

2. PARTICULARS OF VICTIM:

Full names and surname:
Any other surnames:
Date of birth:
Age:
Identity number/ passport number:

3. PARTICULARS OF ALLEGED OFFENDER CHARGED WITH COMMITTING SEXUAL OFFENCE OR OFFENCE AS DEFINED IN SECTION 27 OF THE ACT

Full names and surname:
Any other surnames:
Date of birth:
Age:
Identity number/passport number:

4. GROUNDS FOR APPLICATION

On the strength of information taken on oath or by way of solemn declaration, in which it is alleged that a sexual offence or offence as defined in section 27 of the Act was committed by the alleged offender, the application is based on the following grounds:.....
.....
.....
.....

***5. PARTICULARS OF APPLICATION ALREADY BROUGHT BY VICTIM OR INTERESTED PERSON IN TERMS OF SECTION 30 OF THE ACT**

Date of application:
Magistrate's Office where application was granted:
Where is test result kept?

** Delete if not applicable*

6. AFFIDAVIT/SOLEMN DECLARATION BY INVESTIGATING OFFICER

I,..... (the investigating officer) with force number..... hereby declare that the above information is to the best of my knowledge true and correct.

.....
SIGNATURE OF INVESTIGATING OFFICER

.....

PLACE

.....

DATE

(To be completed by a Justice of the Peace/Commissioner of Oaths)

I hereby certify that before administering the *oath/taking the affirmation I asked the deponent the following questions and noted *his/her answers in *his/her presence as indicated below:—

(a) Do you know and understand the contents of the above declaration?

Answer—

(b) Do you have any objection to taking the prescribed oath?

Answer—

(c) Do you consider the prescribed oath to be binding on your conscience?

Answer—

I hereby certify that the deponent has acknowledged that *he/she knows and understands the contents of this declaration which was sworn to/affirmed before me, and the deponent's signature was placed thereafter in my presence.

Dated at..... this day
of..... 20.....

.....

SIGNED: Justice of the Peace/ Commissioner of Oaths

Full names:

Designation:

Area for which appointed:

Business address:

.....

**Delete whichever is not applicable*

FORM 6

[Regulation 6(5)]

ORDER BY MAGISTRATE FOR HIV TESTING OF ALLEGED OFFENDER ON APPLICATION BY INVESTIGATING OFFICER

Section 32 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) (the Act)

(To be completed by the magistrate considering the application)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF HELD AT:

.....

CASE NO:

DATE APPLICATION CONSIDERED:

1. PARTICULARS OF VICTIM

Initials and surname:

Any other surnames:.....

Date of birth:

Age:

2. PARTICULARS OF ALLEGED OFFENDER CHARGED WITH COMMITTING SEXUAL OFFENCE OR OFFENCE AS DEFINED IN SECTION 27 OF THE ACT

Full names and surname:

Any other surnames:

Date of birth:.....

Age:

Identity number/ passport number:

3. ORDER BY THE COURT

After consideration of the application in terms of section 32 of the Act by the investigating officer, I am *satisfied/*not satisfied that there is *prima facie* evidence that—

- (a) a sexual offence or offence as defined in section 27 of the Act has been committed by the offender; and
- (b) HIV testing would appear to be necessary for purposes of investigating or prosecuting the offence.

**Delete whichever is not applicable*

THEREFORE THE FOLLOWING ORDER IS MADE:

*(a) The application is dismissed.

*(b) The application is granted for—

- (i) the collection on the same occasion from the alleged offender of two blood specimens;
- (ii) the performance on the blood specimens of one or more HIV tests as are reasonably necessary to determine the presence or absence of HIV infection in the alleged offender; and
- (iii) the disclosure of the HIV test results—
 - (aa) by the health establishment to the investigating officer in the manner prescribed in regulation 8 of the Regulations; or
 - (bb) by the investigating officer to the prosecutor who needs to know the results for purposes of the prosecution of the matter in question or any other court proceedings as contemplated in section 32 read with section 66 of the Act; and

(cc) by the investigating officer to the alleged offender, if the results have not already been made available to him or her as contemplated in section 30(1)(a)(i) of the Act in the manner prescribed in regulation 6(8)(a)(iii) of the Regulations.

