

- (k) be rendered in a manner that is free of all forms of discrimination.

CHAPTER III
SERVICE PROVIDERS
[Section 7(1)(c)]

Manner for entering into contracts with service providers

16.(1) Any service provider who renders services related to substance abuse as contemplated in section 7(1)(b) of the Act must, if in need of financial assistance from the Department, apply to the Minister to enter in a contract for financial assistance and the contract must include the-

- (a) nature of the relationship between the Minister and the service provider;
- (b) type of service to be provided by the service provider;
- (c) amount of the financial award including capital and operational funding;
- (d) obligations of the service provider which include, reporting and accounting;
- (e) roles and responsibilities of the service provider and the Minister;

- (f) procedures for monitoring and evaluation;
- (g) duration of the contract;
- (h) termination of services;
- (i) remedies for failure to comply with conditions for the management of assets; and
- (j) dispute resolution mechanism.

(2)(a) The application referred to in sub-regulation 16(1) must conform to the following manner:

- i. Any service provider referred to in sub-regulation (1) who wishes to apply for financial assistance must complete **Form 6** in the Annexure;
- ii. The service provider referred to in sub-regulation (i) must attach to **Form 6** all the documents required in terms of **Form 6** and submit a completed **Form 6** to the Department.
- iii. The application referred to in sub-regulation (1) must be submitted by-
 - aa. registered mail to the private bag available in **Form 6**; or
 - bb. handing it in at Provincial office.

(b) The application contemplated in sub-regulation 16(1) must be made at least 90 days before the beginning of the Department's financial year and must be accompanied by a-

- i. comprehensive package of services being rendered or to be rendered; and
- ii. profile of the community in which the services are or will be rendered.

(c) **Form 6** must be available at every office of the Department and must also be accessible from the website of the Department.

(d) The applicant must-

- i. attach to **Form 4** all the necessary documents required in terms of **Form 4**; and
- ii. submit the completed **Form 4** to the Department.

(e) The application contemplated in this regulation may be submitted by-

- i. registered mail to the address specified in **Form 6**; or
- ii. handing it in in the office of the relevant Province.

(f) The application contemplated in sub-regulation (1) must be submitted at least 90 days before the beginning of the Department's financial year and must be accompanied by a-

- i. comprehensive package of services being rendered or to be rendered; and
- ii. profile of the community in which the service is or will be rendered.

Conditions for receiving of financial assistance by service providers

[Section 7(2) (a)]

17.(1) Any service provider rendering services related to substance abuse who wishes to apply for financial assistance as contemplated in section 7(1)(a) of the Act must-

- (a) be registered in terms of the Act;
- (b) be registered as a Non-Profit Organisation in terms of the NPO Act, 1997 (Act No. 71 of 1997);
- (c) be solvent if an existing service provider or if a new venture, the directors must not have been declared insolvent;

(d) provide services or intend to provide services to persons affected by substance abuse;

(e) where applicable, demonstrate ability to provide effective and efficient services;

(f) promote inclusiveness and diversity in the management structure;

(g) be able to account for the utilisation of financial assistance in terms of the prescripts of the Public Finance Management Act 1 of 1999 (PFMA); and

(h) be legally registered in terms of any other service-specific related legislation.

(2) Financial assistance contemplated in this regulation must only be utilised for the purpose which it was approved for.

Accounting and compliance measures

18. Upon receipt of financial assistance from the Minister, the service provider referred to in sub-regulation 17(1), must-

(a) keep records of their financial transactions;

(b) have an accounting policy in place which must be utilised for the purpose of the financial assistance received;

(c) have accounting books audited by a firm of chartered accountants; and

(d) submit a copy of its financial statements to the Minister within a period of six months after the auditing envisaged in sub-regulation 18(c) is conducted.

**Remedies for non-compliance with conditions, accounting measures and
compliance measures
[Section 7(2)(b)]**

19.(1) The Minister may upon non-compliance with any of the conditions, accounting and compliance measures contemplated in regulations 17 and 18-

(a) cancel the contract for financial assistance;

(b) direct the service provider contemplated in sub-regulation 17(1) to return the finance or a *pro rata* thereof to the Department.

(2) The *pro rata* referred to in sub-regulation (2) must be based on the extent of deviation from the compliance with conditions, accounting and compliance measures referred to in regulations 17 and 18.

- (3) The Minister is not limited to the remedies contemplated in sub-regulation (1) as the Minister may utilise any other remedies that exist in law.

[Section 7(2) (d)]

**Conditions for management of assets bought by service providers with
Government funds**

20. (1) Assets bought by service providers with government funds must-

- (a) only be utilised for the purpose they were purchased for and continue to be used as such even after the funding ceases to be offered until the Minister determines otherwise;
 - (b) be comprehensively insured;
 - (c) be recorded in an asset register which must updated whenever there are changes; and
 - (d) have their book value evaluated and determined on half yearly.
- (2) The service provider referred to in sub-regulation (1) —

(a) must within 30 days of buying, forward to the Minister the description, details and a certified copy of proof of the transaction relating to the buying for purposes of entry into the register opened and maintained by the Minister; and

(b) bears full responsibility for the said assets and must ensure that mechanisms are in place to prevent theft, losses, wastage and misuse of the said assets.

Conditions for disposal of assets bought by service providers with Government funds

21.(1) Service providers contemplated in section 7 of the Act must get permission from the Minister whenever they intend to-

- (a) sell;
- (b) transfer from one place to another;
- (c) destroy; and
- (d) write off,

any asset referred to in section 7 of the Act.

(2) Where the service provider referred to in sub-regulation (1) closes down its business operations, the Minister may direct that the assets contemplated in sub-regulation (1)-

- (a) be transferred to another service provider;
- (b) if not in a usable condition, be destroyed and written off;
- (c) be auctioned to the highest bidder and proceeds thereof be paid to the Department.

