated by the provincial head of social development and must be conducted in accordance with the indicators contained in the evaluation guidelines of the Department.

(3) 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.

(4) Assessment and monitoring of early childhood development programmes at partial care facilities and child and youth care centres must take place annually.

(5) The assessment of early childhood development programmes must be assessed in terms of quality assurance contained in a quality assurance report in a form that substantially corresponds with **Form 23**.

34. Assignment of functions to municipalities

(1) Before a provincial head of social development may assign functions to a municipality 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) The provincial head of social development, before assigning all or part of the functions contemplated in section 102 of the Act, must be satisfied that the municipality concerned has –

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

(3) The agreement between the provincial head of social development and the municipal manager contemplated in section 102(2) of the Act must –

- (a) be reduced to writing and signed by the parties in the presence of two witnesses; and
- (b) contain a provision that the particulars referred to in subregulation (4) be reviewed and updated annually.

(4) The agreement between the provincial head of social development and the municipal manager contemplated in section 102(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; and
- (c) an organogram for the establishment responsible for the administration of the assigned functions.

CHAPTER 7
CHILD PROTECTION SYSTEM
(Sections 104 – 110 and 142(a) – (f) of the Act)

35. National norms and standards for child protection services

The national norms and standards concerning child protection as contemplated in section 106 of the Act are reflected in Annexure A.

36. Criteria to be met by child protection organisations

(1) A child protection organisation complies with the criteria 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 persona and is registered with the appropriate authority or in terms of service-specific related legislation which requires registration;
- (b) as a non-profit organisation in terms of the Non-Profit Organisations Act 71 of 1997, is affiliated to a non-profit organisation that is so registered or can provide proof that the organisation is in the process of registering under the Non-Profit Organisations Act;
- (c) has the necessary capacity and expertise to deliver statutory services in terms of the Act, and that its operation conforms to 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;
- (f) promotes an equitable distribution of services, taking into account historical imbalances, including race, gender and the geographical urban and rural areas;
- (g) promotes inclusiveness and representativity in the management and organisation of services;
- (h) is able to account for the utilisation of financial awards made by the Department in an acceptable manner and in terms of the prescripts of the Public Finance Management Act 1 of 1999, implying that the focus should be 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 should contain the following information –

- (a) the 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;
- (d) the organisation's constitution and, if available, its code of conduct;
- (e) confirmation of banking details; and
- (f) a financial assurances declaration.

(4) The Director-General may designate an appropriate organisation that complies with the requirements specified in subregulations (1), (2) and (3) as a child protection organisation for a period not exceeding five years at a time.

(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 a new application for designation in accordance with this regulation at least two months before the expiry of the period of designation referred to in subregulation (4) or section 108(2) of the Act, as the case may be.

37. Quality assurance to evaluate child protection organisations prior to withdrawal of designation

The quality assurance referred to in section 109(2) of the Act which must be conducted to evaluate an organisation prior to withdrawal of designation as a child protection organisation is the developmental quality assurance process contemplated in regulation 104 to be conducted in respect of child and youth care centres, which process must be applied, with such changes as may be required by the context, to evaluate a child protection organisation prior to withdrawal of designation.

38. Reporting of abuse and deliberate neglect of children

Any person contemplated in section 110(1) of the Act who concludes that a child has been abused in a manner causing physical injury, sexually abused or deliberate neglected, must report that conclusion to a designated child protection organisation, a provincial department of social development or a police official in a form substantially corresponding with **Form 25** by completing that form to the best of his or her ability and by including in the form such particulars as are available to him or her.

39. Request for removal of offender

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(6)(b) of the Act, must –

- (a) be submitted to the South African Police Service having jurisdiction in writing;
- (b) contain particulars regarding the alleged offender; and
- (c) substantially correspond with **Form 24**.

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

(1) The broad risk assessment framework contemplated in section 142(c) of the Act aims to provide guidelines for –

- (a) the identification of children who are being abused or deliberately neglected;
- (b) the assessment of risk factors to support a conclusion of abuse and neglect on reasonable grounds as contemplated in section 110 of the Act;
- (c) the 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) the appropriate protective measures to be taken in respect of a child.

(2) The framework consists of, but is not limited to, the following guidelines:

- (a) The presence of indicators of physical abuse, including bruises in and around the mouth, face or any other part of the body; grasp marks on the arms, chest or face; variations in bruising colour; black eyes; belt marks; bruising or tears around or behind the ears; cigarette or other burn marks; cuts; welts; fractures; head injuries; fits; convulsions that are not due to epilepsy or high temperature; drowsiness; irregular breathing; vomiting; pain; fever or restlessness;
- (b) the presence of indicators of sexual abuse, including vaginal bleeding; genital lacerations or bruising; penile or vaginal discharge; sexually transmitted infections; abnormal dilation of the vagina, anus or urethra as assessed by a health care professional competent to perform the relevant examination; itching, soreness or unexplained bleeding of the genitals; faecal soiling or retention; pain on passing urine and recurrent urinary tract infections; semen in the vagina, anus, external genitalia or on clothes as determined through recognised forensic procedures; pregnancy; recurrent abdominal pain; difficulty in walking or sitting; withdrawal from peer group activities; deterioration in school work or sudden and quiet behaviour trends in otherwise lively and active children;
- (c) 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; obsessional behaviour; neglect of personal hygiene; age or socially inappropriate sexual behaviour or knowledge; active or passive bullying; unwillingness or fearfulness to undress or wearing layers of clothing;
- (d) 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;

- (e) the presence of indicators of deliberate neglect, including underweight; reddish scanty hair; sores around the mouth; slight water retention on the palm of the hands 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 or withdrawal;
- (f) a disclosure of abuse or deliberate neglect from the child; or
- (g) a statement relating to a pattern or history of abuse or deliberate neglect from a direct witness relating to the abuse of the child.

(3) A person who, due to the presence of indicators referred to in subregulation (2), suspects that a child has been sexually abused, 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; and
- (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.

(4) The provincial department of social development or a 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 subregulation (2) by taking the guidelines in subregulation (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; temporary or permanent unemployment; 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 abuser;
- (c) the emotional risk to the child involved in a sudden, unprepared removal; and
- (d) placement of the child in alternative care should only be considered in cases where a serious and immediate danger to the child outweighs the trauma involved in such a removal.

41. Criteria for determining suitable persons to investigate child abuse or neglect

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

- (a) is a registered social worker or is employed by the Department or a provincial department of social development;
- (b) is employed by a designated child protection organisation;
- (c) 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;
- (d) has not been found unsuitable to work with children and has no previous convictions relating to child abuse;

- (e) demonstrates a willingness to enhance his or her skills on a regular basis;
- (f) upholds the rights of the child and children's best interests; and
- (g) is willing to work in a multi-disciplinary team with the objective of securing the best protection plan based on a child's developmental needs.

42. Powers and duties of persons suitable to investigate child abuse or neglect

A person who is suitable to conduct investigations into cases of alleged child abuse or neglect as contemplated in regulation 41 must –

- (a) receive a report alleging the abuse or neglect of a child;
- (b) investigate such report as referred to in the broad risk assessment framework contemplated in regulation 40 within such reasonable time as may be required by the severity of the case, with due regard to the need for post-exposure prophylaxis within 72 hours in cases of sexual abuse;
- (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 of the child;
- (e) 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;
- (f) co-ordinate the available and applicable child protection services to ensure the safety and well-being of the child;
- (g) develop and implement a child protection plan in consultation with the child, his or her family and, if required, other applicable disciplines;
- (h) review the child protection plan on a six-monthly basis or earlier, depending on the severity of the abuse or neglect;
- (i) ensure that the prescribed particulars of the child are recorded in Part A of the National Child Protection Register established by Part 2 of Chapter 7 of the Act; and
- (j) take such protective measures as are contemplated in the Act or in guidelines issued by the Department.

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

(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, if of sufficient maturity and mental capacity to understand the reasons for the assessment or examination, 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 him or her being examined or assessed for purposes of establishing whether such child has been abused or neglected, consent, either orally 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 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 8
THE NATIONAL CHILD PROTECTION REGISTER
(Sections 111 – 128 and 142(g) – (k) of the Act)

PART I
PART A OF REGISTER

44. Contents of Part A of Register

(1) (a) The Director-General must be notified in writing by a provincial department of social development or a designated child protection organisation of a report of abuse or deliberate neglect of a child or the fact that a child is in need of care and protection 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 after such department or organisation has investigated the report and 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 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 subregulation (4)(a); and
- (iii) be in a form substantially corresponding with **Form 25**.

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

(2) (a) The Director-General must be notified in writing of the conviction of a person on a charge involving the abuse or deliberate neglect of a child, as contemplated in section 114(1)(b) of the Act, or of a finding by a children's court that a child is need of care and protection because of abuse or deliberate neglect, 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 after such conviction or finding.

(b) The notification 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 subregulation (4)(b) and (c); and
- (iii) be in a form substantially corresponding with **Form 26**.

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

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

(4) The particulars to be included in Part A of the Register in terms of section 114(2) of the Act must, in addition, include –

(a) in the case of section 114(2)(a) 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; and

(b) in the case of section 114(2)(b) 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 and 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) 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.

45. Inquiries on information in Part A of Register

(1) An inquiry by a person, including a child, (“the affected person”) in terms of section 117 of the Act to establish whether or not his or her name appears in Part A of the 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 substantially corresponding with **Form 27** which must contain the following particulars –
 - (i) the full names, surname, physical address and postal address of the affected person; and
 - (ii) a request for the furnishing of reasons why the affected person’s name was included in Part A of the Register in the event that such an entry is found.

(2) If the person making the inquiry in terms of subregulation (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 or 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 Register as contemplated in subregulation (1)(d)(ii), the Director-General must –

- (a) give 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 Register; and
- (b) give a brief description of the incident or act that led to the inclusion.

(4) The Director-General must respond to an inquiry in terms of this regulation within the periods referred to in section 117(3) of the Act by way of a form determined by the Director-General.

PART II
PART B OF REGISTER

46. Contents of Part B of Register

The particulars to be included in Part B of the Register in terms of section 119 of the Act of a person found unsuitable to work with children, must, in addition, include –

- (a) the passport number and driver's license number of that person, where applicable;
- (b) that person's date of birth;
- (c) any known alias or nickname of that person, where applicable;
- (d) the relevant prisoner identification number of that person, where applicable; and
- (e) particulars of the court or forum in which the finding of unsuitability to work with children was made.

47. Finding persons unsuitable to work with children

(1) If a court or forum makes a finding that a person is unsuitable to work with children in terms of section 120 of the Act based on the conviction of that person in any foreign jurisdiction of –

- (a) murder;
- (b) rape;
- (c) culpable homicide involving gross negligence;
- (d) indecent assault;
- (e) incest;
- (f) kidnapping;
- (g) any statutory sexual offence;
- (h) any offence relating to the manufacture, distribution or possession of child pornography;
- (i) any offence relating to the trafficking of children;
- (j) abduction, excluding the wrongful removal or retention of a child by a parent with parental responsibilities, whether domestic or as contemplated in the Hague Convention on International Child Abduction;

- (k) assault with intent to cause grievous bodily harm;
 - (l) common assault; or
 - (m) any attempt to commit any of the offences listed in paragraphs (a) to (l),
- with regard to a child, or the equivalent of any such offence, including any offence involving any form of exploitation of a child, the equivalent information as is contemplated in section 119 of the Act and in regulation 46, as obtained from the relevant country or any other legal source, must as far as possible be included in Part B of the Register.

(2) A person may be found unsuitable to work with children as contemplated in section 120 of the Act –

- (a) by a court or relevant administrative forum on evidence that such person has, on a balance of probabilities, caused or participated in or colluded in the maltreatment, abuse, deliberate neglect or degradation of any child or has subjected any child to child labour in the current proceedings before the court or administrative forum;
- (b) by a court or relevant administrative forum on evidence that such person has, on a balance of probabilities, previously caused or participated in or colluded in the maltreatment, abuse, deliberate neglect or degradation of any child or has subjected any child to child labour as became evident in any other court proceedings, disciplinary proceedings of any forum established or authorised by law or in an inquest, including an inquest or proceedings in a foreign jurisdiction;
- (c) in criminal proceedings by a court if such person has in such proceedings been convicted, in addition to the offences contemplated in section 120(4) of the Act, of –
 - (i) any statutory sexual offence;
 - (ii) abduction, excluding the wrongful removal or retention of a child by a parent with parental responsibilities, whether domestic or as contemplated in the Hague Convention on the Civil Aspects of International Child Abduction;
 - (iii) kidnapping;
 - (iv) culpable homicide involving gross negligence;
 - (v) any offence relating to the manufacture, distribution or possession of child pornography;

- (vi) any offence relating to the trafficking of children;
 - (vii) common assault; or
 - (viii) any attempt to commit any of the offences listed in subparagraphs (i) to (vii), or an attempt to commit assault with the intent to do grievous bodily harm,
- in relation to a child;
- (d) by a court or relevant administrative forum on evidence that such person has previously been convicted of –
- (i) murder;
 - (ii) any statutory sexual offence;
 - (iii) culpable homicide involving gross negligence;
 - (iv) any offence relating to the manufacture, distribution or possession of child pornography;
 - (v) any offence relating to the trafficking of children;
 - (vi) abduction, excluding the wrongful removal or retention of a child by a parent with parental responsibilities, whether domestic or as contemplated in the Hague Convention on International Child Abduction;
 - (vii) kidnapping;
 - (viii) assault with intent to cause grievous bodily harm;
 - (ix) common assault; or
 - (x) any attempt to commit any of the offences listed in subparagraphs (i) to (ix),
- in relation to a child, including a conviction or similar conviction in a foreign jurisdiction.

(3) An application to a court or forum for a finding that a person is unsuitable to work with children as contemplated in section 120(2) of the Act may not be brought *ex parte* and must be made in the manner and contain the particulars set out in the Magistrate's Court Rules, if the finding is to be made by a Regional or District Court or forum, and as set out in the Supreme Court Rules, if the finding is to be made by a High Court.

(4) The National Commissioner of the South African Police Service must, within 18 months after the commencement of these regulations, forward to the Director-

General all the available particulars as required by section 119 of the Act and regulation 46 in his or her possession relating to the previous conviction of persons of the offences contemplated in section 120(5) of the Act during the five years preceding the commencement of Part 2 of Chapter 7 of the Act, upon which the Director-General must cause such particulars to be included in Part B of the Register forthwith.

48. Findings to be reported to Director-General

(1) (a) The relevant registrar, clerk of the court or a person contemplated in subregulation (2) must notify the Director-General of a finding that a person is unsuitable to work with children (“the affected person”) within 21 working days after such finding has been made.

(b) The notification must –

- (i) if not submitted electronically, 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 of the affected person set out in section 119 of the Act and in regulation 46; and
- (iv) be in a form substantially corresponding with **Form 28**.

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

(2) In the event that a relevant administrative forum, as 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 such finding as contemplated in section 122 and subregulation (1).

(3) The registrar or clerk of the court which has reconsidered a finding that a person is unsuitable to work with children in terms of section 121 of the Act, must inform 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, upon which the Director-General must remove the name and particulars of the relevant person from Part B of the Register forthwith.

49. Consequences of entry of name in Part B of Register

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 Register, no such person may –

- (a) be employed or involved in any position, whether in the public or private sector and whether against remuneration or not, 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, whether in the public or private sector and whether against remuneration or not, 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; or
- (d) be permitted to become the guardian or care-giver, whether on a permanent or temporary basis, of a child.

50. Establishment of information in Part B of Register

(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 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 substantially corresponding with **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 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 substantially corresponding with **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 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 Register as contemplated in subregulation (1)(b)(iv)(bb), the Director-General must –

(a) give 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 Register; and

(b) give 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 subregulation (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 Register as being unsuitable to work with children, notify the affected person of such entry in writing within 21 working days after the entry was made by way of a form determined by the Director-General.

51. Removal of name from Register

(1) (a) An application to the Director-General for the removal of a person's name and information from Part B of the 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 substantially corresponding with **Form 31**.

(b) The Director-General must notify the applicant of the outcome of the application referred to in paragraph (a) within 21 working days from 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 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 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) 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 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 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 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 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 (Act No. 51 of 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 ten 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 of six months or less 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 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 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 subregulation (2), the court may –

- (a) direct the applicant to submit such other information as the court may deem fit in order to satisfy itself that the applicant has been rehabilitated;
- (b) require the applicant to be evaluated by an additional registered psychologist or psychiatrist designated by the court, at the applicant's own cost or at state expense in the case of an indigent applicant;
- (c) 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 Register; or
- (d) cause the application to be investigated by a designated social worker.

(4) The clerk or registrar of the court, as the case may be, must notify the Director-General in writing, in a form substantially corresponding with **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 Register within 14 days after such finding was made, 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 Register upon the direction of a court within 14 working days after such removal by way of a form determined by the Director-General.

52. Updating of information in Part B of Register

(1) A person whose name has been included in Part B of the Register and who has been duly informed of such inclusion in terms of regulation 50(4), 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 after such change.

(2) Any person who intentionally fails to notify the Director-General of any change contemplated in subregulation (1), 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.

CHAPTER 9

PROTECTIVE MEASURES RELATING TO HEALTH OF CHILDREN

(Section 129 of the Act)

53. Consent by the Minister to the medical treatment of or surgical operation on a child in certain circumstances

(1) An application to the Minister to consent to the medical treatment of or surgical operation on a child –

- (a) whose parent or guardian unreasonably refuse to give consent or to assist the child to give consent;
- (b) whose parent or guardian is incapable of giving consent or assisting the child to give consent;
- (c) whose parent or guardian cannot readily be traced or is deceased; or
- (d) who himself or herself unreasonably refuses consent,

must be made in writing in a form substantially corresponding with **Form 33**.

(2) The Minister must, within 14 days of receipt of the application referred to in subregulation (1), reply to the applicant indicating whether consent is approved or denied.

