



COMMENTS ON DRAFT REGULATIONS DRAWN UP BY THE DEPARTMENT
OF SOCIAL DEVELOPMENT

SUBMITTED BY: THE CHILD AND FAMILY WELFARE SOCIETY OF
PIETERMARITZBURG ON BEHALF OF THE CHILD
ADVOCACY PROJECT (CAP)

NOTE : A general comment on the forms and the numbering thereof. Both Justice and Social Development have numbered their forms from FORM 1 and so there are duplicate Forms 1- 14 . Not only do these have to be renumbered BUT reference to them in the regulations has to be amended so that they correspond.

CHAPTER 2 : Social Cultural and Religious Practices (Chp 12 of the Act)

Regulation 3 (3) : Suggest form be kept for a minimum period of 2yrs until child at least reaches age of majority as it is likely any mal-practise will take more than 12mths to come to light.

Regulation 4 : penetration suggests an invasive procedure and should by no means be condoned . *Recommend removal of this word and substitution of the word “inspection”*

Regulations 8 & 9 : Male Circumcision – noted no regulations for cultural circumcision and in view of the current problems with this practise suggest these be incorporated taking into account the processes involved in this cultural practise.

CHAPTER 3 :Parental Responsibilities and Rights

Regulation 18 (1) (b) - not sure to what body this refers to and since this is a PREREQUISITE need more clarity .

Regulation 18 (1)(c) : No mention of social work. Experience should be the key factor and should be with regard to all professions

CHAPTER 5 ; Partial Care

Regulation 20 : Concern about the following category being omitted :-

- *Day mothers with +6 children . Need to regulate these due to numerous problems surrounding the care of children in such places*

Pleased to note crèches at casinos although not requiring to be registered will still have to comply with the norms and standards as referred to in Section 80 of the Act and included in Annexure A.

Regulation 23 : Recommend one stop registration process to avoid duplicate processes for those needing to register for both partial care and ECD programmes.

Regulation 24 : No turn around time given for the Department to comply with the registration process. Need to include

Regulation 25 (7) ; The removal of the term “baby hotel” . It is NOT a facility recognised by professionals , does not appear to be mentioned elsewhere AND should be discouraged from becoming a legally recognised category of care .

Regulation 26 : Here again need to make provision for the child minder category referred to in comments given above on Regulation 20

Regulation 27 : Concern no provision is made for the IMMEDIATE closure of a facility in cases where evidence of abuse is found.. The Department of Social Development should be given the power to order such and there should be a specific form made available for this purpose.

CHAPTER 6 : **Early Childhood Development**

Regulation 30 : Comments already made on Regulation 23 find application here .

Regulation 32 : Not always workable due to skills shortage. Agree we should strive toward this but there should be a phase in process linked with developmental opportunities and capacity building of staff.

CHAPTER 7 : **Child Protection**

Norms and Standards – *the placing together of prevention and early intervention together with child protection in the norms and standards is problematic – they should be separated out as a higher level of expertise is required in child protection due to the delivery of statutory services and of course there should be strict controls on who supplies such services BUT this is not necessarily the case for prevention and early intervention services. This does not mean however that the latter should not be regulated BUT the same as strict controls need not apply.*

Regulation 36 (5) : Again no turn around time given for Department to comply. Due to problems with the Department complying with issuing of orders etc it is important that this should be specified.

Statutory services are a government responsibility and it is strongly recommended that a clause should be added to this section stating that the Department of Social Development will fund such programmes registered by a designated child protection organisation (and NOT SUBSIDISE) as is currently the case!

Regulation 39 : Re: removal of offender should read 110(7) (b) and NOT 110 (6)(b)
Also , no response time given by SAPS – suggested 48hrs

Regulation 40 (3) Suggest the addition of an extra clause (i) - support the wording given by Johannesburg Child Welfare Society”any unexplained delay in seeking medical treatment for a child who is seriously injured should be examined as a possible indicator of abuse or neglect”.

Regulation 43 (1) (a) Although the ideal this may not always be possible due to personnel shortages in the field . Suggest this section is amended to read.....” *be addressed where at all possible in a language which he or she can understand but where this is not possible arrangements are explored for the assistance of an interpreter in this regard if the use of such would be considered to be in the child’s best interests.*”

CHAPTER 11 : Prevention and Early Intervention

Regulation 58 - National Norms and Standards Regarding the outreach services as specified in the annexure..... Not every registered service would be in a position to provide all of these which the wording implies and whilst all would be valuable and complete the basket of services that the MEC is required to ensure are provided maybe reference should be made to that and that individual organisations providing outreach services would be expected to provide one or more of the following services as listed.

CHAPTER 12 : Children in need of care and protection

Regulation 59 (4) (c) : Regulations refer to 21 days, Act refers to 14 days – conflicting information

Regulation 59 (4) (d) ; As this is rarely practical it is suggested that this sub-section be omitted. Where the Court deems it to be necessary there is nothing to stop the court for requesting the social worker and child and family to appear in court. By omitting this section one avoids the interpretation by a magistrate of having all parties repeatedly present for postponements especially with the shortage of resources in this sector both human and otherwise.