CHAPTER IV
COMMUNITY-BASED SERVICES
[Section 12(2)(a) and (b)]

National norms and standards for community-based services
[Section 12(2)(a)]

22.(1) National norms and standards for prevention and early intervention services as envisaged in Chapter II of these regulations apply to community-based services with the necessary changes as required by the context.

- (2) The multi-disciplinary team referred to in regulation 3 must-

(a) involve service users and family during the development of the individual treatment plan;

(b) ensure that the individual treatment plan reflects the-

- i. purpose;
- ii. objectives;
- iii. treatment methods;
- iv. activities;
- v. time frames; and
- vi. responsible role players,

including family members to carry out each activity and resources to be utilized;

(c) discuss individual treatment plan with individuals and or families for adoption; and

(d) update the plan in conjunction with regular assessments and identification of lifestyle risk.

- (e) provide treatment to service users which-
- i. must recommend, where necessary, that service users and children be referred for admission to a treatment centre on the same day or have short waiting time;
 - ii. caters for a wide range of opening hours to facilitate access to services for service users with employment or family responsibilities;
 - iii. is readily available;
 - iv. adheres to internationally accepted principles of effective treatment;
 - v. where, possible refer a service user for detoxification in the manner contemplated in regulation 4;
 - vi. is suitable for-
 - aa. individuals;
 - bb. vulnerable groups; and
 - cc. communities.
 - vii. promotes abstinence, substance use reduction and harm reduction;

viii. focuses on reversing the negative health and social consequences associated with substance use and dependence;

ix. is therapeutic in nature;

x. assists service users and children to utilise their strengths whilst being assisted with their psychological needs;

xi. must be delivered in an emotionally safe environment;

xii. promotes the emotional well being and growth of service users and children; and

xiii. provides psychological care and support to service users and children.

(f) Treatment referred to in sub-paragraph (e) must be conducted by an appropriately qualified service provider who is also able to support, supervise and mentor service users and children.

(3) Aftercare must-

(a) be available regularly;

(b) individualised as per the service user's requirements;

(c) include family and support systems;

(d) have motivational elements;

- (e) focus on reintegration into community;
- (f) be developmental in approach;
- (g) be time-bound;
- (h) provide for a room for relapse;
- (i) be brought to the service user and not the service user expected to look for the service;
- (j) be accessible after hours for clients who work or have other responsibilities during the day;
- (k) be accessible from satellite offices or centres; and
- (l) be affordable according to sliding scale.

Types of community-based services
[Section 12(2) (b)]

23. The following are the types of community-based services which all community-based service providers are expected to provide:

- (a) Prevention.
- (b) Early intervention.
- (c) Treatment.
- (d) Aftercare.

Manner for provision of community-based services
[Section 12(2)(b)]

24. Community-based services must be provided by-

- (a) developing individual treatment plans that may include psychological, social and medical services;
- (b) extending treatment services to individuals, families and groups and not excluding significant others;
- (c) making referrals to other service providers for further treatment in the case of need;
- (d) introducing youth friendly programmes; and

- (e) complying with the minimum norms and standards as contemplated regulation 1.

CHAPTER V
REGISTRATION OF COMMUNITY-BASED SERVICES
[Section 14(3)]

Conditions and requirements for registration of community-based services

25. (1) Any person who wishes to register community-based services as contemplated in section 14(2) of the Act must-

- (a) identify and provide information with regard to the need for community-based services in the area;
- (b) indicate the number of service users who are likely to be offered the service;
- (c) give details of the type of services to be offered;
- (d) provide the list of persons who will administer the services including their-

- i. full names;
- ii. identity numbers; and
- iii. qualifications;

(e) provide information relating to resources available to provide the service as the HOD may determine;

- (f) be a South African citizen or permanent resident;
- (g) not be a person who has a history of dealing in drugs; and
- (h) apply in a manner contemplated in Regulation 26.

(2) In addition to the provisions of sub-regulation (1), the person contemplated therein must –

- (a) comply with the norms and standards contemplated in **CHAPTER VI**;
- (b) be registered as a legal entity in terms of the Act and the case where the person intends to access funding from the Department be registered in terms of the Non Profit Organisations Act, 1997 Act No.71 of 1997; and
- (c) provide such additional information as the HOD may require for proper consideration of the application.

Application for registration of community-based services

26. Any person who wishes to apply for the registration of community-based services must apply in the manner envisaged in regulation 6.

Approval or declining of application for registration of community-based services

27.(1) The HOD must, after consideration of the application contemplated in section 14(2) of the Act and regulations 25 and 26-

(a) If he or she is satisfied that the person contemplated in regulation 25, has complied with the provisions of regulations 25 and 26, grant such an application; or

(b) If he or she is not satisfied that the person contemplated in Regulations 25 and 26 has complied with the provisions of regulations 25 and 26, decline such an application.

(2) In granting the application contemplated in sub-regulation (1)(a) the HOD must -

(a) indicate the duration of the registration which may not be longer than a period of five years;

(b) indicate that the granting of the application for registration is subject to the continued compliance with the provisions of regulations 25 and 26; and

(c) issue the person referred to in regulation 25 and 26 with a registration certificate.

(3) Where the HOD has declined the application contemplated in sub-regulation (1)(b) the HOD must provide written reasons for his or her decision and communicate them to the person referred to in regulation 25 and 26.

Temporary registration of community-based services

28.(1) The HOD may, after consideration of an application contemplated in Regulation 26, and -

(a) if not all the requirements and conditions for registration have been complied with;

(b) in his or her opinion the requirements and conditions contemplated in sub-regulation (1)(a) can be complied with within a period of not more than 12 months; and

(c) if in his or her opinion none compliance with the conditions and requirements contemplated in sub-regulation (1)(a) shall not have an adverse effect on the quality of service to and the interest of service users if such conditions and requirements are met within a period not exceeding 12 months grant temporary registration and issue a registration certificate similar to **Form 7**.