54. Consent by a child to the performance of a surgical operation

(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 may be furnished in a form substantially corresponding with **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 in a form substantially corresponding with **Form 34**.

(3) A copy of the form referred to in subregulation (2) must be kept by the hospital, clinic, surgery or other institution at which the surgical operation is performed for a period which is in accordance with accepted medical practice.

55. Consent to a surgical operation of a child where parent is a child below 18 years of age

(1) Where the parent of a child in respect of whom consent to the performance of a surgical operation on such child is required, is himself or herself a child below the age of 18 years (a “child parent”), such child parent must be duly assisted by his or her parent or guardian in giving consent to the performance of a surgical operation on the child concerned.

(2) 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 substantially corresponding with **Form 35**.

(3) A copy of the form referred to in subregulation (2) must be kept by the hospital, clinic, surgery or other institution at which the surgical operation is performed for a period which is in accordance with accepted medical practice.

CHAPTER 10
OTHER PROTECTIVE MEASURES
(Section 137 of the Act)

56. Duties of supervising adult in relation to child-headed households

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 such household when required;

- (b) ensure that all members of such 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 such household;
- (d) educate the members of such household with regard to basic health and hygiene and, if possible, sexually transmitted infections;
- (e) assist with the health care requirements of any member of such household, including the supervision of the taking of medicine and assistance to members with disabilities;
- (f) assist the members of such household with legal documentation when required;
- (g) compile a roster indicating the responsibility of various members of such household in relation to domestic chores in consultation with the members of such household;
- (h) in consultation with a social worker, attempt to reconnect the members of such household with their parents or relatives;
- (i) engage the members of such household in issues that affect the household;
- (j) ensure proper provision of resources for such household's basic needs;
- (k) ensure proper utilization of available resources and adherence to a financial budget;
- (l) keep record of all expenditure of such household; and
- (m) utilise available and applicable child protection services to ensure the safety and well-being of the members of such household if and when required.

57. Accountability of supervising adult regarding administration of money

(1) An adult designated in terms of section 137(2) of the Act to supervise a recognised child-headed household and who collects and administers money on behalf of such household 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 the clerk of the children's court, the organ of state or the non-governmental organisation, as the case may be, which designated the adult to supervise the child-headed household, together with such original documents, receipts, invoices and other documentation that may serve as proof of the expenditure incurred.

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

CHAPTER 11
PREVENTION AND EARLY INTERVENTION
(SECTIONS 143 – 149 OF THE ACT)

58. National norms and standards

The national norms and standards for prevention and early intervention programmes as contemplated in section 147 of the Act are reflected in Annexure A.

CHAPTER 12
CHILDREN IN NEED OF CARE AND PROTECTION
(Sections 150 – 160 of the Act)

59. Removal of child to temporary safe care and review of detention

(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 in terms of –

- (a) a children's court order contemplated in section 151(2) of the Act;

- (b) an order by another court in terms of section 47(3); or
- (c) without a court order in terms of section 152(1),

must grant authority to the place where the child is to be placed in temporary safe care for the interim placement of that child in a form substantially corresponding with **Form 36** and must request the children's court of the district where the child resides or happens to be for a review of the continued placement of the child in a form substantially corresponding with **Form 37**.

(2) (a) If the periods referred to in section 151(7) and section 152(2) and (3) of the Act expires –

- (i) on a day which is not a court day or on any court day after four o' clock in the afternoon, the period must be deemed to expire at four o' clock on the afternoon of the next succeeding court day; or
- (ii) on any court day before four o' clock in the afternoon, the said period must be deemed to expire at four o' clock in the afternoon on that court day.

(b) A court day for purposes of this regulation means a day on which the court in question normally sits as a court.

(3) The parent, guardian or care-giver of the child in whose custody the child had been immediately before removal to temporary safe care as contemplated in subregulation (1), must be informed by the designated social worker or police official, as the case may be, of the date and time of the review of the placement of the child by a presiding officer, which review must take place on the first, but by not later than the second, court day after the removal of the child to temporary safe care.

(4) (a) A child who has been removed to temporary safe care must, if practicable, be brought or caused to be brought before a children's court for a review of the placement of that child or for a periodic review of the placement as contemplated in paragraph (c), as the case may be, by a social worker.

(b) Upon the review of the placement of the child in temporary safe care as contemplated in subregulation (3), the presiding officer must, after consideration of the reasons for the placement of the child and such other information, given on oath, as he or she may obtain or as may be furnished to him or her by the parent, guardian or care-giver of the child in whose custody the child had been immediately before the

removal, or by the child, if present, the designated social worker or police official, as the case may be –

- (i) confirm the placement of the child by issuing an order of placement in temporary safe care in a form substantially corresponding with **Form 38** with such special requirements, subject to variations, as may be deemed necessary in the interests of the child from time to time; or
- (ii) set the authority referred to in subregulation (1) aside and direct that the child be restored to the custody of his or her parent, guardian or care-giver,

and must direct the designated social worker to compile a report on whether the child is in need of care and protection in terms of section 155(2) of the Act by no later than 90 days from the date of the review of placement.

(c) If the placement of the child in temporary safe care is confirmed as contemplated in paragraph (b)(i), the children’s court must, at intervals of 21 days, reconsider –

- (i) the continued placement of the child in temporary safe care; and
- (ii) the place where the child is kept,

until such time as a decision contemplated in section 155 of the Act can be made, and may make such order as the court deems fit.

(d) A child must, if practicable, be brought or caused to be brought before the children’s court for a reconsideration of placement as contemplated in paragraph (c) by a social worker.

60. Bringing of children before children’s courts to decide whether child is in need of care and protection

- (1) A child –
 - (a) whose placement in temporary safe care has been confirmed by a presiding officer in terms of regulation 59(4)(b)(i);
 - (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 who is placed in temporary safe care as contemplated in subregulation (1)(a) or who has been a victim of trafficking and has been returned to the Republic as contemplated in subregulation (1)(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 substantially corresponding with **Form 39**.

(3) The clerk of the court must notify the parent, guardian or care-giver of a child who is not placed in temporary safe care of the date and time of the proceedings of the children's court where a decision will be made as to whether the child is in need of care and protection and must warn such parent, guardian or care-giver to bring the child before the children's court in a form substantially corresponding with **Form 39**.

(4) A parent, guardian or care-giver who has been notified to attend proceedings of a children's court or to bring a child before such court in terms of this regulation and who fails to do so, is guilty of an offence and liable upon conviction to a fine or to a sentence of imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

61. Report by designated social worker

(1) (a) A report by a designated social worker in terms of section 155(2) of the Act must be in a form substantially corresponding with **Form 40** and must -

- (i) contain an introduction and personal details of the social worker;
- (ii) reflect a history of and background to the matter to be decided by the court;
- (iii) give reasons for the removal of the child, if applicable;
- (iv) address any relevant factors referred to in section 150 of the Act;
- (v) contain details of previous interventions and family preservation services that have been considered or attempted;
- (vi) contain an evaluation of the matter to be decided by the court;
- (vii) indicate whether, after investigation, the child concerned is considered to be in need of care and protection;
- (viii) 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, would be appropriate to the child;
- (ix) contain recommendations, where necessary, regarding measures to assist the child's parent or care-giver, including –
 - (aa) counselling;
 - (bb) mediation;
 - (cc) prevention and early intervention services;
 - (dd) family reconstruction and rehabilitation;
 - (ee) behaviour modification;
 - (ff) problem solving; and
 - (gg) referral to another suitably qualified person or organisation;
- (x) contain an assessment of the therapeutic, educational, cultural, linguistic, developmental, socio-economical and spiritual needs of the child; and
- (xi) address any written request by a presiding officer to the designated social worker concerned.

(b) If the report contemplated in paragraph (a) contains a recommendation that the court should order the removal of the child from the care of the child's parent or care-giver, the report must in addition contain a documented permanency plan contemplated in subregulation (2).

(2) (a) In compiling a documented permanency plan referred to in subregulation (1)(b), a designated social worker must take account of –

- (i) the ideal that every child should be provided with the opportunity to grow up within his or her family and where this is proved not to be in his or her best interest or not possible, to have a permanency plan which works towards life-long relationships in a family or community setting;
- (ii) the best way of securing stability in the child's life;
- (iii) the age of the child;
- (iv) the developmental stage of the child;
- (v) the child's therapeutic, educational, cultural, linguistic, developmental, socio-economical and spiritual needs; and
- (vi) the views of the child and the need for his or her participation in all decision-making processes.

(b) 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 –

- (i) if the child is to be removed from the care of his or her parent 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;
- (ii) the possibility of adoption of the child by relatives;
- (iii) the possibility of a relative or relatives obtaining guardianship of the child;
- (iv) the possibility of adoption of the child by non-relatives, preferably of similar ethnic, cultural and religious backgrounds; or
- (v) the possibility of placing the child in permanent foster care with relatives or non-relatives or with a cluster foster care scheme.

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

(d) A child may only be returned to the care of his or her parent or care-giver as contemplated in paragraph (c) with the approval of the children's court which approved the permanency plan concerned.

62. Abandoned or orphaned children

(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 national newspaper and 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) or section 157(3) of the Act, a presiding officer must –

- (a) be satisfied that the child has been abandoned or orphaned as contemplated in section 1 of the Act;
- (b) be furnished with a copy of the advertisement contemplated in subregulation (1) and be satisfied that, for 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 have 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;
- (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 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; and
- (e) have regard to a previous finding by any court that the child has been abandoned or orphaned, if such a finding was made.

CHAPTER 13
ALTERNATIVE CARE
(Sections 167 – 179 of the Act)

63. Approval of person, facility, place or premises for temporary safe care by head of social development and criteria for approval

(1) A child may not be placed in temporary safe care, excluding temporary safe care provided by a registered child and youth care centre, a hospital or school hostel, unless the relevant provincial head of social development, a person to whom such power has been delegated in terms of section 311(1) of the Act or a person in the employ of a designated child protection organisation to whom such power has been assigned in terms of section 107(3) of the Act, has approved the person, facility, place or premises to provide temporary safe care to children in accordance with the provisions of this regulation.

(2) Subject to subregulation (3), approval to provide temporary safe care to a child as contemplated in subregulation (1) must be in writing in a form determined by the provincial head of social development, a copy of which must be handed to the relevant person or the head of the relevant place, facility or premises immediately upon approval.

(3) 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 is suitable and 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 as set out in section 1 of the Act.

(4) A person in his or her private capacity or the head of a facility, place or premises who has been approved to provide temporary safe care to a child must –

- (a) be furnished with a copy of **Form 36** (interim authority for placement of child in temporary safe care), **Form 37** (request for review of placement of child in temporary safe care) or a court order authorising the child's placement in temporary safe care as soon as is practicable;
- (b) 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, with the approval of the managing 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
- (c) notify the social worker immediately of any difficulties with such placement and of any change in the child's residential address.

64. Limitations and conditions for leave of absence of child from alternative care

(1) Leave of absence may, subject to subregulation (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.

- (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 and 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;
 - (b) for a period exceeding six weeks at a time or for consecutive periods which, in total, exceed six months, unless approved by the Minister;

- (c) if placed in a child and youth care centre on an order of the children's court, for a period exceeding six weeks without the approval of the relevant children's court; and
- (d) 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.

(3) When leave of absence from a child and youth care centre is granted in terms of section 168(1)(a) of the Act, the relevant provincial head of social development must immediately inform the children's court which ordered the placement of the child in such centre in writing that leave has been granted to that child for the period or periods stipulated.

65. Fees payable to child and youth care centre or person on transfer or provisional transfer of child from alternative care

For 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 ("the original province"), must, upon transfer of that child to a child and youth care centre or to a person in another province, be terminated by the original province and must be paid, in accordance with the rates applicable in such other province and as from the date of arrival of the child in such other 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.

66. Procedures before issue of notice of provisional transfer of child from alternative care

(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(2)(a)(i) of the Act comprises the following –

- (a) the assessment 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;
 - (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;
- (b) the assessment 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 of meeting the child's needs; and
- (c) the outcome of the assessment must be contained in a report which addresses all factors referred to in paragraph (b).

(2) The procedure for reunification of the child with his or her immediate family or other family members before the issue of a notice of provisional transfer of the child from alternative care as contemplated in section 174(2)(a)(ii) of the Act comprises the following –

- (a) a designated social worker rendering family reunification services must compile a report 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;
 - (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;

- (b) the report must be based on the developmental assessment of the child and his or her ecological circumstances and 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;
- (c) the report must 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
- (d) the report must include a fully motivated recommendation –
 - (i) on the possibility or desirability of restoring the child to the custody of 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.

(3) The reports contemplated in subregulations (1) and (2) may be combined in a single report and must be submitted to the provincial head of social development as soon as possible but by no later than 60 days of receipt of the request to compile such a report.

67. Procedures before issue of notice of discharge of child from alternative care

The procedures for assessing the best interest of the child and for reunification of the child with his or her immediate family or other family members as prescribed in regulation 66 pertaining to provisional transfer from alternative care, apply with such changes as may be required by the context to the procedures to be carried out before the issue of a notice of discharge of the child from alternative care as contemplated in section 175(2)(a) of the Act.

68. 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

- (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 or escort, who must be a suitably qualified or experienced person employed by the provincial department of social development or by an accredited child protection organisation.

(2) The travel arrangements for the child and the social worker or escort must be made by the provincial department of social development, unless the child is to be transferred to his or her own family or to an alternative family.

(3) The costs related to the transport of the child, 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.

(5) A person who transports a child, accompanies a child or allows a child to be transported in contravention of any of the provisions of subregulation (4), is guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding two years.

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

(1) An application for the extension of placement in alternative care in order to enable a person to complete his or her education or training as contemplated in section 176 of the Act must be in a form that substantially corresponds with **Form 41** and must be accompanied by –

- (a) a letter from the current alternative care-giver to the effect that such care-giver is willing and able to care for that person;
- (b) a letter from the head of the education or training facility indicating that the person has the capability to complete his or her education or training and has a satisfactory attendance record; and
- (c) a certified copy of the person's identity document or birth certificate.

(2) An application contemplated in subregulation (1) must be lodged with the relevant provincial head of social development at least 90 days before the person making the application turns 18 years of age.

CHAPTER 14
FOSTER CARE
(Sections 180 – 190 of the Act)
PART I
FOSTER CARE

70. Responsibilities of foster parents

(1) A foster parent has the responsibility of providing for the day to day care needs of the foster child placed in his or her care as contemplated in section 1 of the Act which includes the responsibility to –

- (a) ensure that any state grant or financial contribution from such child's biological parent or parents is used towards the upbringing of the child and applied in his or her 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 such biological family members and other persons are available for the purposes of maintaining contact with the child;
- (c) ensure that if such child is of school-going age, he or she attends school on a regular basis;
- (d) co-operate with a designated child protection agency or designated social worker towards the eventual re-unification of such 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 agency 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 such 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 such child in a humane manner and refrain from imposing 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), comply with the provisions of such plan;
- (j) ensure that where such 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 such child is treated in a manner substantially similar to other children living in the same household, except where the special needs of such child or any other child in the household require otherwise.

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

(b) A foster parent may not designate the day to day care of a foster child to any other person without notifying the designated social worker or designated child protection organisation.

(c) 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.

71. Rights of foster parents

(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) Subject to section 129 of the Act, a foster parent may consent to surgical operations in relation to a foster child in his or her care if –

- (a) the consent of the parent or guardian of the child cannot reasonably be obtained, and undue delay in obtaining the consent of such child's parents would cause significant harm to the health and well-being of the child;
- (b) the whereabouts of the parent or guardian are unknown;
- (c) the child is 12 years of age or older and cannot give such consent himself or herself;
- (d) the parental responsibility to give consent to surgical operations has been allocated to the foster parent by a children's court; or
- (e) the parental responsibility to give such consent is provided for in a foster care plan contemplated in section 188(1)(e) of the Act or has been designated by an order of court contemplated in section 188(1)(d) of the Act.

(4) If the whereabouts of a foster child's parent or guardian are known, the foster parent has the right to apply for a passport for such child and to remove the child from the Republic if –

- (a) this right has been provided for in a foster care plan contemplated in section 188(1)(e) or has been designated by an order of court contemplated in section 188(1)(d) of the Act ; or
- (b) permission has been obtained from the provincial head of social development upon application in a form that substantially corresponds with **Form 42**.

(5) If the whereabouts of a foster child's parent or guardian are unknown, or if such child has been orphaned or abandoned, the foster parent has the right to apply for a passport for such child and to remove the child from the Republic: Provided that permission has been obtained from the provincial head of social development upon application in a form that substantially corresponds with **Form 42**.

(6) A foster parent has the right to financial support in respect of the foster child in his or her care in accordance with the provisions of the Social Assistance Act, 2004 (Act No.13 of 2004).

(7) A foster parent has the right to adequate social services in support of his or her role in providing parental care to the foster child.

(8) 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.

72. Participation in training programmes

(1) A foster parent may be required to participate in training programmes aimed at enhancing the capacity of the foster parent to provide day to day care to children who are or might in future be placed in their foster care.

(2) Participation in a programme or programmes to enhance the capacity of the foster parent to provide day to day care to a foster child or foster children may be provided for in an order of the children's court placing a child in the foster care of the foster parent, in a foster care plan contemplated in section 188(1)(d) or may be provided for in the written plan, agreement or constitution of a cluster foster care scheme contemplated in section 183, and regulation 78(3), in respect of active members of organisations operating such scheme.

73. Notice of adoption of a foster child

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

(2) 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 to adopt the child or to submit an application for the adoption of the foster child, in a form that substantially corresponds with **Form 43**.

(3) If a foster parent does not submit an application for the adoption of the foster child and does not give the notice referred to in subregulation (2), the children's court may enquire into the reasons for the foster parent's failure to submit such application or such notice: Provided that the court may nevertheless proceed to grant the application for adoption.