*(c) The HIV test results of the alleged offender obtained as a result of an application by a victim or interested person in terms of section 30 of the Act must be disclosed to the investigating officer.

*Delete whichever is not applicable

OFFICIAL STAMP

.....
SIGNATURE OF MAGISTRATE

.....
DATE

FORM 7

[Regulation 8(1)]

RECORDING OF HIV TEST RESULTS OBTAINED IN TERMS OF
AN ORDER BY MAGISTRATE

Section 33(1)(d)(ii) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007
(Act No. 32 of 2007)(the Act)

(To be completed by the head of a public health establishment designated in terms of section 29 of the Act or by a person designated in writing by the head of such establishment)

Name of Health Facility:.....

OFFICIAL STAMP OF
HEALTH ESTABLISHMENT

Case No:

Date test performed:20.....

PART A: PARTICULARS OF ALLEGED OFFENDER

Full names:

Date of birth:.....

Age:

Identity number/ passport number:

Home address/ temporary address:

.....

PART B: PARTICULARS OF HIV TESTS PERFORMED

Type of HIV tests performed:

.....

PART C: RESULTS OF HIV TESTS

(Mark relevant block with a cross)

Positive

Negative

Remarks:

**PART D: PARTICULARS OF DESIGNATED HEALTH ESTABLISHMENT
 PERFORMING HIV TESTS AND WHERE EXTRA TEST RESULT WILL BE KEPT:**

Address:

.....

Telephone No:

Name of person who performed the tests:.....

Signature of person who performed the tests:.....

FORM 8

[Regulations 5(4) and 6(8)]

**NOTICE CONTAINING INFORMATION ON CONFIDENTIALITY OF AND HOW TO DEAL WITH HIV TEST
 RESULTS**

**Section 33(1)(e) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007
 (Act No. 32 of 2007)(the Act)**

(To be handed to:(a)The victim or interested person acting on his or her behalf who applied to have the alleged offender tested for HIV; and (b)the alleged offender who has been tested for HIV)

The purpose of this information sheet is to provide a victim or interested person acting on his or her behalf, and the alleged offender with information on the confidentiality and how to deal with receiving information about the outcome of a compulsory HIV test.

How will I be told about the HIV Test Results?

The results will be made available to you in a sealed envelope, marked "Confidential/Vertroulik".

What will be contained within the sealed envelope?

The sealed envelope will contain a document completed by a person attached to the health establishment who performed the HIV testing on the blood specimens of the alleged offender. The form will state whether the HIV test result was positive or negative.

If I am the victim, may I disclose the alleged offender's HIV status to other people?

In terms of the Act the HIV test results may only be disclosed to the victim or the interested person who initiated the application for the compulsory HIV testing of the alleged offender, the alleged offender, the investigating officer, and where applicable a prosecutor or any other person who needs to know the test results for purposes of any civil proceedings or an order of a court.

What should I do with the HIV test result?

Every person receiving an HIV test result should get expert assistance in understanding and dealing with it regardless of whether the test result was positive or negative. Expert assistance will help you to—

- understand the test result;
- deal with immediate emotional reactions and concerns;
- understand how the result will affect your future health and the health of others (eg your sexual partner);
- identify the need for social and medical care; and
- understand the legal implications regarding the disclosure of the test result to others.

Service organisations which can provide counselling and support

Expert assistance in dealing with the implications of HIV test results is available at a number of different service providers. These include:

- Private medical and social facilities (eg a general medical practitioner or psychologist).
- Public medical and social facilities, including—
 - Life Line
 - Child Line
 - Child protection organisations
 - Local State Hospitals and Clinics
 - Rape Crisis
 - FAMSA
 - Regional Departments of Social Welfare
 - Local AIDS Service Organisations

Contact details of the above service providers are available in the telephone directory, or from the investigating officer.

If, after reading this notice, there is anything you do not understand, ask the investigating officer, one of the service providers cited above or the Department of Correctional Services' Social Worker for assistance.

FORM 9

[Regulation 10(3)]

APPLICATION FOR WARRANT OF ARREST

Section 33(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OFHELD

AT

CASE NO.