(2) A temporary registration contemplated in sub-regulation (1) shall be-

(a) for a period not exceeding 12 months;

(b) subject to the person referred to in regulations 25 and 26 complying with conditions as the HOD may determine;

(c) subject to the person referred to in regulations 25 and 26 complying with conditions referred to in sub-regulation (2)(b) within a period as the HOD may determine which period shall not be longer than 12 months; and

(d) subject to the person referred to in regulation 25 providing quarterly and satisfactory reports on compliance with conditions contemplated in sub-regulation (2)(b) within a period not longer than 12 months.

Termination or withdrawal of registration of community-based services by HOD

29.(1) The HOD may, subject to sub-regulation (2), terminate or withdraw registration granted in terms of regulations 27(1)(a) and 28(1) and (2) if the person contemplated in regulations 25 and 26 has, during the subsistence of such registration, failed to comply with any condition imposed by the HOD.

(2) Before acting in terms of sub-regulation (1) the HOD must -

(a) give a written notice and the reason, to the person contemplated in regulations 25 and 26, of his or her intention to terminate or withdraw the registration granted in terms of regulations 27(1)(a) and (c) and 28(1) and (2);

(b) call upon such person to, within a period of 30 days, provide written reasons why such registration should not be terminate or withdrawn; and

(c) cause the notice contemplated in sub-regulation (1)(a) to be sent by a registered mail to the Provincial office, by the person referred to in sub-regulation (2)(a).

(3) The HOD must, within 30 days of receipt of written reasons envisaged in sub-regulation (2)(b):

(a) if he or she is not satisfied by the such reasons, terminate or withdraw the registration; and

(b) notify the person referred to in sub-regulation (2)(a) of such terminate or withdrawal in writing.

(4) The HOD must, within 30 days of expiry of the period of time referred to in sub-regulation (2)(b) and where he or she has not received written reasons contemplated in sub-regulation (2)(b):

(a) terminate or withdraw the registration; and

(b) notify the person referred to in sub-regulation (2)(a) of such termination or withdrawal in writing.

(5) Before the HOD can terminate or withdraw registration in terms of this regulation, he or she must-

(a) give the person referred to in sub-regulation (2)(a) a period of 30 days to close the community-based services; and

(b) make arrangements for the transfer of service users to a person who has a registered community-based services of their choice or to the nearest registered community-based services.

Termination or withdrawal of registration of community-based services upon application

30.(1) Any person referred to in regulation 66(1) may, in addition to the provisions of section 14(5) of the Act, make a written application, in a form similar to **Form 8**, to the HOD for the termination or withdrawal of registration granted in terms of regulations 25(1)(a) and (c) and 26(1) and (2).

(2) The HOD may, within 30 days of receipt of the application referred to in sub-regulation (1), grant the application for the termination or withdrawal of registration of community-based services.

(3) The HOD must, before granting an application contemplated in sub-regulation (1) -

(a) give the person referred to in sub-regulation (1) a period of 30 days to close the community-based services; and

(b) ensure that the person referred to in sub-regulation (1) has, before closing the community-based services, made arrangements for the transfer of service users to a person of their choice, with a registered community-based services or to the nearest person with a registered community-based services.

(4) If there is no registered community based services as contemplated in sub-regulation (3)(b) the person referred to in sub-regulation (1) must notify the HOD at the time of the application contemplated in sub-regulation (1) in writing.

(5) The HOD must, upon receipt of the notice contemplated in sub-regulation (4)-

(a) make the necessary arrangement for the transfer of service users to any person with a registered community-based services; or

(b) make arrangements for such service users to receive regular community-based services.

CHAPTER VI
GUIDELINES FOR COMMUNITY-BASED SERVICES
[Section 15(2)(a)-(c)]

Guidelines for functioning of management structures of community-based services

31. The management structures of community-based services contemplated in section 15(2)(a) of the Act must-

- (a) determine and develop of policies for the community-based services;
- (b) promote national norms and standards;
- (c) share information with the Department on any matter concerning new trends in the use of substances;
- (d) provide oversight and direction to the centre in the exercise of its powers and the performance of its duties;
- (e) assign duties to personnel of the community-based services based on the knowledge and skills of such personnel;
- (f) meet at least four times in a year.
- (g) elect a chairperson of the management structure.
- (h) approve and review annual budget.
- (i) monitor, review and approve the operational plan of the centre.

Guidelines for composition of management structures of community-based services

32.(1) The management structure of the community-based services as contemplated in section 15(1) of the Act must, taking into account, among other things, the appropriate representation of race, gender and disability be composed of the following persons:

(a) A minimum of one and a maximum of 3 persons under whose name the community-based services are registered.

(b) Two members of the community in which the community-based services are rendered.

(c) Two beneficiaries from the community in which community-based centre services are rendered.

(d) Two members from staff of the community-based centre.

(2) The management structure may co-opt into or invite, to its meetings such members that it considers necessary to assist it in the management of the community-based services.

(3) The members of the management structure referred to in sub-regulation (2) shall-

(a) serve in the management structure; and

- (b) attend its meetings as observers and shall not have voting rights.

**Guidelines for election and appointment of members of management structure of
community-based services**

[Section 15(2)(b)]

33.(1) Any person who renders or wishes to render community-based services must-

- (a) constitute a selection panel to consider applications from candidates who applied to be nominated for election; and

- (b) assist the panel referred to in sub-regulation (1)(a) to appoint, through a well documented recruitment procedure, members of a management structure of a community-based service provider.

- (2) The selection panel referred to in sub-regulation 33(1)(a) must-

- (a) invite applications for nomination for members of management structure from members of the public which the community-based centre serves through an advertisement in the local-

- i. shop;

- ii. place of worship;
- iii. school; or
- iv. any other local structure,

accessible to the general public to which the community-based services are rendered or are to be rendered;

- (b) process the nominations; and
- (c) give each member of the public one chance to vote.