74. Provincial head of social development to respond to certain applications

The provincial head of social development must respond to an application for consent to apply for a passport or to remove a foster child from the Republic as contemplated in regulation 71(4) or (5) within 30 days.

75. Foster care plans

(1) A foster care plan is a document recording the respective rights and responsibilities of the foster parent or parents, the biological parent or parents, family

members or other persons having an interest in the well-being of the foster child, and the role and responsibilities of the designated social worker or designated child protection organisation or management of a cluster foster care scheme.

(2) The respective responsibilities and rights of foster parents and biological parents, family members or other persons having an interest in the well-being and development of the foster child, designated social workers or designated child protection organisation, or management of a cluster foster care scheme may be recorded in a foster care plan in a form that substantially corresponds with **Form 44**.

(3) A foster child who is of sufficient age and maturity must be consulted during the formulation of a foster care plan and his or her views given due consideration.

- (4) A foster care plan may contain details relating to –
- (a) the personal identification particulars of the parent or parents or guardian or guardians, the foster parent or parents, the foster child or children and the designated social worker or designated child protection organisation; and
 - (b) the respective responsibilities and rights of the parent or parents or guardian or guardians and foster parent or parents with respect to the foster child, including but not limited to –
 - (i) contact with the foster child by the parent or parents or guardian or guardians;
 - (ii) financial contributions to the child's maintenance and upbringing by the child's parent or parents or guardian or guardians;
 - (iii) details concerning consent to medical treatment, surgical operations, removal of a child from the Republic or decisions concerning the child's education and participation in cultural or religious activities;
 - (iv) contact with the foster child by other family members or the extended family;
 - (v) any steps required to stabilise a child's life;
 - (vi) proposed reunification services;
 - (vii) the details of any proposed permanency plan; and

(vii) the proposed supervision services and monitoring of the foster care placement to be undertaken by the designated social worker or designated child protection organisation.

(5) A foster care plan must be formulated in consultation with a designated child protection organisation or designated social worker and may be made an order of the children's court or court in accordance with section 188(1)(a), (c) or (d) of the Act.

(6) A children's court may terminate, vary, amend or suspend a foster care plan upon good cause shown.

(7) A copy of a foster care plan must be given to any parent or guardian, foster parent, family member or other person having an interest in the well-being of the foster child who is party to the co-operation agreement, and where the child is of sufficient age and maturity, to the foster child.

(8) If a foster care plan has not been made an order of court in terms of subregulation (5), the original of the foster care plan must be kept by the designated social worker or designated child protection organisation for the duration of the foster care placement.

(9) A foster care plan which has not been made an order of court in terms of subregulation (5) may be varied or amended on advice by the designated social worker or designated child protection organisation, but may only be suspended or terminated upon application to the children's court.

PART II

CLUSTER FOSTER CARE

76. Registration

(1) A cluster foster care scheme managed or operated by a nonprofit organisation must be registered with the provincial department of social development in a form that substantially corresponds with **Form 45**.

(2) The application for registration of a cluster foster care scheme must be accompanied by –

- (a) proof of registration as a nonprofit organisation by the organisation applying to register the cluster foster care scheme or schemes;
- (b) the name or names of the cluster foster care scheme and one centralised address for each scheme;
- (c) a description of the manner in which the cluster foster care scheme will provide services, programmes and support to children in cluster foster care and to the active members of the organisation who have been assigned responsibility for the foster care of such children;
- (d) details of the number of children that the scheme proposes to receive in cluster foster care, the number of active members that is proposed to provide foster care to such children, and the proposed allocation of children to active members of the organisation who will be assigned responsibility for the foster care of such children;
- (e) where applicable, any further identifying details concerning the children whom the scheme proposes to receive in cluster foster care, including, but not limited to, details concerning any special needs such children may have, the age or ages of such children, or details concerning the language and cultural background of such children;
- (f) details concerning the geographical area or locality in which the proposed cluster foster care scheme will operate;
- (g) details concerning the manner in which active members will be recruited to assume responsibility for the foster care of children in a cluster foster care scheme, including, but not limited to, the criteria for selection of such members, the voluntary or paid nature of their involvement in the scheme, the conditions of their employment, where applicable, and the period for which they are recruited;
- (h) details concerning the management of the scheme, including the financial management of the scheme;
- (i) a description of any programme or programmes to be delivered under the cluster foster care scheme;
- (j) details concerning the employment of a social worker or workers registered with the Council for Social Services Professions or particulars of the formal

- agreement with a designated child protection organisation to provide such child protection services as may be required;
- (k) the names of the office bearers of the nonprofit organisation operating or managing the cluster foster care scheme or of the office bearers operating or managing the cluster foster care scheme, as the case may be, and details of the qualifications of any of these persons in the field of child care and development;
 - (l) clearance certificates to the effect that the names of any office bearers of the nonprofit organisation operating or managing the cluster foster care scheme do not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).
 - (m) evidence of any prior expertise in the delivery of services to children; and
 - (n) sufficient other details of the nonprofit organisation or the proposed operation of the cluster foster care scheme so as to enable the provincial department of social development to decide whether or not to grant registration to the cluster foster care scheme.

(3) On granting an application referred to in subregulation (2) the provincial head of social development must issue to the applicant a certificate of registration in a form that substantially corresponds with **Form 46**.

(4) In granting an application referred to in subregulation (2), the provincial head of social development may impose such conditions as he or she deems necessary or expedient.

(5) 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 that substantially corresponds with **Form 47** by registered post and must furnish reasons for such rejection.

(6) An applicant whose application has been rejected by the provincial head of social development may appeal against such decision to the MEC for social development of that province in a form that substantially corresponds with **Form 48** within 21 days after receipt of the notification.

(7) Where a nonprofit organisation seeks registration for more than one cluster foster care scheme operating in accordance with substantially the same principles and in substantially the same manner, only one application form needs to be completed.

(8) A provincial department of social development may deregister a registered cluster foster care scheme on good cause shown, provided that 60 days notice is given to the cluster foster care scheme of the intention to deregister such scheme.

(9) The notice referred to in subregulation (8) must be in a form that substantially corresponds with **Form 49**.

77. Requirements with which organisations managing or operating cluster foster care schemes must comply

(1) A nonprofit organisation managing or operating a registered cluster foster care scheme must annually submit a report to the provincial department of social development concerning the schemes under its management or operation, detailing in respect of each such scheme –

- (a) an annual financial report of income received and expenditure incurred;
- (b) the number of children placed in cluster foster care over the annual period, the duration of their placement in cluster foster care, if applicable, and 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;
- (c) a description of the manner in which the cluster foster care scheme operates;
- (d) details of child protection services rendered and in respect of which children in the cluster foster care scheme these services have been rendered;
- (e) 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, including details regarding programmes aimed at enhancing the

- professional capacity of active members of the cluster foster care scheme to provide day to day care to children in the scheme;
- (f) any details concerning the provision of services to meet the needs of children with special needs;
 - (g) generally, the extent to which the rights of children in cluster foster care have been met; and
 - (h) achievements made or challenges experienced.

(2) The report referred to in subregulation 1 must be submitted in a form that substantially corresponds with **Form 50**.

(3) An organisation managing or operating a registered cluster foster care scheme must submit to monitoring by the provincial department of social development, if so required.

(4) An organisation managing or operating a cluster foster care scheme 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 established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

(5) An organisation managing or operating a registered cluster foster care scheme 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;
- (b) at least not less than one registered social worker for the appropriate number of children as specified in the norms and standards for cluster foster care developed by the Department of Social Development; or
- (c) entered into a formal agreement with a designated child protection organisation to provide such child protection services as are required.

78. Requirements with which a scheme providing cluster foster care must comply

(1) A cluster foster care scheme must have a name and one centralised address.

(2) A cluster foster care scheme must keep proper financial records of all social assistance grants 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.

(3) Cluster foster care schemes must operate or be managed according to a written plan, agreement, or articles of association containing the details of the financial management, the programmes and services to be delivered in terms of the plan, agreement or constitution, and the day to day functioning of the scheme.

(4) The written plan, agreement or articles of association must contain sufficient details 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.

(5) The written plan, agreement or articles of association referred to in subregulation (3) must contain details as to 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.

(6) The written plan, agreement or articles of association referred to in subregulation (3) must contain details as to the management of the behaviour of children in cluster foster care, and must include a prohibition against physical punishment of such children and against humiliating or degrading forms of discipline.

(7) A cluster foster care scheme providing child protection services must register as a designated child protection organisation or must operate under the auspices of, or with the assistance of, a designated child protection organisation with

regard to those services which must be delivered by a designated child protection organisation.

(8) A cluster foster care scheme must ensure that any social assistance grant or other grants received by it to support a child or children in the foster care scheme is or are utilised to the fullest extent possible for the maintenance and upbringing of the child or children in respect of whom those grants have been received.

(9) A mechanism by which foster children in a cluster foster care scheme can record any complaints regarding abuse or exploitation must be contained in the written plan, agreement or articles of association.

(10) A cluster foster care scheme must provide the necessary programmes, services and support to enable foster parents who are active members of the scheme to provide suitable care for the children for whom they have been assigned responsibility.

79. Further contents of the written plan, agreement or articles of association

The written plan, agreement or articles of association referred to in regulation 78(3) may include details as to –

- (a) visits by the cluster foster care scheme manager or his or her designated subordinate to the household of an active member of the organisation to whom responsibility for foster care of the child has been assigned;
- (b) the minimum norms and standards regarding the physical environment, nutrition, health care, education and psycho-social support to be provided to all children placed in the cluster foster care scheme whilst they are being cared for in the scheme;
- (c) the independent decision-making functions and capacities of active members of the organisation to whom responsibility for foster care of the child has been assigned, relative to the cluster foster care scheme or nonprofit organisation managing or operating the scheme, as the case may be; and
- (d) details as to cost sharing or cost saving mechanisms to be adopted to the benefit of the children in the cluster foster care scheme.

80. Functioning of a cluster foster care scheme

(1) A cluster foster care scheme must promote the best interests of the children in cluster foster care by –

- (a) providing support, mentoring, supervision and advice to active members of the organisation to whom responsibility for foster care of the child or children in the cluster foster care scheme has been assigned;
- (b) assisting the active members of the organisation to whom responsibility for foster care of children has been assigned to ensure that the children in cluster foster care benefit from educational services;
- (c) assisting the active members of the organisation to whom responsibility for foster care of children has been assigned to ensure that the children in cluster foster care benefit from available health services;
- (d) assisting the active members of the organisation to whom responsibility for foster care of children has been assigned to fulfil the needs of any children in cluster foster care with special needs or a disability;
- (e) assisting the active members of the organisation to whom responsibility for foster care of children has been assigned to fulfil the social, cultural and religious needs of any children in cluster foster care;
- (f) ensuring that a care plan is compiled in respect of the child in cluster foster care, as soon as possible, but not later than seven days after the child's placement in the cluster foster care scheme; and
- (g) assisting the active members of the organisation to whom responsibility for foster care of the child has been assigned generally to ensure that the rights of children in cluster foster care are respected, protected, promoted and fulfilled.

(2) Where children placed in a cluster foster care scheme have biological parents whose whereabouts are known, the cluster foster care scheme and the biological parents may enter into a foster care plan in a form that substantially corresponds with **Form 44**.

(3) The MEC for social development of a province may, out of funds allocated for this purpose, provide financial support to cluster foster care schemes in such province.

81. Deaths of children in foster care or in cluster foster care

(1) The death of any child in foster care or in cluster foster care must be reported to the provincial department of social development within 14 days by the foster parent or by the nonprofit organisation managing or operating the cluster foster care scheme, as the case may be.

(2) The report referred to in subregulation (1) must be in a form that substantially corresponds with **Form 51**.

(3) The provincial department of social development must establish and maintain a record of the deaths annually of children in foster care or in cluster foster care.

CHAPTER 15

CHILD AND YOUTH CARE CENTRES

(Sections 191 – 212 of the Act)

82. National norms and standards

The national norms and standards for child and youth care centres as contemplated in section 194 of the Act are reflected in Annexure A.

83. The rights of children in child and youth care centres

(1) Every child who is cared for in a child and youth care centre must be informed of his or her rights in terms of this regulation, including the right –

- (a) to 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) to have his or her parent, guardian, custodian, 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) in the case of a child who is receiving a secure care programme pursuant to section 191(2)(g) or 191(2)(i)(i) of the Act, to be detained only as a measure of last resort and for the shortest appropriate period of time;
- (d) to communicate with and be visited by his or her parent or parents, guardian, custodian, next of kin, social worker, probation officer, case manager, religious counsellor, health care professional, psychologist, legal representative, child and youth care worker and, subject to the approval of a member of the management team of the child and youth care centre, any other person identified by the child.
- (e) to be fed, clothed and nurtured according to reasonable community standards and to be given the same quality of care as other children in the child and youth care centre;
- (f) to be consulted and to express their views, according to their abilities, about significant decisions affecting them;
- (g) to reasonable privacy and to possession or protection of their personal belongings;
- (h) to be informed that prohibited items in their possession may be removed and withheld;
- (i) to be informed of the behaviour that is expected of the child by service providers of the consequences of the child not meeting the expectations of service providers, and of the assistance that the child can expect from the service providers regarding the attaining of such behavioural expectations;
- (j) to care and intervention which respects, protects and promotes the child's cultural, religious and linguistic heritage and the right to learn about and maintain this heritage;
- (k) to regular contact with parents, family and friends unless a court order or their care or development programme indicates otherwise, or unless they choose otherwise;
- (l) to be free from physical punishment and other degrading treatment;
- (m) to positive discipline appropriate to the child's level of development;
- (n) to protection from all forms of emotional, physical, sexual and verbal abuse;
- (o) to education or training appropriate to the child's level of maturity, aptitude and ability;
- (p) to respect and to protection from exploitation and neglect;

- (q) to opportunities of learning and opportunities which develop the child's capacity to demonstrate respect and care for others;
- (r) to an interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care and development; and
- (s) to privacy during discussions with families and significant other persons, unless this can be shown not be in the best interests of the child.

84. Access to adequate health care and access to schooling and education

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

- (a) care for children with disabilities and chronic illnesses in terms of section 191(3)(a) of the Act,
- (b) treatment of children addicted to dependence producing substances in terms of section 191(3)(c) of the Act, or
- (c) care for babies,

the certificate of registration must stipulate the number of health care workers to be employed.

(2) (a) All children in child and youth care centres must have access to education, or other appropriate skills training programmes.

(b) The education referred to in paragraph (a) 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 skills training in the community, such education or skills training must be provided at the child and youth care centre.

85. Behaviour management in child and youth care centres

(1) The manager of the child and youth care centre must promote the following approaches to positive discipline–

- (a) ensuring that children are provided with the skills and support which enables 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 practice positive behaviour.

(2) The following behaviour management actions are expressly prohibited:

- (a) Group punishment for individual behaviour;
- (b) threats of removal, or removal from the 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 from service providers or other children admitted to the place of care, other than for the immediate safety of such children or such 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 subregulations (3), (4) and (5), may only be undertaken 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, 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 or herself or others, for a very limited 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 or 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 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.

86. Reportable incidents

(1) The incidents listed in subregulation (3) must be reported to the manager and the management board of the centre as soon as possible but by not later than one hour after the incident is discovered or reported.

(2) The Director General must provide guidelines on which incidents listed in subregulation (3) must be reported to the provincial head of social development and the time frames relevant to such reporting.

(3) Reportable incidents for purposes of this regulation are –

- (a) removal or any attempted removal of a child from the child and youth care centre or programme by anyone who does not have the appropriate permission;
- (b) any situation in which restraint, isolation, or prohibited behaviour management measures is used;
- (c) accident or illness requiring medical attention or hospitalisation;
- (d) allegations of physical, 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 Services;
- (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 arrival on duty under the influence of alcohol or 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.

87. Complaints

(1) Children residing in a child and youth care centre have the right to express dissatisfaction with the service provided to them, and the children's concerns and complaints must be addressed without delay or reprisal.

(2) 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 or steepen conflict;
- (e) encourage restorative justice interventions, where appropriate;
- (f) allow for fair procedures for those who have allegations made against them; and
- (g) be aligned with the system in place for reportable incidents.

(3) A child must, upon admission to the centre, be informed of the complaints procedure and the procedure relating to reportable incidents in a manner that is age and language appropriate.

88. Reception of children in child and youth care centre

(1) The reception of any child in any child and youth care centre must be in conformity with **Forms 36, 37, 38** or a valid court order.

(2) The manager of any child and youth care centre must –

- (a) ensure that when any child is received at the child and youth care centre, a medical certificate in respect of such child is furnished at the same time as far as possible in the form determined by the Director-General;
- (b) if a medical certificate is not furnished in terms of paragraph (a), arrange for such child to be examined by a medical officer as soon as may be practicable after his or her reception;
- (c) cause a child who appears to be ill at the time of admission, to be given immediate access to available health care, and must take measures to prevent the spread of illness to other children in the child and youth care centre until such time as the child has been examined by a medical officer;
- (d) ensure that the child and his or her family are oriented appropriately upon the child's admission with regard to the rules and the safety and complaints procedures of such child and youth care centre and with regard to the child's rights and responsibilities; and
- (e) ensure that a care plan is compiled in respect of the child as soon as possible but not later than seven days after the child's admission.

89. Register of children in child and youth care centre

A register must be kept in every child and youth care centre in which the following particulars of each child must be entered:

- (a) The child's full name, sex, date of birth and, where available, identity number;

- (b) the names, addresses and telephone numbers of the parent or parents, guardian or guardians or next of kin;
- (c) the date of admission;
- (d) the date on which the court order in terms of which a child is to reside in the centre or any extension thereof expires;
- (e) particulars of any leave of absence or any absence longer than one day and the reason for such absence; and
- (f) in the case of a child who absconded from the child and youth care centre, the date on which he or she so absconded or on which his or her leave of absence expired, as the case may be, and if he or she returns or is returned to the children's home, the date on which he or she so returned or was brought back.