1. APPLICATION

I,, (the investigating officer), hereby make application to the Magistrate,, in terms of section 33(3) of the Act to issue a warrant of arrest of the alleged offender as described below as—

*(a) there is reason to believe that he or she may avoid compliance with an order contemplated in section 31(3) or section 32(3) of the Act; or

*(b) he or she has avoided compliance with an order contemplated in section 31(3) or section 32(3) of the Act.

2. PARTICULARS OF ALLEGED OFFENDER CHARGED WITH COMMITTING SEXUAL OFFENCE OR OFFENCE

Full names and surname:

Any other surnames:

Date of birth:

Age:

Identity number/ passport number:

Home address/ temporary address:

.....

*The offender has not been arrested for the alleged sexual offence or offence.

* The offender is out on bail. Bail conditions:

.....

* *Delete whichever is not applicable*

3. ORDER CONTEMPLATED IN SECTION 31(3) OR SECTION 32(3) OF THE ACT

The order contemplated in section 31(3) or section 32(3) of the Act—

*(a) was granted on..... A copy of such order is attached hereto.

*(b) is being applied for simultaneously with this application.

* *Delete whichever is not applicable*

4. GROUNDS FOR APPLICATION

The application is brought on the following grounds:

.....
.....
.....
.....
.....
.....

5. OATH/SOLEMN DECLARATION BY INVESTIGATING OFFICER

I, (the investigating officer) with force number..... hereby declare that the above information is to the best of my knowledge true and correct.

.....
SIGNATURE OF INVESTIGATING OFFICER

.....
PLACE

.....
DATE

(To be completed by a Justice of the Peace/ Commissioner of Oaths)

I hereby certify that before administering the*oath/taking the affirmation I asked the deponent the following questions and noted *his/her answers in *his/her presence as indicated below:—

(a) Do you know and understand the contents of the above declaration?

Answer—

(b) Do you have any objection to taking the prescribed oath?

Answer -

(c) Do you consider the prescribed oath to be binding on your conscience?

Answer—

I hereby certify that the deponent has acknowledged that *he/she knows and understands the contents of this declaration which was sworn to/affirmed before me, and the deponent's signature was placed thereafter in my presence.

Dated at..... this day of..... 20.....

.....
SIGNED: Justice of the Peace/ Commissioner of Oaths

Full names:

Designation:

Area for which appointed:

Business address:

.....
**Delete whichever is not applicable*

[Regulation 10(4)]

WARRANT OF ARREST

Section 33(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF..... HELD AT

CASE NO.

To the investigating officer,

You are hereby commanded to arrest (the alleged offender) who—

*(a) it is believed may avoid compliance with an order that he or she be tested for HIV in terms of section 31 or section 32 of the Act; or

*(b) has avoided compliance with an order that he or she be tested for HIV in terms of section 31 or section 32 of the Act,

and to take him or her without any delay after arrest to any medical practitioner or nurse to take the prescribed blood specimens for HIV testing as ordered by this Court on

* Delete whichever is not applicable

Dated at on this day of20.....

Magistrate

Date

Magistrate's Court



ANNEXURE B**FORMS****CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT, 2007 (ACT NO. 32 OF 2007)****PART II OF REGULATIONS: NATIONAL REGISTER FOR SEX OFFENDERS**

- | | |
|---------|---|
| Form 1 | Information to be forwarded to Registrar by National Commissioner of Correctional Services |
| Form 2 | Notice to prisoner whose particulars have been forwarded to Registrar |
| Form 3 | Information to be forwarded to Registrar by Director-General: Health |
| Form 4 | Notice to health care user whose particulars have been forwarded to Registrar |
| Form 5 | Court order for inclusion of particulars in Register |
| Form 6 | Notification to employer of court order |
| Form 7 | Application for certificate by person in respect of own particulars |
| Form 8 | Application for certificate by person/licensing authority/relevant authority in respect of particulars of another |
| Form 9 | Certificate in respect of particulars |
| Form 10 | Application for removal of particulars from Register |
| Form 11 | Certificate confirming removal of particulars from Register |