(3) The advertisement contemplated in sub-regulation 2(a) must be placed in a prominent place in the structure referred to therein.

(4) A nomination made in terms of sub-regulation 2 must reach the office of the community-based service before or on the closing date and time appearing in the advertisement referred to in sub-regulation 2.

(5) The nomination contemplated in sub-regulation 33(2) must be in a form similar to **Form 9** in the Annexure and must include at least -

- (a) the name of the nominee and the category in which the nominee is nominated;

(b) a detailed curriculum vitae of the nominee not exceeding two typed pages in length outlining such nominee's expertise;

(c) a written motivation by the nominee not exceeding two typed pages in length outlining and detailing his or her vision for the community-based service, and future contribution he or she intends making towards the development of the community based centre;

(d) the names and contact details of the person or interested party making the nomination and of the person or interested party seconding the nomination;

(e) a detailed motivation supporting the nomination of such nominee, including the nominee's actual or potential leadership qualities, the expertise in a particular field and the nominee's ability to assume the responsibilities and functions entrusted by the Act;

(f) a certificate of good standing if the nominee is a member of any council or society that demands adherence to a code of conduct for its members;

(g) a declaration under oath to execute the functions of the community-based centre and to ensure adherence to the Act and any other applicable prescript if appointed;

(h) a certified copy of the nominee's national identity document or passport;

- (i) the service area of the community-based service;
- (j) the activities of the community-based services;
- (k) the time commitments reasonably expected from community-based services members of management structure;
- (l) the term of office for which the election and appointment are considered;
- (m) criteria for disqualification as a member;
- (n) requirements with which a nomination must comply;
- (o) closing date for nominations; and
- (p) address to which nominations for election and appointment must be delivered.

(6) Any nomination form that is incomplete and does not conform to the requirements outlined in sub-regulations (a)-(p) shall be invalid and shall not be considered for purposes of appointment as a member of management structure.

(7) The invitation for nomination contemplated in sub-regulation (2) must be published at least two months prior to the election or expiry of the term of office of the

current management structure and must state the requirements as contemplated in sub-regulation 5.

(8) The person referred to in sub-regulation 33(1) must appoint all the required members of the management structure and supply the names of such appointed members and the date of commencement of their period of office to the Provincial department as soon as is reasonably possible after the appointment.

(9) In appointing the candidates envisaged in sub-regulation 33(1)(a), the panel must take into consideration the-

- (a) relevant expertise and experience in field of substance abuse or nursing;
- (b) expertise in a range of health services;
- (c) expertise in policy formulation and in education and training;
- (d) representivity in terms of race and gender; and
- (e) any other relevant factor in the opinion of the panel.

(10) Any candidate appointed to be a member of the management structure must submit-

(a) a written acceptance of the appointment within seven days of receiving such appointment notification; and

(b) a signed declaration that he or she will uphold the provisions of the Act and other applicable prescript

(c) a declaration that the candidate is not related whether through affinity or consanguinity to any of the staff members or the directors of the organisation rendering community-based services.

**Guidelines for qualification of members of management structure of
community-based services**

34. Any person who wishes to be appointed as a member of structure of community based-services as contemplated in section 15(2)(b) of the Act must not be-

(a) a person who in the preceding years (5) years, whether in the Republic or elsewhere, has been convicted of-

i theft;

- ii. fraud;
- iii. forgery;
- iv. uttering of a forged document;
- v. perjury; or

and any offence of which dishonesty is an element;

- (b) insolvent and be unrehabilitated;
- (c) subject to any legal disability;
- (d) declared to be of unsound mind by a competent authority;
- (e) having a history of abusing children in case where the person will work directly with children;
- (f) below the age of 18 years; and
- (g) a non-resident of the Republic of South Africa.

Guidelines for term of office of members of management structure of community-based services

35.(1) A member of a management structure of community-based services-

- (a) shall hold office for a period of 3 years; and
 - (b) may be re-elected upon the expiry of the term of office.
- (2) There is no limit to the number of times a member of management structure may stand for re-election as contemplated in sub-regulation (1)(b).

Guidelines for grounds for removal from office of members of management structure of community-based services

36.(1) Any member referred to in regulation 34 may be removed from management structure if that member-

- (a) ceases to be a resident of the Republic of South Africa;
- (b) has been absent from two or more meetings in one calendar year without prior permission of the chairperson or without a reasonable ground;
- (c) resigned after giving at least 30 days written notice of resignation to the chairperson;
- (d) been found guilty of misconduct related to his or her performance of duties as a member of a management structure; and

(2) The notice envisaged in sub-regulation (1)(c) must, in the case of -

(a) a chairperson, be served on the management structure; and

(b) any other member, be served on the chairperson.

(3) The HOD may remove all the members of management structure from office on any other ground other than the grounds contemplated under sub-regulations (1)(a-d) if the HOD has a reason to believe that there has been some violation of-

(a) the Act;

(b) these regulations; or

(c) any other law,

which in the opinion of the HOD has negative effect in the fight against substance abuse.

(4) The chairperson of the management structure may suspend any member of the management structure during an investigation into the misconduct or before a disciplinary hearing against such member is initiated.

(5) If a member of management structure dies or vacates office the chairperson-

(a) follow the guidelines laid down in regulation 33 and appoint another member; and

(b) cause the member referred to in sub-regulation 5(a) to serve the remaining portion of the deceased's or predecessor's term of office.

(6) In the case where all members of management structure have been removed from office as contemplated in sub-regulation (3), new elections must be held.

(7) Elections must be held within a period of 30 days after the occurrence of any of the events contemplated in sub-regulations (1), (3) (5) and (6).

Guidelines for number of meetings of management structure of community-based services

37.(1) Members of management structure of the community-based centres-

(a) must hold meetings at least once a quarter in a calendar year; and

(b) may convene a meeting at any time at the request by one third of the members referred to in sub-regulation (1).