90. Separate files in respect of children in child and youth care centre

(1) Every child and youth care centre must keep a separate file in respect of each child in that child and youth care centre in which the following documents must be filed:

- (a) All documents relating to the child received at the time of his or her admission, including a birth certificate or identity document if available, or an affidavit providing information about the child's identity and origins where such documents are not available;
- (b) the child's care plan and any review thereof;
- (c) the child's individual development plan and any review thereof;
- (d) all reports received from the school or other programme or course which the child attends or attended;
- (e) all reports on any physical, psychiatric or clinical-psychological examination of the child; any report on the results of any treatment given and a written indication whether any ongoing treatment or medication is required;
- (f) reports and notes from social workers and the staff of the child and youth care centre on the child;
- (g) the address where any leave of absence was spent;
- (h) a report on whether any leave of absence served the best interests of and was conducive to the welfare of the child;

- (i) the assessment programme for the child and any evaluation reports in regard thereto;
- (j) any reportable incidents relating to the child, with a record of measures taken;
- (k) any complaint by the child in terms of the complaints procedure, with a record of the response and any measures taken; and
- (l) any other documents or correspondence relating to the child.

(2) The information contemplated in subregulation (1) is confidential and the Centre must establish a protocol for the management of information, including access to, exchange of and archiving of information.

(3) A copy of each child's file should be kept in perpetuity.

91. Notice of movement of children

A child and youth care centre must immediately notify the provincial head of social development in a form substantially corresponding with **Form 52** of the date of admission, discharge, abscondment or readmission, admission to or discharge from a hospital or any absence of a child from such centre.

92. Application for the registration of a child and youth care centre

(1) An application for the registration or renewal of registration of a child and youth care centre must be lodged with the provincial head of social development of the province in which the facility is situated in a form that substantially corresponds with **Form 53**.

(2) An application referred to in subregulation (1) must be lodged by an organisation referred to in section 197 of the Act.

(3) An application referred to in subregulation (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 management board;
- (d) the committees functioning under the board of management, if any, and the nature of their functions;
- (e) the staff provision for the care of children including staff provision for children with special needs or disabilities;
- (f) the extent of the premises;
- (g) the extent of the buildings;
- (h) the extent of the playgrounds;
- (i) particulars on rooms and amenities for use by children; and
- (j) particulars of the children that are being cared for or will be cared for.

(4) An application referred to in subregulation (1) must be accompanied by the following documents:

- (a) A business plan containing:
 - (i) a vision;
 - (ii) a mission;
 - (iii) a strategic plan containing short term goals, medium term goals and long term goals and action plans indicating the measures in terms of which these goals are to be achieved; and
 - (iv) a detailed description of the programme or programmes to be offered in terms of section 191(2) of the Act.
- (b) the staff composition including an exposition of the staff members' prescribed and other skills with supporting documents and copies of any qualifications in respect of the professional staff employed at a child and youth care centre;
- (c) 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;
- (d) an emergency plan; and
- (e) clearance certificates to the effect that the names of any Board member appointed in terms of regulation 97 and of any employee do not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

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

93. Notice of application

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;
- (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; and
- (c) consider the application within a reasonable time after receipt of any objection or comment.

94. Consideration of application

(1) On granting an application referred to in regulation 92(1) the provincial head of social development must issue to the applicant a certificate of registration or renewal of registration in a form that substantially corresponds with **Form 54**.

(2) The provincial head of social development may grant an application referred to in regulation 92(1) for a period not exceeding ten years.

(3) In granting an application referred to in regulation 92(1), the provincial head of social development may impose such conditions as he or she deems necessary or expedient.

(4) In rejecting 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 rejection in a form that substantially corresponds with **Form 55** by registered post and must furnish reasons for such rejection.

(5) 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 that substantially corresponds with **Form 56** within 90 days of the receipt of such decision.

95. Skills

Personnel working in child and youth care centres require the following skills:

- (a) Statutory registered child and youth care workers are required to have undergone accredited training, must be registered with the South African Council for Social Service Professionals, and must be supervised by a trained senior child and youth care worker;
- (b) social workers must have the necessary qualifications, be registered with the South African Council for Social Service Professionals, and must have knowledge or experience in the context of residential care and the design of programmes for residential care; and
- (c) support personnel are required to undergo basic training to understand the context of residential care.

96. Amendment of registration

The holder of a registration of a child and youth care centre must, if there is a substantive deviation from the circumstances and conditions on which the initial application for registration was based and granted, apply to the provincial head of social development in the relevant province for an amendment of the registration.

97. Appointment of management board

(1) If a child and youth care centre is operated by the province in terms of section 208(2)(a) of the Act, the management board must be appointed according to the following procedure:

- (a) The provincial head of social development must appoint four board members, in accordance with the requirements set out in section 208(3) and (4) of the Act;
- (b) a call for nominations for the remaining members of the board must be advertised by the provincial head of social development 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;
- (c) any person from the community 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;
- (d) the provincial head of social development must consider all the nominations, and appoint from the persons nominated the remaining number of board members to make up a total of not less than six and not more than nine board members, provided that if he or she is not satisfied that there are sufficient suitable candidates, he or she may call for further nominations;
- (e) no person with a conflict of interests, or a potential conflict of interests may be appointed to the management board;
- (f) subject to paragraph (g), the board is appointed for a period of three years; and
- (g) in order to allow for effective leadership transition, the provincial head of social development may extend the period of membership of the four members directly appointed by him or her, for a second three year period.

(2) If a child and youth care centre is operated by a registration holder in terms of section 208(2)(b) of the Act, the management board must be appointed according to the following procedure:

- (a) The registration holder must appoint four board members, in accordance with the requirements set out in section 208(3) and (4) of the Act;
- (b) a call for nominations for the remaining members of the board must be advertised by the registration holder 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;
- (c) any person from the community 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;

- (d) the registration holder must consider all the nominations, and appoint from the persons nominated the remaining number of board members to make up a total of not less than six and not more than nine board members, provided that if he or she is not satisfied that there are sufficient suitable candidates, he or she may call for further nominations;
- (e) subject to subregulation (3), the board is appointed for a period of five years; and
- (f) in order to allow for effective leadership transition, the registration holder may extend the period of membership of the four members directly appointed by him or her, for a second five year period.

(3) No person with a conflict of interests, or a potential conflict of interests or who has not submitted a clearance certificate to the effect that his or her name does not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), may be appointed to the management board.

98. Procedures of the management board

A management board appointed in terms of regulation 97 must operate according to the following procedures:

- (a) The board must meet at least four times a year, and may call meetings more frequently if required;
- (b) a chairperson must be elected at the first meeting of the board;
- (c) one half of the members of the board plus one other member constitutes a quorum;
- (d) a member of the board may resign by way of a letter to the chairperson of the board;
- (e) the chairperson of the board may resign by way of a letter to the provincial head of social development, if constituted in terms of 208(2)(a) of the Act or to the registration holder, if constituted in terms of section 208(2)(b) of the Act;
- (f) 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;

- (g) the board must receive regular reports by the manager of the child and youth care centre who, together with a social worker and a nominated child and youth care worker, must attend all board meetings;
- (h) 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;
- (i) minutes are to be recorded at all meetings, which must include a summary of the discussions and a record of all decisions taken;
- (j) 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; and
- (k) 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 (f) must be followed.

99. Responsibilities of the management board

(1) Every management board member must be knowledgeable about the legal framework in terms of which child and youth care centres operate and must perform his or her duties in good faith and in a manner he or she reasonably believes to be in the best interests of the children residing in the child and youth care centre.

(2) The management board must –

- (a) appoint a panel to interview and appoint a manager for the relevant child and youth care centre, and provide at least two members to serve on such panel;
- (b) appoint the manager on the recommendation of the interviewing panel;
- (c) provide support and advice to the manager;
- (d) evaluate the performance of the manager in a manner that allows him or her to participate and respond;
- (e) review and approve the annual budget for the child and youth care centre;
- (f) review and approve major organisational decisions, commitments and plans;
- (g) evaluate progress towards the mission and vision of the child and youth care centre;

- (h) ensure, in conjunction with management personnel, the continuity of the child and youth care centre through the development and recruitment of personnel;
- (i) provide, in conjunction with management personnel, leadership on organisational transformation, structure and planning;
- (j) ensure that assets of the centre are maintained and protected; and
- (k) conduct the affairs of the board, including board development, transition and effectiveness.

100. Children's forum

The management board must, taking into consideration the age maturity and stage of development of the children residing in the child and youth care centre, –

- (a) establish a children's forum that allows for meaningful participation of children in the operation of the centre;
- (b) ensure that the children are informed of the activities of the management board;
- (c) allow the attendance of at least one child representative at the whole or part of management board meetings; and
- (d) establish the views of children, through the children's forum, regarding any decisions that are being considered by the management board which may significantly affect the children residing in the child and youth care centre.

101. Appointment of personnel, interviewing panel and manager of a child and youth care centre

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

- (a) The position must be advertised in at least one national newspaper;
- (b) the names and *curricula vitae* submitted must be screened by the interviewing panel that will interview the candidate; and
- (c) the shortlist of candidates must be subjected to thorough reference checking.

(2) The interviewing panel must be appointed by the management board and must include –

- (a) at least two members of the board of management;

- (b) at least one member 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) The appointment of the manager of a child and youth care centre, as provided for in terms of section 209(2) of the Act, must be an open and transparent process.

(4) When selecting a suitable candidate to be appointed as the manager of a child and youth care centre, the interviewing panel must, in terms of section 209(2)(b) of the Act, 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.

102. Management system

(1) The manager of a child and youth care centre is responsible for all day to day decisions in the child and youth care centre.

(2) The manager must make major decisions in consultation with a management team made up of senior staff members from various disciplines.

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

(4) The management board must review major policy decisions being made by management but may not interfere with the day to day running of the child and youth care centre.

(5) If the board is of the view that the management has made or plans to make a major decision that might be harmful to a child or to all the children in the centre, it may call upon the manager to explain the rationale for such decision, and may provide advice.

(6) If after explanation of a decision referred to in subregulation (5) and after further efforts to resolve the issues internally, the board remains unsatisfied, the board may forward in writing its concern, together with the manager's explanation, and an account of efforts made to resolve the issues internally, to –

- (a) the provincial head of social development, in the case of a board appointed in terms of section 208(2)(a) of the Act; or
- (b) the registration holder, in the case of a board appointed in terms of section 208(2)(b) of the Act.

103. Constitution or founding document of child and youth care centre

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

(2) The constitution or founding document must, in addition to any other matter, at least cover the following aspects:

- (a) The name of the child and youth care centre;
- (b) the centre's vision and mission;
- (c) the centre's functions and programmes;
- (d) the centre's structure and governance;
- (e) financial matters; and
- (f) procedures for amendments to the constitution or founding document.

104. Developmental quality assurance process

(1) Every child and youth care centre must undergo a developmental quality assurance process, as required by section 211(1) of the Act, within four years of registration of such centre.

(2) The developmental quality assurance process must be repeated periodically, at intervals of not more than four years from the date of commencement of the previous developmental quality assurance process.

(3) The provincial head of social development may direct that the intervals between developmental quality assurance processes be shorter in respect of a particular child and youth care centre.

(4) The provincial head of social development may order a developmental quality assurance process at any time, in response to any well founded report or complaint by a child residing in a child and youth care centre or any other person.

(5) Where the provincial head of social development orders a developmental quality assurance process as a result of a complaint by a child or any other person, he or she must notify the Human Rights Commission of the date of commencement of the developmental quality assurance process.

(6) The purposes of a developmental quality assurance process are to –

- (a) assess the developmental needs of the child and youth care centre;
- (b) enable and facilitate sustained quality service delivery through support, guidance and capacity building;
- (c) assess whether the recipients of the service are receiving quality services;
- (d) monitor the adherence to the minimum norms and standards pertaining to child and youth care centres as set out in Annexure A, and to take decisive and appropriate action where departures from the norms, standards and law occur;
- (e) ensure the protection of rights contained in the Constitution of the Republic of South Africa, 1996, the Act and other relevant statutes, and to take decisive and appropriate action where violations of rights occur; and
- (f) ensure compliance with registration conditions.

(7) A developmental quality assurance team must be appointed by the provincial head of social development.

(8) The team contemplated in subregulation (7) 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 which establishes him or her as an expert in the field of service delivery in which the child and youth care centre is involved; and
- (c) select from within its own ranks a team leader.

(9) An internal developmental quality assurance process consists of the following steps:

- (a) An internal developmental quality assurance assessment undertaken by the management and staff members of the child and youth care centre itself;
- (b) a developmental quality assurance assessment visit to the child and youth care centre by the team established in terms of subregulation (7), which requires the participation of the management and staff members, the children in the centre and, where relevant, their families and the community;
- (c) a developmental quality assurance report, together with an organisational development plan to be formulated by the team and presented to the management and staff members of the child and youth care centre;
- (d) a mentor is appointed to facilitate and monitor the implementation of the organisational development plan; and
- (e) there is a review of progress in implementing the organisational development plan within one year of the date on which the developmental quality assurance report and the organisational development plan were presented to the management and staff members of the child and youth care centre.

(10) The internal assessment referred to in subregulation (9)(a) must be completed at least ten days prior to the commencement of the assessment visit by the team referred to in subregulation (9)(b): Provided that where there is an urgent need to proceed more rapidly, the provincial head of social development may direct that this ten day interval be reduced.

(11) Subject to the proviso in subregulation (10), the team referred to in subregulation (9)(b) must receive the report of the internal assessment referred to in subregulation (9)(a) from the manager of the child and youth care centre at least seven days prior to the assessment visit by the team contemplated in subregulation (9)(b).

(12) The report and the organisational development plan referred to in subregulation (9)(c) must be completed and presented by members of the team to the management and staff members of the child and youth care centre, in person, within 21 days of the assessment visit.

- (13) The mentor referred to in subregulation (9)(d) –
- (a) is appointed by the provincial head of social development;
 - (b) may be a member of the department of social development, or may be an employee of a non-governmental organisation; and
 - (c) must be appointed within ten days of the organisational development plan being presented to the management and staff members at the child and youth care centre.

(14) The review of the progress of implementing the organisational developmental plan may be undertaken by the mentor, or by any member of the developmental quality assurance team, and must be undertaken within 12 months of the date on which the organisational development plan was presented to the management and personnel: Provided that the provincial head of social development may, on reasonable grounds, authorise the review taking place at a later date, but not later than 12 months from the date of such authorisation.

(15) The Director-General must issue guidelines for the practice of developmental quality assurance, and developmental quality assurance processes must be in compliance with such guidelines.

CHAPTER 16
DROP-IN CENTRES
(Sections 213 – 227 of the Act)

105. National norms and standards

The national norms and standards for drop-in centres as contemplated in section 216 of the Act are reflected in Annexure A.

106. Application for the registration of a drop-in centre

(1) Subject to the provisions of subregulation (2), an application for the registration or conditional registration or for the 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 that substantially corresponds with **Form 57**.

(2) If the performance of the functions contemplated in sections 217 and 218 of the Act has been assigned to a municipality, an application referred to in subregulation (1) must be lodged with the head of social services of that municipality.

(3) An application referred to in subregulation (1) must contain the following particulars:

- (a) The particulars of the applicant;
- (b) the physical and postal address of the drop-in centre;
- (c) the number of children that will be accommodated in the drop-in centre in respect of which the application is made;
- (d) the qualifications, skills and experience of the applicant to manage a drop-in centre; and
- (e) a description of the contents of the programmes and services to be offered including the aims and objectives.

(4) An application referred to in subregulation (1) must be accompanied by the following documents:

- (a) A business plan containing:
 - (i) the business hours of the drop-in centre;
 - (ii) the day care programme;
 - (iii) the staff composition including an exposition of the staff members' prescribed and other skills with supporting documents and copies of any qualification of such staff members that would enhance employment at a drop-in centre; and
 - (iv) the disciplinary policy and rules;
- (b) a written plan of the drop-in centre which must contain the following information:

- (i) The name of the drop-in centre;
 - (ii) the category or categories of children it will cater for;
 - (iii) the composition, powers and duties of the management;
 - (iv) the powers, obligations and undertaking of management to delegate all authority with regards to care, behaviour management and development of children to the head of the drop-in centre, where applicable;
 - (v) the procedure for amending the written plan; and
 - (v) a commitment from the management to ensure compliance with the norms and standards for drop-in centres reflected in Annexure A;
- (c) an original copy of the approved building plans or a copy of the plans that has been submitted for approval if the application for the approval of the plans is still under consideration;
- (d) an emergency plan; and
- (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 Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

107. Consideration of application

(1) On granting an application referred to in regulation 106(1), 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 issue to the applicant a certificate of registration or conditional registration or renewal of registration in a form that substantially corresponds with **Form 58**.

(2) 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, may grant an application referred to in regulation 106(1) for a period not exceeding five years.

(3) In granting an application referred to in subregulation (2), 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, may impose such conditions as he or she deems necessary or expedient.

(4) 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 substantially corresponding with **Form 59** by registered post and must furnish reasons for such rejection.

(5) (a) 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 that substantially corresponds with **Form 60** within 90 days of the receipt of such decision.

(b) An applicant or a registration holder aggrieved by a decision in terms of Chapter 14 of the Act by an official in the employ of a municipality in a case where any powers contained in sections 217 to 222 and section 224 have been assigned to a municipality, may appeal against such decision to the municipal council concerned in a form that substantially corresponds with **Form 61** within 90 days of the receipt of such decision.

108. Management of drop-in centre

(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, sex, date of birth and identity number of each child;
- (b) the names, addresses and contact particulars of the child's parent or primary care-giver;
- (c) the date of the 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;
- (d) any chronic medical condition, any dietary requirements and any other critical information for the care and development of the child; and

(e) any period of absence from the drop-in centre, including leave, sick leave or family responsibility leave of any staff member.