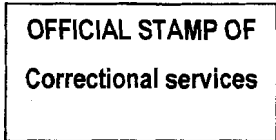
FORM 1

[Regulation 15(1)]

INFORMATION TO BE FORWARDED TO REGISTRAR BY NATIONAL COMMISSIONER OF CORRECTIONAL SERVICES

Section 50(5)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:



Name of Prison:

NOTE 1: *In terms of section 50(5)(a) of the Act the National Commissioner of Correctional Services must, within three months after the commencement of Chapter 6 of the Act, forward to the Registrar of the National Register for Sex Offenders the particulars referred to in section 49 of the Act of every prisoner or former prisoner which he or she has on record, who, at the commencement of Chapter 6 of the Act, is serving a sentence of imprisonment or who has served a sentence of imprisonment as the result of a conviction for a sexual offence against a child, including an offence contemplated in section 14 of the Sexual Offences Act, 1957 (Act No. 23 of 1957), and must, where possible, forward the available particulars of every prisoner or former prisoner which he or she has on record, who at the commencement of Chapter 6 of the Act, is serving a sentence of imprisonment or has served a sentence of imprisonment as a result of a conviction for a sexual offence against a person who is mentally disabled, including an offence contemplated in section 15 of the Sexual Offences Act, 1957.*

NOTE 2: *A set of fingerprints of the prisoner or former prisoner, if available, should be attached to this form.*

1. PARTICULARS OF PRISONER OR FORMER PRISONER

Prisoner identification number:

Title:

Full names and surname:

Indicate any other surnames:.....

Indicate any known alias or nickname:

Profession or trade before imprisonment:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....

Any other contact details (including postal address):

.....

Telephone number:

Cell number:

2. PARTICULARS OF CONVICTION/CONVICTIONS AGAINST CHILD OR PERSON WHO IS MENTALLY DISABLED

Type of sexual offence prisoner was convicted of:

.....

Date and place of—

conviction:; and

sentence:

Sentence imposed:

.....

Court in which trial took place and case number:

FORM 2

[Regulation 15(3)(b)]

NOTICE TO PRISONER WHOSE PARTICULARS HAVE BEEN FORWARDED TO REGISTRAR

Section 50(5)(b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:

OFFICIAL STAMP OF Correctional services
--

Name of Prison:

NOTE

In terms of section 50(5)(b) of the Act the National Commissioner of Correctional Services must inform each serving prisoner whose particulars have been forwarded to the Registrar of the National Register for Sex Offenders of the implications thereof.

IMPLICATION OF INCLUSION OF PARTICULARS IN THE NATIONAL REGISTER FOR SEX OFFENDERS

1. National Register for Sex Offenders:

The Minister for Justice and Constitutional Development has established a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence against a child or a person who is mentally disabled or are alleged to have committed a sexual offence against a child or a person who is mentally disabled and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.

2. Implication of inclusion of particulars in Register:

2.1 A person who has been convicted of the commission of a sexual offence against a child may not—

(i) be employed to work with a child in any circumstances;

(ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a child, or which, in any other manner, places him

or her in a position of authority, supervision or care of a child or where he or she gains access to a child or places where children are present or congregate;

- (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a child; or
- (iv) become the foster parent, kinship care-giver, temporary safe care-giver or adoptive parent of a child.

2.2 A person who has been convicted of the commission of a sexual offence against a person who is mentally disabled may not—

- (i) be employed to work with a person who is mentally disabled in any circumstances;
- (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a person who is mentally disabled, or which, in any other manner, places him or her in a position of authority, supervision or care of a person who is mentally disabled or where he or she gains access to a person who is mentally disabled or places where persons who are mentally disabled are present or congregate;
- (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is mentally disabled; or
- (iv) become a curator of a person who is mentally disabled.

2.3 (i) An employee in the employ of an employer must without delay disclose a conviction referred to in 2.1 or 2.2 above, to his or her employer.

(ii) An employee who applies for employment, must, if he or she has been convicted of an offence referred to in 2.1 or 2.2 above, disclose such conviction when applying for employment.

(iii) An employee who fails to comply with this obligation is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.