Regulation 61 : Report by a designated social worker

61(2)(b) (v) – Permanent foster-care with a non-related person or cluster-foster-care scheme should not be a consideration at the beginning of the placement but only after the two year review . Suggest latter half of sentence be deleted to read – “ the possibility of placing the child in permanent foster-care with relatives ~~or non-relatives or with a cluster-foster care scheme~~”

Regulation 62 : Relating to abandoned or orphaned children

62 (1) : This can prove to be an extremely costly exercise if the true meaning of advertisement in terms of the media is applied. Clarity on what is meant by advertisement is required as advertisements cost money. Perhaps the intention in this drafting was to have an article printed (however there again social workers would be at the mercy of the media as to when such publications are made as they are only done when there are spaces available and such delays could prove to be prejudicial to the child). However,if the use of the word advertising is correct in the media sense and there are costs involved then the responsibility for the payment thereof should lie with the State Department of Social Development and the regulations should specify such

CHAPTER 13 : Alternative Care

Regulation 64 (2)(c) : Concern that making this now a responsibility of the Childrens’ Court may clog up the legal system further. Should this function of granting LOA to children in child and youth care centres not remain with the Department of Social Development ?

Regulation 66 (3) : It is not clear what is meant here and under what circumstances a report would be requested and by whom ? A provisional transfer report is usually initiated by the supervising social worker.

Regulation 67: This regulation is cumbersome and difficult for a non-legal person to understand. Suggest it be broken down to read as follows –
“ The procedures for assessing the best interest of the child and for the reunification of the child with his or her immediate family or other family members as prescribed in regulation 66 ~~pertaining to the 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 the Act.”

Regulation 68 (1) &(2) : It is not appropriate to have all children moving placement escorted especially since some may have been on provisional transfer already and it becomes a paper exercise. Other times the foster-parent will fetch a child. An escort (note spelling)although sometimes necessary is not always required and should not be specified then as being obligatory. Also in terms of sub-section (2) it is not practical for all such travel arrangements to be made by the provincial department of social development and should rather be made by the supervising agency or department.

Regulation 69 (2) : refers to 90 days for a child +18yrs to extend order why not 60 days in consistency with rest of Act ? and other extensions sought. Recommend this be changed to 60 days

CHAPTER 14 : Foster-care

Regulation 70 : Welcomed . However , Sub-section (2)(b) it is recommended that the foster-parent must not only notify the supervising social worker but seek permission there-from for the delegation of the day to day care of a foster-child if for a period of more than 1 week.

Cluster foster-care

Concerns still exist with this concept and the regulations do little to alleviate these.

Regulation 80(3) : Use of word *may* of concern here and how it will impact on implementation

CHAPTER 15 : Child and Youth Care Centres

Norms and Standards : whilst welcomed concern about the additional staff requirements and the fact that Ngos who provide the bulk of these care facilities will be unlikely to afford these. Recommend that the State provide funding for these posts and this be written into the regulations.

The requirement for a facility providing services for children with behavioural problems to employ at least one psychologist is welcomed BUT this post must be funded by the appropriate State Department to make it viable otherwise Ngos are not going to run such facilities and there will be a placement problem as the State Department has to date taken little responsibility in this regard. Same comment applies in respect of facilities accommodating children with psychiatric conditions.

Assessment of children (c)(2) : Who is doing this ? Concern that the 48hrs turn around time from child's admission might not always be practical or possible . Suggest rephrase to state “ within 48hrs of child's admission.....but where this is not practically possible no later than within 1 week of the child's admission”

Regulation 86 (1): Whilst recommended may not always be practically possible to notify Board members (who are volunteers) and the means of reporting is not specified so suggest the following re-wording

“ The incidents.....must be reported verbally and in writing (including fax/e-mail) to the manager on duty as soon as possible.....Who in turn must report in writing (incl fax/e-mail) to the Chairperson of the Board of Management Committee or in his/her absence his/her designate within 12hrs of receipt of such notice”

Regulation 91 : It is felt that as written this regulation could lead to a lot of extra paperwork where children are kept overnight in hospital for observation and this would be impractical. Feel that this section should find application only when a child is admitted for a period of longer than 3 days. To be rephrased to read “Where a child is admitted to hospital for a period of more than 3 days.....such centre”.

Regulation 93 (c): No turn around time given to Department. Suggest this be specified to read “ consider the application ~~within a reasonable time~~ two months after receipt.....comment.”

Regulation 101 (1) : Cost implications here for national advertising for any and all personnel. Strongly recommend that this requirement be limited the conditions of employment of senior personnel. The manager of the facility must be responsible for the employment of all other personnel and must appoint a co-interviewer from his/her senior staff .

Regulation 101 (2)(c) : Recommend that this be amended to read “ and where possible a community representative” as it is not always practical – Ngos battle to get volunteers and this is an additional burden being placed upon them. Also as per 101(1) suggest this only finds application when employing senior staff. The manager of the facility must be responsible for the employment of all other personnel and must appoint a co-interviewer from his/her senior staff .

Forms – Have not been able to find a form that replaces the current Form 8 which Court uses for orders issued . Query an omission ?

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