(2) Any of the members referred to in sub-regulation (1) may, at any time after giving a 2 days' written notice to the members of the management structure, request an urgent meeting.

(3) A notice given in terms of sub-regulation (2) must—

- (a) specify the date, time and place of the meeting;
- (b) state the general nature of the business of the meeting; and
- (c) specify the means of communication by which the meeting will be held.

(4) The chairperson must arrange meetings management meetings and must give notice of a meeting—

- (a) in writing; and
- (b) not less than seven days in advance except in cases of emergency or where every member referred to in sub-regulation (1) agrees to accept short notice.

Guidelines for procedure at meetings of management structure of community-based services

- 38.(1)** All members of the management structure have equal rights to vote.
- (2) The will of the majority of the members present in the meeting and who have a right to vote must be carried out at all times.
- (3) Any number of topics may be considered during the meeting depending on the need and urgency thereof.
- (4) The chairperson of the management structure-
- (a) must chair all meetings of the management structure;
 - (b) must ensure that an attendance register of all members present in a meeting is kept;
 - (c) must ensure that minutes of the meeting are properly recorded and filed;
- and
- (d) does not have voting powers but in the case of a tie, has a casting vote.
- (5) In the absence of the chairperson contemplated in sub-regulation (4), the members of the management structure present in that meeting must elect amongst themselves a chairperson for the purpose of that meeting who must chair the meeting.

(6) A quorum for the purposes of the meeting of the members of management structure shall be constituted by at least fifty per cent plus one of the members of the management structure.

(7) The proceedings of, or resolutions passed in a meeting of, a management structure are not invalid merely because—

(a) the chairperson omitted to send a notice to a member referred to in sub-regulation (1); or

(b) such a member did not receive a notice of the meeting.

CHAPTER VII

ESTABLISHMENT OR MANAGEMENT OF TREATMENT CENTRE

Application for registration of treatment centre

[Section 19(2)]

39. Any person who desires to establish or manage a treatment centre as contemplated in section 19(2) of the Act must apply in writing to the Director-General for registration of the treatment centre by completing **Form 3** in the Annexure.

Requirements for registration of treatment centre**[Section 19(3)(b)]**

40.(1) The person contemplated in regulation 39 must-

- (a) complete the form referred to in that regulation;
- (b) where applicable, obtain a rezoning certificate from the local authority where the treatment centre is to be established or is established in the case of renewal of registration;
- (c) provide the Department with a copy of a planning application submitted to the local authority concerned in terms of applicable planning legislation;
- (d) provide the Department with a constitution or business plan of the applicant as the nature of form of ownership may determine;
- (e) provide the staff composition of the treatment centre and the management structure or proposal thereof;
- (f) provide financial statements of the treatment centre or projections thereof if it is a new venture; and

(g) provide a comprehensive package of programmes to be rendered to service users and the community.

(h) submit the following documentation that must be approved by the local authority prior to the consideration of the application by the Director-General:

- i. Building plans and occupational certificate.
- ii. Health Certificate.
- iii. Fire Management Plan

(2) By submitting an application for registration, the applicant consents that the Department may conduct any-

- (a) hearing;
- (b) investigation;
- (c) enquiry,

pertaining to the-

- i. integrity;
- ii. character;
- iii. reputation;
- iv. prior conduct;
- v. habits;
- vi. associations;

- vii. financial standing;
- viii. ability;
- ix. criminal record;
- x. competence;
- xi. experience; and
- xii. and any other aspect relating to suitability of—

(aa) the applicant;

(bb) any director or shareholder, member, trustee or beneficiary, or person holding a membership share, where the applicant is a company, close corporation, trust, non-profit organisation or co-operative; and

(cc) any person,

directly or indirectly involved in the affairs of any person applying for registration of a treatment centre.

(3) The constitution or business plan contemplated in sub-regulation 40(1)(d) must include-

- (a) the biographic information of the treatment centre;
-

- (b) information on the management structure, staff, volunteers and where applicable, current beneficiaries of the services rendered;
- (c) objectives, outputs and outcomes of the treatment centre; and
- (d) any other such information legally or administratively required, including:
 - i. Most recently audited financial statements, where applicable.
 - ii. Registration details required in terms of any law.
 - iii. Confirmation of banking details.

Consideration of application for registration of treatment centre

41.(1) The Director-General must assess and consider the application for registration within 90 days of receipt thereof.

(2) In assessing the application referred to in sub-regulation (1), the Director-General must consider-

- (a) all the information and declarations provided by the applicant and any other relevant information;

- (b) whether the applicant has met all other relevant requirements of the Act;
 - (c) whether all the proposed programmes comply with the minimum norms and standards in terms of these regulations; and
 - (d) the rights of the general public, the service users and the applicant.
- (3) The Director-General may-
- (a) impose conditions for registration in terms of section 19(3) of the Act; or
 - (b) grant a registration certificate; or
 - (c) deny the application for registration.
- (4) In determining to grant registration or conditional registration as contemplated in section 19(4) of the Act, the Director-General must approve the programmes to be offered by the treatment centre and the respective sites where the programmes are to be rendered.

**Conditions for registration of treatment centre
[Section 19(4)]**

42.(1) The Director-General may, after consideration of the application for registration of a treatment centre grant conditional registration under the circumstances and with the conditions contemplated in regulation 28 with the necessary changes as required by the context.

(2) Treatment centres must only provide structured treatment programmes according to an approved treatment model which the Department must review after every third year.

CHAPTER VIII
REGISTRATION OF PRIVATE HALFWAY HOUSE
[Section 21(2) and (4)]

Application for registration of private halfway house
[Section 21(2)]

43. Any person who desires to establish or manage a private halfway house as contemplated in section 21(2) of the Act must apply in writing to the Director-General for registration of a halfway house in a form similar to **Form 3** in the schedule.