2.4 (i) A person who applies for approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a child or a person who is mentally disabled must disclose that he or she has been convicted of a sexual offence against a child or a person who is mentally disabled.

(ii) A person who contravenes the above obligation is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding seven years or to both a fine and such imprisonment.

3. Removal of particulars from Register:

Section 51 of the Act provides as follows:

51. (1) Subject to subsections (2) and (3), the particulars of a person—
- (a) who—
 - (i) has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of at least six months but not exceeding eighteen months, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed after that person has been released from

- (ii) prison or the period of suspension has lapsed; has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of six months or less, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of seven years has lapsed after that person has been released from prison or the period of suspension has lapsed; or
- (iii) is alleged to have committed a sexual offence against a child or a person who is mentally disabled in respect of whom a court, whether before or after the commencement of this Chapter, has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may, on application as contemplated in subsection (3), be removed from the Register after a period of five years has lapsed after such 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 on him or her; or
- (b) who has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to any other form of lesser punishment or court order may, on application as contemplated in subsection (3), be removed from the Register after a period of five years has lapsed since the particulars of that person were included in the Register.
 - (2) The particulars of a person who has—
 - (a) been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period exceeding eighteen months, whether the sentence was suspended or not; or
 - (b) two or more convictions of a sexual offence against a child or a person who is mentally disabled, may not be removed from the Register.
 - (3)
 - (a) A person falling into the categories contemplated in subsection (1) may apply, in the prescribed manner, to the Registrar to have his or her particulars removed from the Register.
 - (b) The Registrar must, after considering the application, remove the particulars of the person contemplated in paragraph (a) from the Register, unless the person concerned has an investigation or a charge relating to a sexual offence against a child or a person who is mentally disabled pending against him or her and the relevant investigation or case has not yet been finalised, in which event the finalisation of the application must be postponed until the Registrar has, in the prescribed manner, received information on the outcome of the investigation or case.
 - (c) The Registrar may, at the request of a person whose particulars are included in the Register, remove those particulars from the Register if the Registrar is satisfied that the entry of those particulars in the Register was clearly in error.

FORM 3

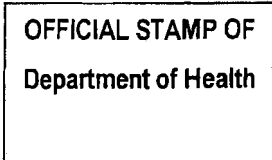
[Regulation 15(4)]

INFORMATION TO BE FORWARDED TO REGISTRAR BY DIRECTOR-GENERAL: HEALTH

Section 50(7)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:

Name of Health establishment:



NOTE 1: *In terms of section 50(7)(a) of the Act the Director-General: Health must, within three months after the commencement of Chapter 6 of the Act, forward to the Registrar of the National Register for Sex Offenders the particulars referred to in section 49 of every person, who, at the commencement of Chapter 6, is subject to a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, as the result of an act which constituted a sexual offence against a child or a person who is mentally disabled and the Registrar must forthwith enter those particulars in the Register.*

NOTE 2: *A set of fingerprints of the person should be attached to this form.*

1. PARTICULARS OF PERSON

Title:

Full names and surname:

Indicate any other surnames:.....

Indicate any known alias or nickname:

Profession or trade before direction by court:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....

Any other contact details (including postal address):

.....

Telephone number:

Cell number:

2. PARTICULARS OF OFFENCE ALLEGEDLY COMMITTED AGAINST CHILD OR PERSON WHO IS MENTALLY DISABLED

Type of sexual offence:

.....

Date and place of court order:

Direction by court:

.....

Court in which proceedings took place and case number:

.....

FORM 4

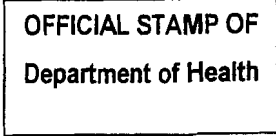
[Regulation 15(6)(b)]

NOTICE TO PERSON WHOSE PARTICULARS HAVE BEEN FORWARDED TO REGISTRAR

Section 50(7)(b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:

Name of Health establishment:



NOTE

In terms of section 50(7)(b) of the Act the Director-General: Health must inform each person whose particulars have been forwarded to the Registrar of the National Register for Sex Offenders of the implications thereof.