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

- (a) Copies of all documents relating to the child received at the time of admission;
- (b) any documents 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 possible deviations 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 the drop-in centre on any irregular behavioural patterns of the child; and
- (e) reports and notes on any injury or bruises 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, or a volunteer providing services at, a drop-in centre.

(4) (a) No physical punishment may be imposed on a child in a drop-in centre.

(b) No group punishment for individual behaviour may be imposed on a child in a drop-in centre.

(c) Positive disciplinary measures appropriate to the child's age and maturity may be imposed at a drop-in centre.

(d) 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 three years after the date of termination of attendance 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 caregiver 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.

(8) Monthly staff meetings in respect of which minutes are kept must be convened at each drop-in centre.

109. Persons rendering services at a drop-in centre

(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) the ability to write reports and notes;
- (c) the ability to identify irregular and dysfunctional behaviour in a child;
- (d) basic numeracy skills; and
- (e) a basic knowledge about child development.

(2) Any person rendering services to children at a drop-in centre after registration of the facility in terms of the regulations must provide –

- (a) a certified copy of his or her identity document;
- (b) proof of his or her skills; and
- (c) provide clearance certificates to the effect that his or her name does not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007),
to his or her employer.

(3) Any person rendering services to children at a drop-in centre who works directly with a child in such centre should be able to communicate with the child in a language which he or she 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.

110. Assignment of functions to municipalities

(1) Before a provincial head of social development may assign functions to a municipality as contemplated in section 225 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) The provincial head of social development, before assigning all or part of the functions contemplated in section 225 of the Act, must be satisfied that the municipality concerned has –

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

(3) The agreement between the provincial head of social development and the municipal manager contemplated in section 225(2) of the Act must –

- (a) be reduced to writing and signed by the parties in the presence of two witnesses; and
- (b) contain a provision that the particulars referred to in subregulation (4) be reviewed and updated annually.

(4) The agreement between the provincial head of social development and the municipal manager contemplated in section 225(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; and
- (c) an organogram for the establishment responsible for the administration of the assigned functions.

CHAPTER 17
ADOPTION
(Sections 228 – 253 of the Act)

111. Register on Adoptable Children and Prospective Adoptive Parents

(1) The Register on Adoptable Children and Prospective Adoptive Parents referred to in section 232 of the Act must contain –

- (a) in the case of a prospective adoptive parent –
 - (i) the full names of the prospective adoptive parent;
 - (ii) his or her residential address;
 - (iii) his or her postal address;
 - (iv) his or her contact particulars; and
 - (v) any other information the Director-General deems necessary and expedient,
- (b) in the case of an adoptable child –
 - (i) the full names of the child;
 - (ii) the date of birth or the estimated age of the child;
 - (iii) the sex of the child;
 - (iv) the race of the child;
 - (v) the religious background of the child, if available;
 - (vi) the cultural background of the child;
 - (vii) any special needs that the child may have;
 - (viii) the full particulars of the adoption social worker or organisation who lodged an application for the registration of the child as an adoptable child; and
 - (ix) any other information the Director-General deems necessary and expedient.

(2) An adoption social worker, after successfully screening prospective adoptive parents, may apply for the registration of the prospective adoptive parents in a form substantially corresponding with **Form 62**.

(3) An application for the renewal of the registration as an adoptive parent must be submitted in a form substantially corresponding with **Form 63**.

(4) A person whose name appears in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), is not eligible for registration as a prospective adoptive parent.

(5) When a child is available for adoption –

- (a) an adoption social worker;
- (b) a provincial head of social development;
- (c) a child protection organisation accredited in terms of section 251 of the Act to provide adoption services; and
- (d) a child protection organisation accredited to provide inter-country adoption services,

may apply for the registration of the child as an adoptable child in a form substantially corresponding with **Form 64**.

(6) An application for the registration as a prospective adoptive parent or the renewal of such registration must be lodged with the Director-General.

(7) The Director-General must inform the prospective adoptive parent who applied for registration or the renewal of such registration, the applicant in the case of an adoptable child and the clerk of the court who submitted the application, as the case may be, of his or her decision and provide the relevant registration number.

112. Applications for the adoption of children

(1) An application for the adoption of a child may be lodged –

- (a) by any person referred to in section 231(1)(b) to (e) of the Act; or

(b) jointly, by the persons referred to in section 231(1)(a) of the Act.

(2) A person or persons who wishes or wish to adopt a child or children must apply for the adoption of each child in a form substantially corresponding with **Form 65**.

(3) An application contemplated in subregulation (2) must be lodged with the clerk of the court in the district where the child is residing, together with –

- (a) a certified copy of the identity document of each applicant and the original birth certificate or the original identity document of each child who stands to be adopted or where not available, a sworn statement by an adoption social worker to supplement the lack of documentary information;
- (b) in the case of the adoption of a foster child, the written statement of the child's foster parent, in a form substantially corresponding with **Form 43**, to the effect that he or she does not wish to adopt the child;
- (c) where applicable, the written consent of the parent, in a form substantially corresponding with **Form 66**, and of the child, in a form substantially corresponding with **Form 67**, as required by section 233(1)(a) or section 233(1)(c) of the Act, as the case may be;
- (d) in the case of any other person who holds guardianship in respect of the child, the written statement of that guardian, in a form substantially corresponding with **Form 68**, to the effect that he or she does not wish to adopt the child as required by section 233(1)(b) of the Act;
- (e) where the applicant wishes to receive a child who stands to be adopted into his or her or their custody, a report from an adoption social worker to the effect that the applicant is a potentially suitable adoptive parent; and
- (f) clearance certificates to the effect that the names of the prospective adoptive parents do not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

113. Consent to adoption

(1) Any consent to the adoption of a child by a parent of the child or any other person who holds guardianship in respect of the child as referred to in section 233(1)(a) or (b) of the Act, must be given in a form substantially corresponding with **Form 66**.

(2) Any consent by a child as referred to in section 233(1)(c) of the Act for his or her adoption must be given in a form substantially corresponding with **Form 67**.

(3) Before a presiding officer attests or verifies the consent referred to in subregulation (1) in terms of section 233(6)(a) of the Act, he or she must inform the person giving the consent –

- (a) of the effect of an adoption order;
- (b) in the case of consent by a parent or guardian, that the parent or guardian concerned may withdraw the consent in writing, in a form substantially corresponding with **Form 69**, in the presence of any presiding officer at any time during a period of up to 60 days after having signed such consent;
- (c) in the case of consent by a child, that the child concerned may withdraw the consent in writing, in a form substantially corresponding with **Form 70**, in the presence of any presiding officer at any time during a period of up to 60 days after having signed such consent; and
- (d) that the person concerned is not entitled to be present when the application for adoption is considered unless he or she is allowed to be present at the discretion of the court if such court is of the opinion that his or her presence will serve the best interests of the child.

(4) If consent to adoption is given outside the Republic, it must be signed in the presence of and attested by 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.

(5) The presiding officer, in the case of consent given inside the Republic, or the person referred to in subregulation (4), 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.

(6) (a) If consent to an adoption is withdrawn in a magisterial district other than the magisterial district in which it was given or in which the application for adoption is to be heard, the presiding officer referred to in subregulation (3)(b) or (c), as the case may be, must immediately –

- (i) if the court which is to hear the application for adoption is known, notify such court and the relevant adoption social worker accordingly; or
- (ii) if the court which is to hear the application for adoption is not known, notify the presiding officer who attested the consent in terms of section 233(6)(a) of the Act accordingly.

(b) The presiding officer referred to in paragraph (a)(ii) must immediately identify the court which is to hear the application for adoption and notify such court and the relevant adoption social worker of the withdrawal of consent to adoption.

114. Determination of age of child

(1) An adoption social worker may, if there is any uncertainty regarding the age of a child who stands to be adopted which age needs to be verified for the adoption proceedings to proceed –

- (a) require any documentation, evidence or statements relevant age determination from any person, body or institution; or
- (b) refer that child to a medical practitioner employed by the State for a clinical determination of age.

(2) The medical practitioner referred to in subregulation (1) must submit his or her assessment of the age of the child in a form substantially corresponding with

Form 71.

115. Abandonment of a child

To determine whether a child that appears to be abandoned could be made available for adoption, the adoption social worker must comply with the procedures prescribed by regulation 62 in respect of an abandoned child.

116. Post adoption agreements

(1) A post adoption agreement contemplated in section 234 of the Act must –

(a) contain the following particulars of the parent or guardian and the prospective adoptive parent:

- (i) Full names;
- (ii) residential address;
- (iii) postal address; and
- (iv) contact particulars; and

(b) clearly state the terms agreed upon by the parties on the matters referred to in section 234(1)(a) of the Act,

and may either be in the form of a substantive agreement or in a form substantially corresponding with **Form 72**.

(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 subregulation (1) within seven days of such change.

(3) The consent of the child signed and attested before a presiding officer must be attached to the post adoption agreement if the child is 10 years of age or older, or under the age of 10 years but is of an age, maturity and stage of development to understand the implications of the agreement.

(4) A statement by an adoption social worker facilitating the adoption that he or she has assisted the parties in preparing a post adoption agreement and has counselled the parties on the agreement, must be attached to the agreement.

117. Freeing orders

(1) A person or organisation referred to in section 235 of the Act may lodge an application, in a form substantially corresponding with **Form 73**, for a freeing order with the clerk of the children's court in whose area of jurisdiction such person is residing or such organisation is carrying on business.

(2) A court considering an application for a freeing order may refuse the application or may make an order in a form substantially corresponding with **Form 73**.

118. Record of adoption proceedings

The record of an adoption inquiry, which must be signed by the presiding officer, must consist of –

- (a) a form, substantially corresponding with **Form 74**, on which must be entered –
 - (i) the district and place where and the dates on which the proceedings are held and the names of the adoptive parents, the child or children concerned, the presiding officer, clerk of the court and the persons who are present;
 - (ii) the admission or rejection of and objection to any evidence, report, exhibit or submission;
 - (iii) the approvals granted and orders made by the children's court during or after the inquiry;
 - (iv) if an estimate of the age of any person concerned, who appears to be a child, has been made in terms of section 48(2) of the Act, the estimated age of the person;
- (b) the application for the adoption and every consent to the adoption as may be required; and
- (c) reports, documents and submissions allowed by the children's court or of which the contents have not been disputed.

119. Adoption register

In addition to the information prescribed by section 247(1) for inclusion in the adoption register, the Registrar of Adoptions may include all other information considered necessary and expedient.

120. Adoptions record book

(1) The clerk of the children's court must keep an adoptions record book in a form substantially corresponding with **Form 75** in which he or she must enter particulars of –

- (a) all applications made to the court;
- (b) all orders of adoption made by the court; and
- (c) any rescissions of or appeals against such orders.

(2) Subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) no person, except an officer of the court or any person generally or specially authorised thereto by a presiding officer, may inspect or have access to the adoptions record book.

121. Registration of adoptions

(1) As soon as is practicable after the issue of an order of adoption, the clerk of the children's court must cause that order to be registered by submitting the following documents to the Registrar of Adoptions:

- (a) The original of –
 - (i) the application for adoption;
 - (ii) every consent to the adoption as may be required;
 - (iii) the order of adoption and two original copies; and
 - (iv) the child's identity document or birth certificate or where these are not available, the sworn statement required in terms of regulation 112(3)(a);
and
- (b) a copy of the record of the proceedings concerned.

(2) After registration as contemplated in subregulation (1) the Registrar of Adoptions 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 subregulation(1)(a)(iii) 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.

122. Appeal against and rescission of an order of adoption

(1) If the High Court concerned rescinds an order of adoption in terms of section 51 or 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 in terms of the Births, Marriages and Deaths Registration Act, 1992 (Act No. 51 of 1992), of that order.

123. Access to record of adoption proceedings and the disclosure of information

(1) Subject to the provisions of subregulations (3) and (6) and the instructions of the Registrar of Adoptions on the handling of documents by persons inspecting them, the record of the proceedings must lie for inspection during normal office hours in the office of the Registrar of Adoptions by –

- (a) an adoptive parent from the date on which the child concerned reaches the age of 18 years;
- (b) an adopted child from the date on which he or she reaches the age of 18 years; and
- (c) a natural parent of an adoptive child, with the written consent of the adoptive parent or parents and of the adopted child, from the date on which the child concerned reaches the age of 18 years.

(2) Any person who may inspect the record in terms of subregulation (1) may obtain a copy of the record on prepayment of an amount of R20,00, payable by means of uncanceled revenue stamps which must be affixed to his or her application for such copy.

(3) The Registrar of Adoptions may require an adoptive parent, a natural parent, a previous adoptive parent or an adopted child to receive counselling from an adoption social worker designated by the Registrar of Adoptions before allowing that adoptive parent, natural parent, previous adoptive parent or adopted child to inspect the record concerned or to obtain a copy thereof.

(4) The Registrar of Adoptions may, in his or her discretion and at any time, furnish specific information regarding an adoption to any person who in the opinion of the Registrar has sufficient reason to obtain such information: Provided that the identity of the child, his or her parents or adoptive parents may not be revealed thereby.

(5) Subject to the conditions as he or she may determine generally or in a particular case, the Director-General may approve that the adoptions record book referred to in regulation 120, the adoption register referred to in section 247 of the Act and a record of the children's court of an adoption inquiry may be inspected for official and *bona fide* research purposes.

(6) (a) The Registrar of Adoptions may, notwithstanding the provisions of this regulation, but subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), for good reason refuse any person access to the record and registers contemplated in subregulation (5).

(b) Any person aggrieved by any decision of the Registrar of Adoptions under paragraph (a) may, in addition to any other legal remedy, appeal to the Minister against such decision.

124. Fees

(1) The biological mother of a child who is being adopted, may in addition to the compensation contemplated in section 249(2)(a) of the Act, receive consideration for

live-in expenses, consideration for any costs incurred at a pregnancy crisis centre and travelling expenses.

(2) The Minister may, after consultation with the Minister of Finance, determine and publish by notice in the *Gazette* a list of the fees that are payable for adoption services which may be received in terms of section 249(2)(d), (e) and (f) of the Act by accredited child protection organisations.

125. Accreditation to provide adoption services

(1) (a) An application for the accreditation of a social worker in private practice as an adoption social worker to provide adoption services must be made by way of a form determined by the Director-General.

(b) An application referred to in paragraph (a) must be accompanied by –

- (i) a certified copy of the applicant's identity document and birth certificate;
- (ii) certified copies of documentary proof of the qualifications on the basis of which application is being made;
- (iii) proof of registration as a social worker with the South African Council for Social Service Professions;
- (iv) proof of registration with the South African Council for Social Service Professions for the practising of a speciality in adoption work as provided for in the regulations relating to the registration of a speciality in adoption work promulgated in terms of section 28 of the Social Work Act, 1978 (Act No. 110 of 1978);
- (v) an exposition of the applicant's experience in adoption work;
- (vi) an audited statement of the applicant's income and expenditure for the previous financial year; and
- (vii) a copy of the fee structure applicable to the rendering of adoption services.

(c) A social worker in private practice who has not been accredited in terms of section 251(1)(a) of the Act or whose name has been removed from the register may not provide adoption services.

(d) A social worker in private practice whose name appears in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), is not eligible for accreditation as an adoption social worker to provide adoption services.

(2) (a) An application for the accreditation of a child protection organisation to provide adoption services or the renewal of such registration must be made by way of a form determined by the Director-General.

(b) An application referred to in paragraph (a) must be accompanied by a business plan –

- (i) containing the number of adoptions dealt with during the previous year;
- (ii) reflecting the total staff complement;
- (iii) the number of registered social workers;
- (iv) the number of social workers registered for the practising of a speciality in adoption work; and
- (v) a recruitment plan for the 12 months following the date of application.

(c) The accreditation of a child protection organisation must be renewed annually.

(d) An application for the renewal of the accreditation of a child protection organisation must be submitted to the Director-General by no later than 31 January of each year.

(3) The Director-General may require such additional information from an applicant referred to in subregulation (1) and (2) as he or she may deem necessary and may direct a site visit to the business premises of such applicant to evaluate the application.

(4) The Director-General must record in the register referred to in section 251(2) of the Act –

(a) in the case of a social worker in private practice, the following particulars –

- (i) surname;

- (ii) maiden name;
 - (iii) first name or names;
 - (iv) title;
 - (v) gender;
 - (vi) identity or residence permit number;
 - (vii) date of birth;
 - (viii) marital status;
 - (ix) residential address;
 - (x) business address;
 - (xi) postal address;
 - (xii) qualifications;
 - (xiii) registration number;
 - (xiv) registration date; and
 - (xv) any disciplinary steps taken against such social worker in terms of section 22 of the Social Work Act, 1978 (Act 110 of 1978);
- (b) in the case of a child protection organisation, the following particulars –
- (i) the name of the child protection organisation;
 - (ii) business address;
 - (iii) postal address;
 - (iv) registration number;
 - (v) date of registration and date of renewal of registration; and
 - (vi) the details of a contact person.

(5) (a) The Director-General must, upon registration of a social worker in private practice or a child protection organisation to provide adoption services, issue a certificate of accreditation under his or her signature and official seal within 21 days after receipt of the application.

(b) If the Director-General is satisfied that a certificate of accreditation has been destroyed or lost, he or she may, upon request by the holder of the certificate, issue a duplicate certificate of accreditation.

- (6) The Director-General may -
- (a) in the case of a social worker in private practice whose name has been removed from the register of social workers by the Social Services Council, cancel the

- accreditation of such social worker to provide adoption services as provided for in section 251(1)(a) of the Act; or
- (b) in the case of a child protection organisation, cancel the accreditation of such organisation to provide adoption services as provided for in section 251(1)(b) of the Act on good cause shown.

126. Advertisements

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

127. Guidelines on adoption

The Director-General may issue guidelines for the practice of adoption, and adoption services provided by accredited child protection organisations or social workers must be in compliance with such guidelines.