Requirements for registration of private halfway house
Section 21(3)(b)

44. Requirements for registration of a treatment centre contemplated in regulation 40 shall apply to the registration of a private halfway house with the necessary changes as required by the context.

Consideration of application for registration of private halfway house

45. Consideration of an application for registration of a treatment centre contemplated in regulation 41 shall apply to the consideration of an application for registration of a halfway house with the necessary changes as may be required by the context.

Conditions for registration of private halfway house [Section 21(4)]

46.(1) The Director-General must, if the Director-General has granted a conditional registration as contemplated in section 21(4) of the Act, specify those conditions in writing and may, after considering the application contemplated in Regulation 45 grant temporary registration of a private halfway house.

(2) Conditions for registration of a treatment centre as contemplated in regulation 28 shall apply to the registration of a private halfway house with the requirements required by the context.

CHAPTER IX
STAFF OF PUBLIC TREATMENT CENTRE AND PUBLIC HALFWAY HOUSE
[Section 24(1)(a) and (2)]

**Suitability for appointment as manager of public treatment centre or public
halfway house**
Section 24(1)(a)

47. Any person who wishes to be employed as a manager of a public treatment centre or a public halfway house must-

(a) possess any suitable tertiary academic qualification from a recognised tertiary institution;

(b) have attained a period of five (5) years of suitable management experience;

(c) be a citizen of the Republic of South Africa or a legal resident of the Republic of South Africa;

(d) not be disqualified under any law in the Republic of South Africa; and

(e) have sufficient knowledge, in the opinion of the Minister, of programmes offered in a treatment centre and a halfway house and demonstrable ability to implement such programmes.

**Duties of staff in management and control of public treatment centre and public
halfway house**

Section 24(2)

48. The staff contemplated in sub-section 24(1) of the Act must-

- (a) facilitate the admission of service users and children into a treatment centre or public halfway house;
- (b) educate service users and children about dangers of substance abuse;
- (c) ensure proper provision of programmes and treatment to service users and children;
- (d) ensure that the treatment centre or halfway house is hygienic at all times;
- (e) provide a safe and a secured environment for service users and children in line with the norms and standards contemplated in these regulations;
- (f) promote and facilitate the training of personnel for the benefit of the treatment centre or halfway house;

(g) undertake operational research, on its own or in association or partnership with a tertiary education institution;

(h) report any suspected criminal activity taking place within the treatment centre or halfway house; and

(i) ensure that a treatment centre or a halfway house complies with minimum norms and standards contemplated in **Chapter II** of these regulations.

**Powers of staff in management and control of public treatment and public
halfway house
Section 24(2)**

49.(1) Staff of a public treatment and halfway house has powers to-

(a) enter any room where service users reside or sleep and search for substances and any material that is prohibited within the premises of the treatment centre or halfway house;

(b) apply approved corrective measures where children and service users break the rules;

(c) use any resources of the treatment centre or halfway house, within rules, for the benefit of the treatment centre or halfway house.

(d) purchase or acquire any movable or immovable property for the benefit of the treatment centre or halfway house;

(e) appoint employees at such remuneration and on such conditions subject to the relevant labour legislation; and

(f) exercise any power necessary for the proper administration of a public treatment centre.

(2) The powers referred to in sub-regulation 49(1)(f) must be within the prescripts governing the public service.

CHAPTER X

APPEALS

[Section 25]

Appeal against certain decisions of Director-General

50.(1) Any person who wishes to appeal against the decisions of the Director-General referred to in sections 19, 21, and 23(6) of the Act may, within 90 days of becoming aware or being notified of the decision taken by the Director-General, lodge a notice of appeal to the Minister in a form similar to **Form 10** in the Annexure.

(2) In lodging the notice of appeal, the appellant must send a notice by registered mail to the Minister stating the decision against which the appeal is lodged.

(3) The notice referred to in sub-regulation (1) must set out clearly the grounds on which the appeal is based.

(4) The Minister may, if not all the required information has not been provided, request such or further information from the appellant.

Consideration of appeal against certain decisions of Director-General

51.(1) The Minister must within 90 days of receipt of a notice of appeal referred to in regulation 50 consider the appeal and-

(a) uphold;

(b) set aside; or

(c) vary,

the decision of the Director-General.

(2) The Minister must provide reasons for upholding the decision of the Director-General and if the decision is set aside, the Minister must direct the Director-General to act in a manner the Minister deems appropriate under the circumstances.

Appeal against decision of Minister

52.(1) The appellant in a matter in which the Minister has given a decision on appeal under regulation 51-

(a) may only, on a question of law, appeal against the decision of the Minister to a High Court ; and

(b) must serve the Minister with a notice to take the appeal to the High Court.

(2) The notice contemplated in sub-regulation (1)(b) must be lodged in writing within 90 days after the date the Minister made the decision on the said appeal.

(3) The notice referred to in sub-regulation (1)(b) must—

(a) set out the ground in respect of which the appeal is lodged;

(b) be lodged with the High Court that has necessary jurisdiction to hear the matter; and

(c) be served on every party with direct interest in the matter for information purposes.

(4) The appeal against the decision of the Minister must be dealt with as if it is an appeal from a Magistrate's Court.

Service of documents

53.(1) Any notice or any other document to be served in terms of these regulations, must be served,

(a) if it is to be served on a natural person-

i. by hand delivery to that person;

ii. by hand delivery to a responsible individual at that person's business or residential address; or

iii. by sending it by registered mail to that person's business or residential address;

(b) If it is intended for a juristic person-

i. by hand delivery to a responsible person at the registered address or principal place of business of that juristic person;

ii. by sending it by facsimile to the registered address or principal place of business of that juristic person;

iii. by sending it by registered mail to the registered address or principal place of business of that juristic person;

iv. by conspicuously attaching it to the main entrance of the registered address or the principal place of business of that juristic person; or

v. by hand delivery to any member of that juristic person's board of management structure.