IMPLICATION OF INCLUSION OF PARTICULARS IN THE NATIONAL REGISTER FOR SEX OFFENDERS**1. National Register for Sex Offenders:**

The Minister for Justice and Constitutional Development has established a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence against a child or a person who is mentally disabled or are alleged to have committed a sexual offence against a child or a person who is mentally disabled and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.

2. Implication of inclusion of particulars in Register:

2.1 A person who is alleged to have committed a sexual offence against a child and has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, and whose particulars have been included in the Register, may not—

- (i) be employed to work with a child in any circumstances;
- (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a child, or which, in any other manner, places him or her in a position of authority, supervision or care of a child or where he or she gains access to a child or places where children are present or congregate;
- (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a child; or
- (iv) become the foster parent, kinship care-giver, temporary safe care-giver or adoptive parent of a child.

2.2 A person who is alleged to have committed a sexual offence against a person who is mentally disabled and has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, and whose particulars have been included in the Register, may not—

- (i) be employed to work with a person who is mentally disabled in any circumstances;
- (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in a position of authority, supervision or care of a person who is mentally disabled, or which, in any other manner, places him or her in a position of authority, supervision or care of a person who is mentally disabled or where he or she gains access to a person who is mentally disabled or places where persons who are mentally disabled are present or congregate;
- (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is mentally disabled; or
- (iv) become the curator of a person who is mentally disabled.

- 2.3 (i) An employee in the employ of an employer must without delay disclose a finding referred to in 2.1 or 2.2 above, to his or her employer.
- (ii) An employee who applies for employment, must, if a finding was made by a court referred to in 2.1 or 2.2 above, against him or her, disclose such finding when applying for employment.
- (iii) An employee who fails to comply with this obligation is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.
- 2.4 (i) A person who applies for approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a child or a person who is mentally disabled must disclose that a court has made a finding referred to in 2.1 or 2.2 above, against him or her.
- (ii) A person who contravenes the above obligation is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding seven years or to both a fine and such imprisonment.

3. Removal of particulars from Register:

Section 51 of the Act provides as follows:

51. (1) Subject to subsections (2) and (3), the particulars of a person—
- (a) who—
- (i) has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of at least six months but not exceeding eighteen months, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed after that person has been released from prison or the period of suspension has lapsed;
- (ii) has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of six months or less, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of seven years has lapsed after that person has been released from prison or the period of suspension has lapsed; or
- (iii) is alleged to have committed a sexual offence against a child or a person who is mentally disabled in respect of whom a court, whether before or after the commencement of this Chapter, has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may, on application as contemplated in subsection (3), be removed from the Register after a period of five years has lapsed after such 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 on him or her; or
- (b) who has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to any other form of lesser punishment or court order may, on application as contemplated in subsection (3), be removed from the Register after a period of five years has lapsed since the particulars of that person were included in the Register.
- (2) The particulars of a person who has—
- (a) been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period exceeding eighteen months, whether the sentence was suspended or not; or
- (b) two or more convictions of a sexual offence against a child or a person who is mentally disabled, may not be removed from the Register.
- (3) (a) A person falling into the categories contemplated in subsection (1) may apply, in the prescribed manner, to the Registrar to have his or her particulars removed from the Register.
- (b) The Registrar must, after considering the application, remove the particulars of the person contemplated in paragraph (a) from the Register, unless the person concerned has an investigation or a

charge relating to a sexual offence against a child or a person who is mentally disabled pending against him or her and the relevant investigation or case has not yet been finalised, in which event the finalisation of the application must be postponed until the Registrar has, in the prescribed manner, received information on the outcome of the investigation or case.

(c) The Registrar may, at the request of a person whose particulars are included in the Register, remove those particulars from the Register if the Registrar is satisfied that the entry of those particulars in the Register was clearly in error.