CHAPTER 18

INTER-COUNTRY ADOPTION

(Sections 254 – 273 of the Act)

128. Accreditation to provide inter-country adoption services

(1) In addition to the conditions set out in regulation 125(2) for the accreditation of child protection organisations to provide adoption services, the child protection organisation must furnish any additional information demonstrating the child protection organisation's experience or expertise relevant to inter-country adoption.

(2) The period of the accreditation must be included in the notice of accreditation to be issued by the Director-General, but may not exceed five years and any such accreditation is valid until such time as it is cancelled by the Director-General

on good cause shown, including any breach of the provisions of the Hague Convention on Inter-country Adoption, or for the period specified in the notice of accreditation, whichever occurs first.

(3) An application for the renewal of the accreditation of a child protection organisation must be submitted to the Director-General by no later than 31 January of the year in which the accreditation expires.

(4) The Director-General may, in the case of a child protection organisation accredited to provide inter-country adoption services, cancel the accreditation of such organisation if it is shown that there has been a breach of any provision of the Hague Convention on Inter-country Adoption, or of this Act.

(5) An appeal against a decision of the Director-General to cancel the accreditation of a child protection organisation may be lodged in writing with the Minister within 21 working days of the decision being communicated in writing to the child protection organisation.

(6) The Minister may, after consultation with the Minister of Finance, determine and publish by notice in the *Gazette*, a list of the fees that are payable for inter-country adoption services which may be received in terms of section 259(3)(a) of the Act by accredited child protection organisations.

(7) The categories of professional persons who may render professional services as provided for in section 259(4) of the Act must be published by notice in the *Gazette*.

129. Report on person in convention country applying to adopt child from Republic

(1) In addition to the requirements set out in article 15 of the Hague Convention on Inter-country Adoption, the report on the applicant required by section 261(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 a suitably qualified professional social worker;
- (g) information regarding the applicant's own childhood;
- (h) information regarding other significant family members;
- (i) character information about the applicant;
- (j) details of the attitude of other family members towards the adoption,
- (k) plans for integration with siblings, where applicable; and
- (l) plans for relocation to of the children from the Republic to the place where the applicant resides.

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

130. Report on child in the Republic to be adopted by person from convention country

(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) of the Act must be a comprehensive child study report compiled by a registered social worker employed by a child protection organisation accredited to provide inter-country adoption services.

- (2) The report referred to in subregulation (1) must include –
- (a) identifying information 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) details 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 that the child may have;
 - (d) information about the child's natural parents (where such information is known);

- (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 form, if he or she is ten years of age or older, which must be annexed to the report.

131. Order for adoption of child from Republic by person from convention country

The order for adoption granted in terms of section 261(5) of the Act must be issued by the children's court in a form substantially corresponding with **Form 76**.

132. Return of child following withdrawal of consent by Central Authority to adoption by person in convention country

(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) 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 referred to in subregulation (1) must be dated during the period of 140 days from the date on which the Central Authority of the Republic had consented to the adoption, and must be forwarded via electronic or postal service within seven days of being dated.

(3) The request for co-operation referred to in subregulation (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 child protection organisation accredited to provide inter-country adoption services.

(5) The travel arrangements for the child and the person appointed to escort the child must be made by the Central Authority of the Republic.

(6) 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.

(7) 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.

133. Report on person in non-convention country applying to adopt child from Republic

The report on the applicant required by section 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 residence;
- (e) the applicant's ethnic, religious and cultural background;
- (f) a detailed assessment by a suitably qualified professional or multi-disciplinary team of professionals;
- (g) information regarding the applicant's own childhood;
- (h) information regarding other family members;
- (i) details of the attitude of other family members towards the adoption,
- (j) plans for integration with siblings, where applicable;
- (k) a description of the adoption counselling that has been received by the applicant;
- (l) the reasons why the applicant wishes to adopt a child;
- (m) the applicant's ability to undertake inter-country adoption;
- (n) the characteristics of the children for whom the applicant is qualified to care; and

- (o) plans to move the child from the Republic to the applicant's home in his or her country.

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

(1) The report on a child required by section 262(3) of the Act must be a comprehensive child study report compiled by a registered social worker employed by a child protection organisation accredited to provide inter-country adoption services

(2) The report referred to in subregulation (1) must include –

- (a) identifying information 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) details 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 that the child may have;
- (d) information about the child's natural parents (where such information is known), including –
 - (i) a description of the counseling 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 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 form, if he or she is ten years of age or older, which must be annexed to the report.

135. Order for adoption of child from Republic by person from non-convention country

The order for adoption granted in terms of section 262(5) of the Act must be issued by the children's court in a form substantially corresponding with **Form 76**.

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

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

(2) The letter referred to in subregulation (1) must be dated during the period of 140 days from the date on which the Central Authority of the Republic had consented to the adoption, and must be forwarded via electronic or postal service within seven days of being dated.

(3) The request for co-operation referred to in subregulation (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 child protection organisation accredited to provide inter-country adoption services.

(5) The travel arrangements for the child and the person appointed to escort the child must be made by the Central Authority of the Republic.

(6) 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.

(7) 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.

137. Application for adoption of child from convention country by person in Republic

(1) An applicant intending to make an application in terms of section 264 of the Act to adopt a child in a convention country, must approach the Central Authority in the Republic who must advise the applicant of its policy with regard to adoption in convention countries, as provided for in the guidelines for the practice of inter-country adoption or other written policy documents recognised by the Central Authority.

(2) If there is a working agreement with the convention country in which the applicant wishes to adopt a child and if the applicant wishes to continue with an application in terms of section 264(1) of the Act after having been advised of the policy contemplated in subregulation (1), the Central Authority must cause the applicant to be assessed to determine whether he or she is a fit and proper person to adopt a child by –

- (a) conducting interviews with the applicant;
- (b) obtaining corroboratory information from independent sources about the applicant; and
- (c) compiling a comprehensive home study report.

(3) The applicant must be informed in writing within 30 days after completion of the assessment whether he or she is a fit and proper person to adopt a child.

(4) The report contemplated in section 264(2) of the Act which has to be prepared if the applicant is found to be a fit and proper person to adopt a child, must, in

addition to the requirements of article 15 of the Hague Convention on Inter-country Adoption, be compiled by a suitably qualified social worker and must contain –

- (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 residence;
- (e) the applicant's ethnic, religious and cultural background;
- (f) information regarding the applicant's own childhood;
- (g) information regarding other family members;
- (h) details of the attitude of other family members towards the adoption,
- (i) plans for integration with siblings, where applicable;
- (j) the reasons why the applicant wishes to adopt a child, and the reasons why adoption from the particular convention country is sought; and
- (k) plans to move the child from the convention country to the Republic.

(5) The report contemplated in subregulation (4) must, upon completion, be forwarded to the Central Authority in the convention country without delay.

(6) If joint applicants wish to make an application in terms of section 264 of the Act, the provisions of this regulation apply to both applicants.

138. Application for adoption of child from non-convention country by person in Republic

(1) An applicant intending to make an application in terms of section 265 of the Act to adopt a child in a non-convention country, must approach the Central Authority in the Republic who must advise the applicant of its policy with regard to adoption in non-convention countries, as provided for in the guidelines for the practice of inter-country adoption or other written policy documents recognised by the Central Authority.

(2) If there is a working agreement with the non-convention country in which the applicant wishes to adopt a child and if the applicant wishes to continue with an application in terms of section 265(2) of the Act after having been advised of the policy

contemplated in subregulation (1), the Central Authority must cause the applicant to be assessed to determine whether he or she is a fit and proper person to adopt a child by –

- (a) conducting interviews with the applicant;
- (b) obtaining corroboratory information from independent sources about the applicant; and
- (c) compiling a comprehensive home study report.

(3) The applicant must be informed in writing within 30 days after completion of the assessment whether he or she is a fit and proper person to adopt a child.

(4) The report contemplated in section 265(2) of the Act which has to be prepared if the applicant is found to be a fit and proper person to adopt a child, must, in addition to the requirements of the non-convention country concerned, be compiled by a suitably qualified social worker and must contain –

- (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 residence;
- (e) the applicant's ethnic, religious and cultural background;
- (f) a detailed assessment by a suitably qualified professional or multi-disciplinary team of professionals;
- (g) information regarding the applicant's own childhood;
- (h) information regarding other family members;
- (i) details of the attitude of other family members towards the adoption,
- (j) plans for integration with siblings, where applicable;
- (k) a description of the adoption counselling that has been received by the applicant;
- (l) the reasons why the applicant wishes to adopt a child from the particular non-convention country; and
- (m) plans to move the child from the non-convention country to the Republic.

(5) The report contemplated in subregulation (4) must, upon completion, be forwarded to the competent authority in the non-convention country without delay.

(6) If joint applicants wish to make an application in terms of section 265 of the Act, the provisions of this regulation apply to both applicants.

139. Declaration of recognition of inter-country adoption

(1) The declaration of recognition of an inter-country adoption of a child from a convention country provided for in section 266(3) of the Act or from a non-convention country provided for in section 268 of the Act which may be issued by the Central Authority of the Republic, must be in a form substantially corresponding with **Form 77**.

(2) A declaration contemplated in subregulation (1) may only be issued by the Central Authority following an examination of all relevant documents.

(3) The Central Authority must issue two signed original copies of the declaration contemplated in subregulation (1), one of which is to be retained by the Central Authority, and one to be furnished to the adoptive parent or parents.

(4) The declaration may be utilised for the purposes of the recording of the adoption in the adoption register established in terms of section 247 of the Act in the Republic, and any other legal process for which proof of the adoption is required.

140. Declaration of non-recognition of inter-country adoption

(1) The declaration of non-recognition of an inter-country adoption of a child from a convention country provided for in section 270 of the Act which may be issued by the Central Authority of the Republic, must be in a form substantially corresponding with **Form 78**.

(2) The declaration provided for in section 270 may only be issued by the Central Authority following an examination of the adoption compliance certificate and all other relevant documents.

(3) The Central Authority must issue two signed original copies of the declaration contemplated in subregulation (1), one of which is to be retained by the Central Authority, and one to be provided to the adoptive parent or parents.

(4) An application in terms of section 271 of the Act for the adoption of a child must be made to the children's court in the district where the child is residing within seven days of the declaration being received by the prospective adoptive parent or parents.

(5) The child concerned may remain in the care of the prospective adoptive parent or parents pending the outcome of the application for adoption contemplated in subregulation (4), unless in the opinion of a suitably qualified social worker, this would not be in the best interests of the child.

141. Guidelines on inter-country adoption

The Director-General may issue guidelines for the practice of inter-country adoption, and inter-country adoption services provided by accredited child protection organisations must be in compliance with such guidelines.

CHAPTER 19

CHILD TRAFFICKING

(Sections 281 – 291 of the Act)

142. Behaviour facilitating trafficking in children prohibited

(1) An internet service provider that identifies a site on its server that contains information in contravention of section 285(1)(b) of the Act, must submit information concerning such site to the South African Police Service that has jurisdiction in a form substantially corresponding with **Form 79**.

(2) Upon receipt of the information contained in the form referred to in subregulation (1), the South African Police Service must investigate the matter with a view to laying a charge in terms of section 285(1) of the Act.

143. Repatriation of child who is victim of trafficking

For purposes of section 290 of the Act, the Director-General must, prior to the return of an illegal foreign child who was found in South Africa and found to be a victim of trafficking to his or her country of origin or country from where the child was trafficked, be placed in possession of a copy of the court order from the children's court declaring that such child was trafficked to South Africa.

ANNEXURE A: NATIONAL NORMS AND STANDARDS

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

A. 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:

(a) A safe environment for children

1. Children must experience safety and feel cared for whilst at the facility.
2. Premises inside and outside must be safe, clean and well-maintained.
3. Equipment used must be safe, clean and well-maintained.
4. There must be adult supervision at all times.
5. The structure must be safe and reasonably weatherproof.
6. 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.
7. All reasonable precautions must be taken to protect children and staff from the risk of fire, accidents or other hazards.
8. Safety measures must be undertaken when transporting children. Such safety measures include:
 - (a) ensuring that transport operators transporting children are registered, suitably trained, are qualified and possess the necessary licences and permits as prescribed by the National Land Transport Transition Act No. 22 of 2000 and other relevant national transport policies and regulations determined by the Department of Transport;
 - (b) ensuring that all vehicles used to transport children are safe, in good condition and adhere to the requirements as published by the Minister of Transport periodically in terms of the National Land Transport Transition Act No. 22 of 2000;
 - (c) ensuring that transport is appropriate to the ages of children transported and that it is accessible and suitable to children with disabilities and other special needs;
 - (d) ensuring that transport providers comply with safety measures regulated by the Department of Transport, including adherence to speed limits,

ensuring that all passengers are seated regardless of transport mode used;

- (e) ensuring that vehicles used to transport children have the necessary safety characteristics, such as windows and doors opening restrictions, safety equipment and appropriate speed devices;
- (f) ensuring that children are not transported in open vehicles;
- (g) ensuring that there is an adult supervisor in a vehicle transporting children under the age of nine years; and
- (h) ensuring that there is no overcrowding of children in vehicles.

(b) Proper care for sick children or children who become ill

1. Staff must have the ability to identify children who are ill and be able to refer them for appropriate health services.
2. Policies and procedures relating to the health care of children whilst at the centre must be in place. Such policies and procedures must cover the following:
 - (a) Admissions criteria for identifying ill children;
 - (b) safe keeping of all medications at a facility;
 - (c) procedures for dealing with children who are ill; and
 - (d) guidelines for preventing spread of diseases at facility.
3. The following procedures must be adhered to:
 - (a) 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;
 - (b) the child must be removed from other children to a safe space or room designed to care for ill children;
 - (c) any child assessed to have an infectious disease (measles, chickenpox, etc) must be immediately isolated from other children and referred to the nearest public health care centre for further assessment and treatment;
 - (d) if a child is already on some prescribed medication, that child must receive medication as prescribed and as advised by the parents; and
 - (e) in cases of emergency, the child must be taken to the nearest health facility for treatment and appropriate referrals.
4. The following medical records must be kept:
 - (a) separate, confidential and up-to date records of each child's medical history;

- (b) a record of each child's immunisation programme and Vitamin A schedule; and
 - (c) records of health incidents and accidents occurring at the facility.
5. A first aid kit must be provided and regularly maintained, with trained staff to administer it.

(c) Adequate space and ventilation

- 1. The structure must have adequate ventilation and sufficient light.
- 2. Spaces for different activities and functions must be clearly demarcated.
- 3. The structure must whenever possible allow children to see the outside world.
- 4. 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).

(d) Safe drinking water

- 1. Safe and clean drinking water must always be available.
- 2. 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.
- 3. All water containers must be covered at all times.

(e) Hygienic and adequate toilet facilities

- 1. For centres catering for toddlers, junior type of toilets and washbasins should be provided where appropriate.
- 2. Toilet and hand washing facilities must be reachable for children.
- 3. For children 0-3 years –
 - (a) there must be developmentally appropriate toilets;
 - (b) where there are no sewerage/ablution facilities, potties must be made available;
 - (c) there must be one potty for every five toddlers;
 - (d) waste from potties must be disposed of hygienically in a toilet;
 - (e) potties must be cleaned after use and disinfected in a properly demarcated area;

- (f) there must be a clearly demarcated nappy changing area with a surface that can be easily cleaned. This area must be away from the food preparation area.
4. For children 3-6 years –
 - (a) there must be a toilet for every facility and hand washing facilities;
 - (b) where sewerage systems are available, there must be one toilet and one hand washing basin for every 20 children;
 - (c) where no sewerage facilities are available an approved toilet must be available on the premises or immediately adjacent to the premises;
 - (d) where no running water is available, there must be a minimum of 25 litres of drinkable water supplied on a daily basis;
 - (e) 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; and
 - (f) all toilet facilities must be safe and hygienic.
 6. For after care facilities catering for children 6 years and older, there must be –
 - (a) hygienic and safe toilets; and
 - (b) one toilet and one hand washing basin for every 20 children.
 7. There must be adult supervision at all times when children use the toilet.
 8. Where applicable the local authority regulations and by-laws in respect to physical characteristics of building and health requirements must be adhered to.

(f) Safe storage of anything that may be harmful to children

1. Medicines, cleaning substances and any dangerous substances must be kept out of reach of children.
2. Medicines and dangerous substances must be kept in separate locked or childproof cupboards.
3. Dangerous objects, materials, sharp instruments and utensils must be kept out of reach of children.
4. Dangerous substances may not be used in the vicinity of children.
5. Electrical plugs must be covered.
6. Paraffin, gas and other electric appliances must be kept out of reach of children.
7. Cleaning agents must be kept in clearly marked containers and out of reach of children.

(g) Access to refuse disposal services or other adequate means of disposal of refuse generated at the facility

1. Where possible, refuse must be disposed of according to municipality regulations.
2. Waste disposal methods must be safe and covered.
3. Waste must be kept out of reach of children.
4. Waste disposal areas must be disinfected regularly.

(h) A hygienic area for the preparation of food for children

1. There must be a separate, clean and safe area for the preparation of food as well as for cleaning up after food preparation.
2. There must be a separate clean and safe area for serving food to the children.
3. There must be cooling facilities for storage of perishable food.
4. There must be adequate storage for food as well as a clean food preparation area.
5. The food preparation area must be clearly marked and out of reach of children.
6. There must be a sufficient supply of clean water as well as cleaning agents.

(i) Measures for the separation of children of different age groups

1. Where applicable, children must be separated into the following age categories in separate rooms or spaces to ensure their development:
 - (a) Babies (under 18 months);
 - (b) toddlers (18-36 months);
 - (c) children 3-4 years of age; and
 - (d) children 4-6 years of age.
2. Where a partial care facility provides after care facilities to children of school going age, they should be kept separate to the above age categories, to ensure that they are able to rest and complete their homework upon their return from school.
3. Where more than 50 children are enrolled for a full day, there must be a separate room or space to be used as an office and a sickbay.