(2) Any notice or other document served according to sub-regulations (1)(a) and (1)(b) is considered to have come to the notice of the person, unless the contrary is proven.

Condonation of late lodgement of appeal

54.(1) Notwithstanding provisions of regulation 50, the Minister may condone an application lodged after a period of 90 days if there is a good cause shown for late lodgement of an appeal.

(2) In deciding whether good cause exists for condonation of late lodgement of an appeal application, the Minister must take the following factors into account:

- (a) The reason for the late lodgement.
- (b) The interest of justice in condoning the late lodgement.
- (c) Any reasonable prospect of success of the appeal.

CHAPTER XI
MANAGEMENT STRUCTURE OF TREATMENT CENTRE AND HALFWAY HOUSE
[Sections 29(2)(a), (b) and (c)]

Composition of structure of treatment centre and halfway house
Section 29(1)(a)

55. A treatment centre or a halfway house must compose a management structure similar to the management structure composed for community-based services as contemplated in regulation 32.

Section 29(2)(b)**Election and appointment of members of structure of treatment centre and
halfway house**

56. Election and appointment of members of management structure for treatment centres and halfway houses must be in the form and manner envisaged for election and appointment of members of management structure of community-based services as outlined in regulation 33.

**Qualification of members of structure of treatment centre and halfway
house**

57. Any person who wishes to be appointed as a member of management structure of treatment centre or halfway house as contemplated in section 15 of the Act must comply with the guidelines for qualification of members of management structure of community-based services as outlined in regulation 34.

Term of office of members of structure of treatment centre and halfway house

58. The term of office of members of management structure of a treatment centre or a halfway house must be similar with the term of office of members of management structure of a community-based service as outlined in regulation 35.

**Grounds for removal of from office of members of structure of treatment centre
and halfway house**

59. Any member of management structure of a treatment centre or a halfway house may be removed from the management structure in the similar manner envisaged for members of structure of community-based services contemplated in regulation 36.

**Filling of vacancies of members of structure of treatment centre and
halfway house**

60.(1) The procedure followed for the election and appointment of members of management structure contemplated in regulation 33 must be followed, with the necessary changes as required by the context, when filling the vacancies of the members of structure of a treatment centre and a halfway house.

**Number of and procedure at meetings of management structure of treatment
centre and halfway house**

Section 29(1)(c)

61. The management structure of a treatment centre and a halfway house must hold a number of meetings similar to the number of meetings envisaged for community based-services in regulation 37 and must follow the procedure envisaged for community based-services outlined in regulation 38 with the necessary changes as required by the context.

CHAPTER XII

INTEGRATED AFTERCARE AND REINTEGRATION SERVICES

[Section 30(1)]

**Integrated aftercare and reintegration services into society, workforce, family and
community life**

62.(1) Integrated aftercare and reintegration services into society, family, workforce and community life must include focus on-

(a) provision of life-skills to help service users to maintain treatment gains, sobriety and avoid relapse;

(b) ensuring professional support and guidance;

(c) provision for establishment of mutual support to enhance service users' self reliance and optimal functioning;

(d) assisting to reduce conditions which may lead to relapse;

(e) promotion a healthy lifestyle;

(f) raising awareness and education about dangers of substance abuse disadvantages of relapse;

(g) promotion group cohesion amongst service users;

(h) being rendered in a non-discriminatory manner;

(i) ensuring sufficient monitoring of programmes;

(j) being sensitive to linguistic needs, cultural values and religious needs;

(k) being rendered in a home and community-based environment;

(l) focusing on strengths and capacity of service users and other beneficiaries of the service;

- (m) being provided by service providers who have appropriate training;
 - (n) provision for referral of service users to other appropriate programmes;
 - (o) improving the well being of families; and
 - (p) re-integration of learners into the schooling system to address the learner's.
- (2) The services listed in sub-regulations 78(1)(a)-(o) must be extended to significant others and families of service users where necessary.

Establishment of support groups
[Section 31(1)]

63.(1) Service users and persons affected by substance abuse may establish support groups by-

- (a) initially assessing and identifying and tailoring each service user's needs;
- (b) complying with all safety standards to avoid relapse;
- (c) involving suitably qualified professionals to do counselling; and

(d) linking and confirming their activities with the Department.

(2) The Department must avail the necessary personnel to monitor the support groups.

CHAPTER XIII
ADMISSION OF VOLUNTARY SERVICE USER TO TREATMENT CENTRE
[Section 32 (1)(a) and (b)]

Application for admission as voluntary service user to treatment centre

64. Any person who wishes to be admitted as a voluntary service user to a treatment centre as contemplated in section 32(1) of the Act, must apply in a form similar to **Form 11** in the Annexure.

Application for admission on behalf of voluntary service user to treatment centre

65.(1) Any person who wishes to apply for admission on behalf of a voluntary service user must be-

(a) a next of kin of the voluntary service user; or

(b) any other person whom the service user may so choose.

(2) The service user in whose behalf the application for admission is made must complete a consent form similar to Form 12 in the Annexure.

Application for admission by parent or guardian of service user to treatment centre

66.(1) If a service user is a child, the person in whose control the child is may apply for the admission of the child into a treatment centre.

(2) The person who is in control of a child as contemplated in sub-regulation (1) must apply for the admission of a child by completing a form similar to form 12 in the Annexure.

CHAPTER XIV

TRANSFER OF PERSONS FROM PRISON, CHILD AND YOUTH CARE CENTRE ALTERNATIVE CARE OR HEALTH ESTABLISHMENT TO PUBLIC TREATMENT CENTRE

[Section 44(4)]

Transfer of persons from prison to public treatment centre

67.(1) Notwithstanding anything to the contrary contained in the Correctional Services Act, 1959 (Act No. 111 of 1998), or in any other law, the Minister of Correctional Services may, in consultation with the Minister, by order in writing transfer

to a public treatment centre designated by the Minister any involuntary service user who is undergoing a term of imprisonment in any prison which is subject to the provisions of the said Act, if, in the Minister of Correctional Services' opinion-

(a) it is desirable that such an involuntary service user should, before he is returned to the community, receive or undergo treatment or training in a treatment centre; and

(b) such involuntary service user is an involuntary service user who will or will probably benefit from a particular kind of treatment and training provided in a public treatment centre.