(j) The drawing up of action plans for emergencies

1. Reasonable precautions to protect children from risk of fire, accidents and other hazards must be taken.
2. Policies and procedures for dealing with structural and/or environmental emergencies and disasters must be in place.
3. Emergency procedures with relevant contact details must be visibly displayed.
4. Emergency plans must include evacuation procedures.
5. Emergency plans must be up-to-date, regularly tested and reviewed.
6. Staff must be trained in dealing with emergencies.
7. Children must be made aware of emergency procedures.

(k) The drawing up of policies and procedures regarding health care at the facility

Policies must –

1. include procedures to deal with infectious diseases at the facility;
2. include procedure for dealing with the medical needs of sick children and of children with chronic illnesses;
3. ensure that there are standards relating to cleanliness and hygiene at the facility;
4. ensure that there is an adequate supply of cleaning agents and towels at the facility;
5. ensure that the facility has a well-maintained First Aid Kit;
6. provide for the training of staff in First Aid;
7. include record keeping and registers pertaining to storage and use of medicines at the centre;
8. ensure that there is a record of accidents and health related incidents;
9. provide for measures to ensure hygienic food preparation and food storage;
10. promote confidentiality when dealing with health related information;
11. 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
12. 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.

B. NATIONAL NORMS AND STANDARDS FOR EARLY CHILDHOOD DEVELOPMENT

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

(a) The provision of appropriate developmental opportunities

1. Programmes must be delivered by staff who have knowledge, training and support to deliver developmental programmes.
2. Programmes must be appropriate to the developmental stages of children.
3. Programmes must respect the culture, spirit, dignity, individuality, language and development of each child.
4. Programmes must provide opportunities for children to explore their world.
5. Programmes must be organised in a way that each day offers variety and creative activities.

(b) Programmes aimed at helping children to realise their full potential

1. Children must receive care, support and security.
2. Programmes must promote children's rights to rest, leisure and play through provision of a stimulating environment.
3. Programmes must promote self discovery.
4. Programmes must be evaluated and monitored.
5. Programmes must promote and support the development of motor and sensory abilities in children.
6. Programmes must promote self control, independence and developmentally appropriate responsibility.
7. Activities must promote free communication and interaction amongst children.
8. Programmes must respect and nurture the culture, spirit, dignity, individuality, language and development of each child.

(c) Caring for children in a constructive manner and providing support and security

1. Creative play and exploratory learning opportunities must be provided to children.
2. Programmes must adhere to the following conditions:

- (a) Toilet facilities must be safe and clean for children;
 - (b) where there are no sewerage facilities, sufficiently covered chambers (potties) must be available;
 - (c) there must be one chamber for every child;
 - (d) for ages three to six years old, one toilet and one hand washing facility must be provided for every twenty children; and
 - (e) there must be a place for children to wash their hands and generally there should be a facility for the washing of children.
3. 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.
4. Programmes must adhere to policies, procedures and guidelines related to health, safety and nutrition practices. These must relate to the following:
- (a) Practices aimed at preventing the spread of contagious diseases;
 - (b) at least one meal per day must be provided;
 - (c) all meals and snacks should meet the nutritional requirements of children;
 - (d) where children who are bottle-fed are cared for, suitable facilities must be provided for cleaning the bottles;
 - (e) confidential records of the medical history of each child must be kept;
 - (f) policies and procedures relating to health care at the centre must be in place;
 - (g) such policies must address cleanliness, hygiene and safety standards of the centre;
 - (h) records of a child's immunization and Vitamin A schedule must be kept;
 - (i) there must be a clean food preparation area;
 - (j) emergency plans must be in place; and
 - (k) children must be supervised by an adult at all times.
5. Programmes must meet the following requirements in relation to staff:
- (a) Staff must be trained in implementing early childhood development programmes;
 - (b) staff must be equipped with basic information, knowledge and skills to recognise children's serious illnesses and how to deal with these;
 - (c) staff must be trained in first aid;
 - (d) the child-to-staff ratio must be as follows:

1 – 18 months	1:6
18 months to 3 years	1:12
3-4 years	1:20
5-6 years	1:30; and

- (e) for every staff member stipulated above, there must be an assistant.
6. The physical environment must adhere to the following:
- (a) The building must be clean and safe at all times;
 - (b) playing areas must be clean and safe and promote free exploration; and
 - (c) there must be 1.5 square metres of indoor playing space per child and 2 square metres of outdoor playing space per child.
7. Safety measures must be undertaken when transporting children. Such safety measures include:
- (a) Ensuring that transport operators transporting children are registered, suitably trained, are qualified and possess the necessary licences and permits as prescribed by the National Land Transport Transition Act No. 22 of 2000 and other relevant national transport policies and regulations determined by the Department of Transport;
 - (b) ensuring that all vehicles used to transport children are safe, in good condition and adhere to the requirements as published by the Minister of Transport periodically in terms of the National Land Transport Transition Act No. 22 of 2000;
 - (c) ensuring that transport is appropriate to the ages of children transported and that it is accessible and suitable to children with disabilities and other special needs;
 - (d) ensuring that transport providers comply with safety measures regulated by the Department of Transport, including adherence to speed limits, ensuring that all passengers are seated regardless of transport mode used;
 - (e) ensuring that vehicles used to transport children have the necessary safety characteristics, such as windows and doors opening restrictions, safety equipment and appropriate speed devices;
 - (f) ensuring that children are not transported in open vehicles;
 - (g) ensuring that there is an adult supervisor in a vehicle transporting children under the age of nine years; and

- (h) ensuring that there is no overcrowding of children in vehicles.
8. Management must ensure that the following are complied with:
- (a) Administrative systems and procedures must be in place to ensure the efficient management of the facility and its activities;
 - (c) centre information and policies must be given to families before a child is admitted; and
 - (d) records on each child and all centre records must be kept up to date.
- (d) Ensuring development of positive social behaviour**
1. Programmes must promote understanding of and respect for diversity in gender, language, religion and culture.
 2. Activities must include parents and care-givers in the development of positive social behaviour in children.
 3. Programmes must promote the development of positive social values.
 4. Programmes must be conducted in a non-discriminatory manner.
 5. Staff must demonstrate behaviour that promotes positive behaviour by modelling attitudes and interactions with children.
- (e) Respect for and nurturing of the culture, spirit, dignity, individuality, language and development of each child**
1. Programmes must promote appreciation and understanding for children's culture and language.
 2. Educators must utilize one medium of instruction in class.
 3. Children must be allowed to communicate in the language of their choice and preference outside class.
 4. Cultural diversity must be encouraged and respected by educators and children alike.
 5. Programmes may, where appropriate, facilitate late birth registration.
 6. Programmes must contribute to the development of a sense of identity in children.
- (f) Meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of children**

1. Programmes must be appropriate to the developmental stages and evolving capacity of children.
2. Programmes must ensure that parents and care-givers are involved in the development of children.
3. 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.
4. Programmes must be accessible to especially vulnerable children in their homes.
5. For children aged 0-3 years, programmes should, as much as possible include household visits for increased accessibility to children.
6. Programmes must promote cognitive development in children.
7. Programmes must promote the development of fine sensory and motor skills in children.
8. Activities must promote a positive relationship between the centre, families and the community.
9. Programmes must teach age appropriate self control and independent behaviour.
10. Existing community resources and strengths must be utilized in promoting the development of children.
11. The emotional needs of children must be addressed and children must be encouraged to express their emotions in a safe, supportive and protective environment.
12. Parents, care-givers and families of vulnerable children, children with disabilities and child-headed households must be reached out to provide information, knowledge and skills to promote the development of children in their families.
13. Children must be enabled to develop a positive sense of identity and self worth.
14. Programmes must be based on an integrated approach.
15. Children should feel valued and respected when participating in activities.
16. Programmes must adhere to national policies and guidelines.

C. 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:

- (a) Prevention and early intervention programmes** must –
1. strengthen and support family structures and build capacity;
 2. be aimed at the improvement of the well-being of families and children;
 3. if applicable, reunify and reintegrate family members;
 4. be aimed at the identification of high risk families and children;
 5. be family centred with family members seen as the main focus;
 6. focus on the strengths and capabilities of family members;
 7. if applicable, provide for the development of family plans in participation with family members;
 8. enable family members to take responsibility and accountability for their involvement in programmes;
 9. take the needs of children into account and the safety of the children in particular;
 10. if applicable, provide for assessment and permanency planning;
 11. if applicable, be based on a multi-disciplinary and inter-sectoral approach;
 12. be sensitive to the linguistic needs and religious and cultural values of children and their families;
 13. be home-based and community based;
 14. make provision for the training, support and supervision of service providers; and
 15. if applicable, ensure that early intervention decisions are based on developmental assessment.
- (b) Assessment** of children who have been abused or deliberately neglected must be –
1. undertaken by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to conduct assessments;
 2. undertaken within 48 hours upon receipt of reports or abuse or deliberate neglect of children;
 3. done in accordance with the broad risk assessment framework contemplated in regulation 40;
 4. conducted by service providers who have appropriate knowledge of indicators of abuse or neglect and an understanding of the multi-disciplinary approach;
 5. followed by informing the child, his or her parents, guardians or care-givers of the outcome of the assessment and any decisions affecting them;

6. conducted in a manner that involves the child, his or her family and any significant other persons and is conducive to their participation;
7. sensitive to the linguistic needs and religious and cultural values of children and their families;
8. conducted in such a manner that the persons involved can understand the assessment and the implications thereof;
9. aimed at the provision of sufficient and helpful information to the child, his or her family and significant other persons;
10. aimed at securing an appropriate care plan and individual development plan for the child;
11. conducted in a safe and protected environment; and
12. sensitive to the child's need for support and assistance during assessment.

(c) Therapeutic programmes must –

1. be conducted by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such programmes;
2. take account of the assessment framework, the assessment report and any other relevant information;
3. be based on a multi-disciplinary and inter-sectoral approach;
4. be sensitive to the linguistic needs and religious and cultural values of children and their families;
5. be aimed at meeting the needs of the recipient as indicated during assessment;
6. ensure that the recipients feel emotionally and physically safe in the therapeutic situation and that information is kept confidential;
7. 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;
8. assist recipients to use their strengths while they are assisted to deal with trauma;
9. be conducted in a non-discriminatory manner and in a comfortable, friendly and safe environment that is conducive to the best interests of recipients;
10. make provision for the involvement of the child, his or her family and significant other persons during therapy;

11. ensure that recipients are provided with the name and contact number of the case manager or social worker;
12. provide adequate opportunity for additional consultation and counseling;
13. monitor the growth and progress of recipients;
14. ensure that records are kept and data captured;
15. be aimed at the minimisation of secondary abuse and trauma;
16. ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously; and
17. be reviewed on a regular basis according to the needs of recipients.

(d) After care services must –

1. be provided by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such services;
2. be based on a multi-disciplinary and inter-sectoral approach;
3. be sensitive to the linguistic needs and religious and cultural values of children and their families;
4. be rendered in a non-discriminatory manner;
5. ensure that recipients are provided with the name and contact number of the case manager or social worker;
6. ensure that after care programmes are sufficiently monitored and regularly reviewed;
7. ensure that records are kept and data captured;
8. be aimed at the identification of high risk situations and behaviour and the appropriate minimisation of risk;
9. focus on the strengths and capacity of recipients; and
10. be home based and community based.

(e) Family reunification and integration services must –

1. be provided by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such services;
2. be based on a multi-disciplinary and inter-sectoral approach;
3. be sensitive to the linguistic needs and religious and cultural values of children and their families;
4. be rendered in a non-discriminatory manner;

5. strengthen and support family structures and render capacity building;
6. improve the well-being and resilience of families and children;
7. be aimed at the identification of high risk families and children;
8. focus on the strengths of families;
9. ensure that family plans are developed with the participation of all family members;
10. enable families to take responsibility and accountability for their involvement in programmes;
11. provide for the referral of recipients to other appropriate programmes;
12. if applicable, provide for family development, family skills training, family group conferencing and mentorship;
13. if applicable, address parenting skills, conflict management, role clarification, gender and partner abuse, unemployment, substance abuse and deviant behaviour;
14. 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;
15. ensure the provision of family centred programmes; and
16. facilitate the participation of family members and be aimed at the empowerment of families.

(f) Foster care supervision and arrangements around such supervision must –

1. be based on a care plan and an individual development plan for the child concerned;
2. include participation of the child and his or her family during the placement process;
3. take account of the need for maximum appropriate access to information to enable the child and his or her family to participate in decisions;
4. ensure support and capacity building with regard to the child and his or her foster parents;
5. 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;
6. 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;
7. be sensitive to the religious, cultural and linguistic background of the child;

8. take account of the child's physical, emotional and social needs;
9. 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;
10. encourage, ensure and provide the opportunity for choice, decision-making and the building and strengthening of rapport and relationships;
11. ensure that basic needs are appropriately met;
12. ensure that the care plan and individual development plan are based on a proper developmental assessment of the child;
13. 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;
14. ensure the provision of support and strengthening services to foster parents and the monitoring of their roles to ensure outcomes around placement;
15. be based on a clear written policy and procedures regarding foster care services; and
16. ensure that care plans and individual development plans are reviewed regularly with the participation of the child and foster parents, within their respective abilities.

(g) Integration into alternative care services must –

1. be rendered by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render integration programmes;
2. be based on a multi-disciplinary and inter-sectoral approach;
3. be sensitive to the linguistic needs and religious and cultural values of children and their families;
4. be aimed at meeting the needs of recipients as indicated during assessment;
5. ensure that the recipients feel emotionally and physically safe in the therapeutic situation and that information is kept confidential;
6. be conducted in a non-discriminatory manner;
7. make provision for the involvement of the child, his or her family and significant other persons;

8. ensure that recipients understand their rights and responsibilities and are provided with sufficient information to make informed choices;
9. ensure that recipients are provided with the name and contact number of the case manager or social worker;
10. ensure that a comfortable, child-friendly and safe environment is available for children;
11. ensure that programmes are conducive to the best interests of recipients;
12. provide adequate opportunity for additional consultation and counseling;
13. monitor the growth and progress of recipients;
14. be aimed at the minimisation of secondary abuse and trauma;
15. ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously;
16. allow for the review of programmes according to the needs of recipients;
17. be based on a care plan and an individual development plan for the child concerned;
18. include participation of the child and his or her family during the placement process;
19. take account of the need for maximum appropriate access to information to enable the child and his or her family to participate in decisions;
20. be conducted in a manner that takes account of the child's physical, emotional and social needs;
21. 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;
22. encourage, ensure and provide the opportunity for choice, decision-making and the building and strengthening of rapport and relationships;
23. ensure that basic needs are met appropriately;
24. ensure that the care plan and individual development plan are based on a proper developmental assessment of the child; and
25. ensure that care plans and individual development plans are reviewed regularly.

(h) Adoption services must –

1. be rendered by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render adoption programmes;
2. take the child's needs into account;
3. provide for assessment of the child;
4. include awareness campaigns to promote adoption as part of child protection services;
5. be based on appropriately formulated and implemented policy and procedures;
6. ensure that the child and his or her family, within their respective abilities, are actively involved in all stages of the adoption process;
7. be based on an inter-sectoral and multi-disciplinary approach;
8. 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;
9. ensure that all avenues to maintain the child within his or her own family are explored before adoption is considered;
10. ensure that the child's family has access to a variety of appropriate resources and support;
11. be based on permanency planning for children qualifying for adoption;
12. ensure that adoption is dealt with by expert adoption social workers functioning within a statutory accredited adoption system;
13. 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;
14. ensure that the child is involved in the decision-making process during adoption procedures;
15. 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; that the standards of inter-country adoption conform with the Hague Convention on Inter-country Adoption; that inter-country adoption does not result in financial gain for those involved; and that inter-country adoption is effected by the Central Authority;
16. provide for the recruitment, assessment and preparation of adoptive parents;

17. provide for the counseling of the child, his or her biological parents and the adoptive parents;
18. provide for after-care services to the adoptive family;
19. provide for the management of enquiries and interpretation of issues regarding descent and origin, accompanied by counseling of all parties;
20. provide for the adoption of a child by a single parent or partners;
21. provide for the tracing by an adult adopted person of his or her biological parents;
22. 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;
23. 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;
24. provide for assistance to adoptive parents to develop their personal and parenting skills;
25. provide for services to biological parents focusing on crisis intervention and life skills; and
26. ensure that registers are maintained and data captured.

(i) Permanency plans must –

1. be designed by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to develop such plans;
2. 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;
3. 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;
4. 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 – for example 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;

5. take account of the assessment framework, the assessment report and any other relevant information;
6. be family centred and focused on the strengths and capacities of family members;
7. be based on a multi-disciplinary and inter-sectoral approach;
8. be sensitive to the linguistic needs and religious and cultural values of children and their families;
9. make provision for the involvement of the child, his or her family and significant other persons;
10. provide sufficient and helpful information to the child, his or her family and significant other persons;
11. provide assistance to cope with changes in circumstances and environment;
12. include a specific plan for preparing, supporting and monitoring such changes;
13. be based on accepted policy and procedures;
14. encourage children to identify and express emotions appropriately and empower them to find effective and positive ways to express and manage emotions;
15. encourage positive interaction with service providers;
16. encourage children to build and maintain appropriate relations with friends, service providers, family members and significant other persons;
17. include support to children when relations break down and coping with the impact of having contact or not having contact with family members and significant other persons;
18. provide for adequate health care and education opportunities;
19. provide such capacity and support as may be required to enable constructive and effective behaviour;
20. include measures for preparing children for reintegration into their families and communities;
21. 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;
22. be reviewed regularly; and
23. be clear on goals and expectations.