(2) The order referred to in sub-regulation (1) must be made at least 48 hours before the intended transfer of an involuntary service user takes effect.

(3) A social worker and a medical practitioner must assess the involuntary service user referred to in sub-regulation (1) first and indicate whether the condition of the said person necessitates transfer to a public treatment centre.

(4) The order referred to in sub-regulation (1) must specify the following:

- (a) Purpose of the transfer to a public treatment centre.
- (b) Date and time of the intended transfer.
- (c) Level of security needed either to protect the person transferred or to protect the general public from the involuntary service user being transferred.
- (d) The name of the prison where the involuntary service user to be transferred is currently serving the sentence and the name of the public treatment centre where the involuntary service user will be retransferred.
- (5) The order referred to in sub-regulation (1) must be accompanied by-
 - (a) an assessment report prepared by the social worker contemplated in sub-regulation (3); and
 - (b) a medical report contemplated in the said sub-regulation.
- (6) The chairperson of a management structure of a public treatment centre where the involuntary service user is transferred to must undertake in writing to the Minister of Correctional Services that the-
 - (a) the said involuntary service user shall be retransferred to-

- i. the prison where she or he was originally transferred from; or
- ii. any agreed alternative establishment as contemplated in section 45(1) of the Act.

Transfer of persons from health establishment to public treatment centre

68.(1) The Minister of Health may, if the involuntary service user concerned will in the Minister of Health's opinion benefit or probably benefit from the treatment or training provided in a public treatment centre transfer the involuntary service user from a health establishment to a public treatment centre;

(2) The superintendent of the health establishment where the involuntary service user to be transferred is currently hospitalised must, in consultation with the medical practitioner in charge of the person to be transferred-

- (a) arrange all referrals to a public treatment centre; and
- (b) communicate the intention to transfer a person to the psychiatrist on call at the receiving public treatment centre.

(3) A professional nurse on duty must arrange transport for the transfer of the person to be transferred to a public treatment centre and must furnish information including the-

- (a) name of involuntary service user;

- (b) vital signs;
- (c) details of the receiving doctor at the public treatment centre; and
- (d) details of the referring doctor and diagnosis.

(4) The medical practitioner referred to in sub-regulation (1) must write a referral letter on a hospital letterhead to the receiving public treatment centre and the referral letter must include the-

- (a) involuntary service user's condition and the interventions;
 - (b) reason for the transfer of an involuntary service user;
 - (c) special conditions related to the transfer of an involuntary service user;
- and
- (d) condition of the involuntary service user before transfer.

- (5) A professional nurse from the transferring health establishment must-
- (a) accompany the involuntary service user to the public treatment centre;
- and
- (b) monitor the involuntary service user during transfer.
- (6) The superintendent of the transferring health establishment must-

- (a) provide the receiving public treatment centre with a written summary of the patient's notes and x-rays where applicable;
- (b) record the involuntary service user's progress chart in the transfer book;
and
- (c) record the transfer of the involuntary service user on the daily statistical return and day and night report.

Transfer of persons from child and youth care centre to public treatment centre

69.(1) The Minister must, as contemplated in section 44 of the Act transfer the involuntary service user from a youth care centre in the manner envisaged in regulation 68 with the necessary changes as required by the context.

- (2) The youth care or alternative care centre must assign a social worker to accompany the child to the public treatment centre.

Transfer of persons from alternative care centres to public treatment centre

70. In a case where an involuntary service user is transferred from an alternative care centre the provisions of regulation 68 must apply with the necessary changes as required by the context.

Retransfer of persons to prison

71.(1) The Minister must retransfer a person originally transferred from prison to

- (a) the prison the person was transferred from; or
- (b) any other prison as the Minister of Correctional Services may direct.

(2) The retransfer contemplated in sub-regulation (1) must be effected by completing a form similar to **Form 13** in the Annexure.

Retransfer of involuntary service users to health establishment

72.(1) The Minister must retransfer the involuntary service user from a public treatment centre to-

- (a) a health establishment the said person was transferred from; or
- (b) any other place as the Minister of Health may direct.

(2) The retransfer contemplated in sub-regulation (1) must be effected by completing a form similar to **Form 13** in the Annexure.

Retransfer of persons to youth care centre

73.(1) The Minister must retransfer the involuntary service user from a public treatment centre to-

- (a) a youth care centre the involuntary service user was transferred from; or
- (b) any other place as the Minister in consultation with the Minister of Children, Women and People with Disabilities may direct.

(2) The retransfer contemplated in sub-regulation (1) must be effected by completing a form similar to **Form 13** in the Annexure.

Retransfer of persons to alternative care centre

74.(1) The Minister must retransfer the involuntary service user from a public treatment centre to-

- (a) the alternative care centre the involuntary service user was originally transferred from; or
- (b) any other place the alternative care centre may advise.

(2) The retransfer contemplated in sub-regulation (1) must be effected by completing a form similar to **Form 13** in the Annexure.

CHAPTER XV
INVOLUNTARY SERVICE USER OF TREATMENT CENTRE MAY BE RELEASED
ON LICENCE
[Section 47(3)]

Release of service user on licence

75.(1) A treatment centre may release a service user on license as contemplated under section 47(1) of the Act and a social worker must supervise the involuntary service user in a manner stipulated in a form similar to **Form 14** in the Annexure.

(2) A copy of a licence referred in sub-regulation (1) must be forwarded to the social worker under whose supervision the involuntary service user is.