(j) Education and information programmes must –

1. be rendered by service providers who have the appropriate training, support and supervision to maximise their abilities and capacity to render such programmes;
2. be based on a multi-disciplinary and inter-sectoral approach;
3. be rendered in an appropriate and intelligible language;
4. include fact sheets, pamphlets, guidelines, policies and procedures;
5. encompass awareness-raising, training and provide access to programmes;
6. promote the development of a human and children's rights culture;
7. be aimed at the early identification of high risk families and children;
8. promote gender sensitivity;
9. promote responsible values, attitudes and behavior; and
10. be based on accepted policies, legislation and programmes.

(k) Child-headed households:

(i) General

1. Siblings in a child-headed household should, as far as is possible and practicable, remain together.
2. The right to family life of any child-headed household should be promoted in accordance with the objectives of the Act.
3. The independent functioning of a child-headed household must be promoted as far as possible.
4. 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.

(ii) A safe and nurturing environment for children

1. Children must experience safety, support, security and feel cared for while living in a child-headed household, and have their basic needs met.
2. Adequate nutrition, water and means for preparing food must be available to meet the basic needs of the children in a child-headed household.
3. Adequate care of the health of children living in child-headed households must be undertaken.
4. Children living in child-headed households must be able to benefit from the right to rest, leisure and play.

5. 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.
6. The resources available to the household must be used equitably to promote the well-being of all children living in the child-headed household.
7. Children living in child-headed households must have access to psychosocial support.

(iii) Birth registration, social grants, social and community services, and access to education and the development of skills

1. Children living in a child-headed household must benefit from official registration of their births in terms of the Births and Deaths Registration Act, Act 51 of 1992.
2. Children living in child-headed households 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.
3. Children living in child-headed households may benefit from such other forms of social assistance, social relief of distress, emergency assistance or aid, as may from time to time be available, including food, goods or transport assistance
4. Children living in child-headed households who are of school going age must attend school regularly, and receive any necessary assistance to enable them to access education.
5. Children living in child-headed households 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.
6. Child living in child-headed households must be enabled to develop the skills necessary to participate in social and economic life.

(iv) Property

1. Children living in child-headed households must be enabled to assume responsibility for any property or possessions belonging to that household.
2. Children living in child-headed households must be 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.

(v) Exposure to harm

1. Children living in child-headed households should not be exposed to violence, abuse, maltreatment or degradation, to sexual abuse or to harmful or hazardous forms of child labour.
2. Children living in child-headed households must as far as possible be protected from community risk factors.

(vi) Disability, chronic illness and vulnerability

1. Child-headed households must accommodate any special needs of a child living in that household, including any disability, chronic illness or other vulnerability.
2. Child-headed households in which a child with a disability or a chronic illness resides must be assisted to obtain any special grants, assistance devices, educational or vocational programme, or other form of support necessary to ensure the optimal development of such child.

(vii) Participation and consultation

1. Child-headed households must strive for the participation of children living in the household in all matters affecting the functioning of the household.
2. Child-headed households must be consulted in any investigation by a designated social worker referred to in section 150(2) and (3) of the Act.

(vii) Monitoring and supervision

1. Children living in child-headed households must be encouraged to report any change in living arrangements to a designated social worker, a mentor appointed in terms of section 136(3)(a) of the Act or other suitable adult.
2. Children living in child headed households in respect of whom a mentor has been appointed in accordance with section 136(3)(a) 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.

(viii) 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 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 right to survival and development and to protection from harm.

D. 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:

(a) Outreach services must –

1. be aimed at reaching out to especially vulnerable children and families in order to meet the needs of the children;
2. be aimed at meeting the needs of children in the context of family and community;
3. be aimed at the development of community-based services and facilities to promote safety of children in communities;
4. ensure that children and families are able to access documents, including birth certificates, to facilitate access to social security and other social services;
5. be accessible to children in different settings, including homes, schools and partial care facilities;
6. 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;
7. provide opportunities for children to identify their needs in their communities;
8. be based on a multi-disciplinary and intersectoral approach;
9. promote the identification of children at high risk of getting into the child care or criminal justice system;
10. include home-based, home visitation and community outreach support to particularly vulnerable children and families, including children infected and affected by HIV/Aids and other chronic illnesses, children with disabilities as well as orphans;

11. teach communities to recognise the signs of abuse and deliberate neglect of children;
12. utilize community strengths and resources to promote safe neighbourhoods for children;
13. be aimed at addressing community risk factors including abuse, violence, substance abuse and crime;
14. be conducted in a non-discriminatory manner; and
15. be sensitive to language, religious, cultural norms and beliefs of communities.

(b) Education, information and promotion programmes must –

1. provide education and awareness on children's rights and responsibilities;
2. promote the importance of the early years, particularly early childhood development;
3. promote advocacy for the rights of children as well as for the needs of the most vulnerable children and families;
4. provide children and families with information on how to access health and appropriate social services;
5. provide information and support to high risk families;
6. provide information and support to families affected by HIV/Aids and other chronic illnesses;
7. provide information on early identification of risk factors in children and families;
8. use available media and other communication measures;
9. be delivered in the language of the target groups being reached;
10. provide information on the nature and type of services to children, families and communities;
11. promote values aimed at protecting children in their communities;
12. be provided in the language of particular communities and be sensitive to the cultural values and norms of such communities;
13. promote opportunities for community dialogue on matters pertaining to children; and
14. provide information on community risk factors and available resources to address them.

(c) Therapeutic programmes must –

1. provide psychosocial care and support to children and families;
2. promote the emotional well-being and growth of the child;
3. be appropriate to the developmental needs as well as the developmental stage of the child;
4. be delivered in an emotionally and physically safe environment and may not be harmful to the child;
5. must be conducted by service providers with appropriate training, support, supervision and mentoring;
6. be based on the assessment of the particular needs of each individual child and family;
7. assist recipients to use their strengths whilst they are assisted with their psychosocial needs;
8. be conducted in a non-discriminatory manner;
9. involve the child, his or her family and significant persons;
10. ensure that recipients are provided with a name and contact number of the service provider;
11. provide additional consultation and counselling;
12. ensure that proper records are kept and data captured;
13. be aimed at minimisation of secondary abuse and trauma;
14. ensure that recipients are free to express dissatisfaction with service providers and that concerns and complaints are addressed seriously;
15. be reviewed on a regular basis according to the needs of the recipients; and
16. be sensitive to the linguistic needs and religious and cultural norms and values of children and their families.

(d) Family preservation must –

1. be aimed at the identification of high risk families and children;
2. be aimed at preventing the recurrence of problems in the family environment that may harm children or adversely affect their development;
3. address factors that put children at risk of imminent removal from their environment;
4. address the particular needs of families in their diverse forms;

5. be rendered by service providers with appropriate training, support and supervision to maximise their abilities and capacity to conduct assessments and appropriate interventions;
6. 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;
7. be aimed at improving the well-being and resilience of families;
8. be home-based and family-centred with family members seen as the main focus;
9. focus on and utilize the strengths of families;
10. ensure that family plans are developed with the participation of family members;
11. teach skills and develop capacity of parents, care-givers and families to address family risk factors;
12. enhance positive family relations and promote a family climate that promotes the care, protection and development of children;
13. ensure that children are safe from harm whilst in the family;
14. promote communication and positive relationships within families;
15. strengthen extended family as well as neighbourhood and community networks in promoting the well-being of the child;
16. promote reunification of children with their families;
17. ensure the participation of children, family members and other significant people in the child's life;
18. be based on a multi-disciplinary and intersectoral approach;
19. enable families to take responsibility and accountability for their involvement in programmes;
20. be sensitive to the linguistic needs and religious and cultural norms and values of children and their families; and
21. have a system for monitoring and assessing impact of programme.

(e) Skills development programmes must be –

1. aimed at improving children's and adult literacy;
 2. aimed at alleviating poverty and its adverse effects on children;
 3. aimed at creating employment and improving family income;
 4. aimed at providing skills for the care of sick, disabled and chronically ill children;
- and

5. sensitive to the linguistic needs and religious and cultural norms and values of children and their families.

(f) Diversion programmes must –

1. promote the dignity and well-being of the child, and the development of his or her sense of self-worth and ability to contribute to society;
2. be appropriate to the age and maturity of the child;
3. be based on an assessment of the particular needs of the child, using an approved developmental assessment framework which covers:
 - (a) Details on risk factors associated with offending that are present in the child's life, including –
 - social relationships, including family and peer relationships;
 - education, including school grade, attendance and performance;
 - history of antisocial behaviour;
 - substance abuse;
 - medical/psychiatric history;
 - whether the child has been found in need of care; and
 - the child's developmental areas that the programme is designed to address;
 - (b) strength assessment;
4. not interfere with the child's schooling;
5. impart useful skills;
6. not be exploitative, harmful or hazardous to a child's physical or mental health;
7. include a restorative justice element which aims at healing relationships, including the relationship with the victim;
8. 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;
9. involve parents and care-givers where available;
10. be presented in a location reasonably accessible to the child;
11. ensure that a child who cannot afford transport in order to attend selected diversion programme should, as far as is reasonably possible, be provided with the means to do so;
12. promote the participation of children in decision-making;

13. be provided by suitably trained persons, with regular supervision;
14. have a system for monitoring the child's progress, including his or her compliance with the conditions of a diversion order;
15. have a system for monitoring the quality of programme delivery;
16. adhere to national policy guidelines; and
17. be sensitive to the linguistic needs and religious and cultural norms and values of children and their families.

(g) Temporary safe care

1. Placement of a child in such care must be based on the assessment of the needs of the child.
2. Temporary safe care must promote the safety, security, dignity and well-being of the child.
3. Temporary safe care service providers must be properly screened and approved in the manner contemplated in regulation 63.
4. Temporary safe care service providers must demonstrate the ability to deliver an effective and efficient service to the child.
5. Temporary safe care may not be disruptive to the child's life and regular routine.
6. 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.
7. The identity and location of temporary safe care may not be revealed to certain persons for the protection of the child.
8. Temporary safe care must be sensitive to the linguistic needs and religious and cultural norms and values of children and their families.
9. There must be continuous monitoring and assessment of the well-being of a child in temporary safe care.

(h) Assessment of programmes must –

1. be undertaken by service providers who have the appropriate training, support and competencies to conduct such assessments;
2. be conducted annually;
3. be undertaken in response to any well-founded report or complaint submitted to the provincial head for social development;

4. enable and facilitate sustained quality service delivery through support, guidance and capacity building;
5. be strength-based, holistic and appropriate to the cultural context of the programme;
6. be aimed at promoting decision-making about future programmes;
7. result in the development of a plan for capacity building and improved service delivery within 30 days after assessment;
8. 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;
9. monitor adherence to the minimum norms and standards prescribed in this Act and to take decisive and appropriate action where departures from the norms and violations occur;
10. be done with the participation of children and programme staff;
11. consider the following factors:
 - a. The degree to which the programme reached the intended target;
 - b. The demographic profile of the target group;
 - c. whether recipients are receiving quality services;
 - d. the impact of the intervention on children, families and communities;
 - e. the availability and efficient utilization of programme resources;
 - f. quantitative and qualitative data on targets and services rendered as required by regulatory bodies;
 - g. sustainability of programme efforts;
 - h. ability of staff to implement the programme;
 - i. management function, ability and competency; and
 - j. compliance with registration conditions as well as current national statutory financial regulations;
12. ensure participation of families and communities;
13. ensure the safety and well-being of children;
14. be aimed at addressing and meeting the developmental needs of children;
15. be aimed at building community support for programmes;
16. ensure that programmes promote positive social values; and
17. may be conducted by a multi-disciplinary panel.

E. 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:

(a) Size of facilities and ratios of staff to children

1. The ratio of child and youth care workers to children must be no less than 1 child and youth care worker on duty for every 8 children.
2. In a child and youth care centre that is registered to provide programmes for –
 - (i) the secure care of children in terms of section 191(2)(g) – (i) of the Act; or
 - (ii) the care of children with disabilities and chronic illnesses in terms of section 191(3)(a) of the Act,
 the ratio of child and youth care workers to children must be no less than 1 child and youth care worker on duty for every 5 children.
3. The Centre may depart by up to 50% from the ratios set out in paragraphs 1 and 2 for night shift.
4. Every child and youth care centre must employ at least one social worker, and the specified ratio is one social worker to 60 children.
5. A child and youth care centre registered to provide a secure care programme, may not accommodate more than 60 children, provided that separate management units each accommodating 60 children may be located at the same venue.
6. A child and youth care centre registered to provide a programme for children with behavioural, psychological or emotional difficulties, or for children placed under the Criminal Procedure Act, 1977 (Act No. 51 of 1977), must employ at least one psychologist, the specified ratio is one psychologist to 60 children.
7. A child and youth care centre that is registered to provide a programme for the treatment of children with a psychiatric condition in terms of section 191(3)(d) of the Act must utilise a multi-disciplinary team approach involving social workers and child care workers employed at the centre, must employ at least one psychologist, and must provide access to psychiatric care as required.

8. The certificate of registration may deviate from the ratios set out in this subsection, for reasons stated in the certificate itself, by a margin of no more than 25% below the stipulated ratio.

(b) Residential care programmes, therapeutic programmes and developmental programmes

1. Every child and youth care centre must offer a residential care programme that provides a therapeutic milieu for the care and development of children.
2. A child and youth care centre may be registered to provide more than one of the programmes listed in section 191(2) of the Act, in combination.
3. Children in secure care programmes must as far as possible be kept separately from children in other programmes. They 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.
4. 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.
5. Children must be received in a manner (and into a climate) which is caring and safe, and which minimises trauma and maximises developmental opportunity during engagement/admission processes.
6. Children must receive services in a safe environment in which they are protected from physical, social and emotional harm, from self and others.
7. Children must be accommodated in a safe, healthy, well-maintained environment, which provides appropriate access to the community (as permitted in terms of restrictiveness requirements) and which meets their needs in terms of privacy, safety and well being.
8. All reasonable provisions must be made to ensure that the children and staff are safe from the risk of fire, accidents, and other hazards.
9. Children must receive services in accordance with their care plan and 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.

10. The privacy and confidentiality of children must be respected and protected.
11. The child must have access to legal or other assistance to prepare for any court process that he or she is involved with.
12. Children must receive emotional and social care which enables quality interactions with adults and peers, and which promotes positive, sustained relationships at school and with families, significant others, and friends.

(c) Assessment of children in child and youth care centre

1. Assessment of a child in a child and youth care centre must be undertaken by a multi-disciplinary team.
2. 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.
3. Assessment must be strengths-based, holistic and appropriate to the child's culture, language and developmental stage.
4. Assessment must be done with the participation of the child, and as far as possible with the child's family.
5. The assessment process must aim to increase insight and competency and must include shared decision-making.
6. 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, only reviewed.

(d) Care plans, individual plans and reunification services

1. Every child in a child and youth care centre has the right to a care plan and an individual development plan, which includes a plan for reunification, security and life-long relationships.
2. Every child has the right to participate in formulating their care plan and individual development plan, to be informed about their plans, and to be involved in decisions to make changes to their plans.
3. The individual development plan must be based on an appropriate and competent assessment of their developmental needs and strengths and, where possible, is in the context of their family and community environments.

4. The family of the child, or other persons with bonds to the child, must be involved in the child's care plan and individual development plan, unless it is shown that this would not be in the best interests of the child.
5. There must be a review of each child's placement and individual development plan at least once for every six months that the child remains in the centre.
6. Every child must be provided with appropriate rituals, programmes and support to enable their effective transition from one placement or programme to another, and to enable their integration into their family and community.

(e) Minimum standards for isolation

1. 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 or herself or others, for a very limited period of no longer than two hours, for the purposes of providing support and giving him or her time to regain control and dignity.
2. Any child isolated from other children must be under the constant observation of a social worker or 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.
3. No child may be isolated or locked up as a form of discipline or punishment.
4. 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 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.

(f) Access to adequate health care and access to schooling and education

1. 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;
 - (ii) treatment of children addicted to dependence producing substances in terms of section 191(3)(c) of the Act; or
 - (iii) where there are a large number of babies in a centre,

- the certificate of registration must stipulate the number of health care workers to be employed.
2. All children in child and youth care centres must have access to education, or other appropriate skills training programme.
 3. The education referred to in paragraph 2 must, as far as possible, be accessed at a school or other training facility in the community.
 4. Where children cannot access education or other appropriate skills training in the community, such education or skills training must be provided at the child and youth care centre.

F. 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:

(a) A safe environment for children

1. Children must experience safety and feel cared for while at the drop-in centre.
2. Premises inside and outside must be clean, safe and maintained to a reasonable standard.
3. Equipment used must be safe, clean and well maintained.
4. There must be adult supervision at all times.
5. All reasonable precautions must be taken to protect children and staff from the risk of fire, accidents or other hazards.
6. A first aid kit must be available and maintained, and persons providing services at a drop-in centre trained to administer it.
7. Any substances, cleaning materials or dangerous objects must be safely stored and kept out of reach of children.
8. Where obvious signs of injury or trauma are detected, a child must be referred to a public health care centre for further assessment and treatment, and his or her parents or care-giver informed as soon as possible, if their whereabouts are known.
9. 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.

(b) Safe drinking water

1. Safe and clean drinking water must always be available.
2. 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 liters of water.
3. All water containers must be covered at all times.

(c) Hygienic and adequate toilet facilities

1. There must be safe and hygienic toilet hand washing facilities.
2. Where sewerage systems are available, there must be one toilet and one hand washing facility for every 40 children.
3. 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.
4. 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.

(d) Access to refuse disposal services or other adequate mean of disposal of refuse

1. Where possible, refuse must be disposed of according to municipality regulations.
2. Waste must be kept out of reach of children.
3. Waste disposal areas must be regularly disinfected.

(e) A hygienic area for the preparation of food

1. There must be a separate, clean and safe area for the preparation of food as well as for cleaning up after food preparation.
2. There must be a separate space for the serving of food to children.
3. There must be cooling facilities for the storage of perishable food.
4. There must be adequate storage of food.