FORM 5

[Regulation 16(1)]

COURT ORDER FOR INCLUSION OF PARTICULARS IN REGISTER

Section 50(2)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Official stamp of
Registrar of the High Court or
Clerk of the Court

***IN THE REGIONAL/ MAGISTRATE'S COURT FOR THE
DISTRICT OF.....HELD AT**
CASE NO.

***IN THE HIGH COURT OFHELD AT**
CASE NO.

Date:

NOTE

In terms of section 50(2)(a) of the Act a court that has in terms of the Act or any other law—

- (i) convicted a person of a sexual offence against a child or a person who is mentally disabled and, after sentence has been imposed by that court for such offence, in the presence of the convicted person; or*
 - (ii) made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, that the person is by reason of mental illness or mental defect not capable of understanding the proceedings so as to make a proper defence or was, by reason of mental illness or mental defect, not criminally responsible for the act which constituted a sexual offence against a child or a person who is mentally disabled, in the presence of that person,*
- must make an order that the particulars of the person be included in the Register.*

**1. THE *CLERK OF THE COURT/ THE REGISTRAR OF THE HIGH COURT MUST—
WITHOUT DELAY FORWARD THE PARTICULARS OF:**

Title:

Full names and surname:

Indicate any other surnames:.....

Indicate any known alias or nickname:

Any known profession or trade:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....

Any other contact details (including postal address):

.....

Telephone number:

Cell number:

***2. HAVING BEING CONVICTED OF—**

Type of sexual offence:

Date and place of—

conviction:; and

sentence:

Sentence imposed:

.....

***3. HAVING—**

Allegedly committed: (Type of sexual offence)

Date and place of direction in terms of—

*section 77(6) of the Criminal Procedure Act, 1977:; or

*section 78(6) of the Criminal Procedure Act, 1977:

Name of medical institution to which person will be referred (if available):

TOGETHER WITH A SET OF FINGERPRINTS OF THE ABOVE PERSON TO THE REGISTRAR OF THE NATIONAL REGISTER FOR SEX OFFENDERS

.....
SIGNATURE OF *MAGISTRATE/ JUDGE

**Delete whichever is not applicable*

FORM 6
[Regulation 16(1)]
NOTIFICATION TO EMPLOYER OF COURT ORDER

Section 50(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Official stamp of Registrar of the High Court or Clerk of the Court

*IN THE REGIONAL/MAGISTRATE'S COURT FOR THE DISTRICT OF.....HELD AT CASE NO.

*IN THE HIGH COURT OFHELD AT CASE NO.

Date:

NOTE

Section 50(3) of the Act provides that where a court has made an order under section 50(2)(a), the Registrar of the High Court or clerk of the magistrate's court must, where possible notify the employer in the prescribed manner, of such order and must forthwith forward the order to the Registrar of the National Register for Sex Offenders, together with all the particulars referred to in section 49 of the person in question, and the Registrar must immediately and provisionally, in the prescribed manner, enter the particulars of the person concerned in the Register, pending the outcome of any appeal or review and must, after—

- (a) the period for noting an appeal or taking the matter on review has expired; or
(b) the appeal or review proceedings have been concluded in the case of an appeal or review, either enter or remove such particulars from the Register, depending on the outcome of the appeal or review, if any.

1. IN TERMS OF THE ORDER OF THE COURT YOU ARE HEREBY NOTIFIED THAT THE PARTICULARS OF—

Title:
Full names and surname:
Indicate any other surnames:.....
Indicate any known alias or nickname:
Any known profession or trade:
Date of birth:.....
Age:
Identity number/ passport number:
Driver's licence number:
Home address/ Last known physical address:
Any other contact details (including postal address):
Telephone number:
Cell number:

***2. HAVING BEING CONVICTED OF—**

Type of sexual offence:

Date and place of—

conviction:; and

sentence:

Sentence imposed:

.....

***3. HAVING—**

Allegedly committed: (Type of sexual offence)

Date and place of direction in terms of—

*section 77(6) of the Criminal Procedure Act, 1977:; or

*section 78(6) of the Criminal Procedure Act, 1977:

Name of medical institution to which person will be referred (if available):

Delete whichever is not applicable*HAVE BEEN FORWARDED TO THE REGISTRAR OF THE NATIONAL REGISTER FOR SEX OFFENDERS FOR SUCH PARTICULARS TO BE INCLUDED IN THE REGISTER****NOTE:****1. National Register for Sex Offenders:**

The Minister for Justice and Constitutional Development has established a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence against a child or a person who is mentally disabled or are alleged to have committed a sexual offence against a child or a person who is mentally disabled and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.

2. Implication of inclusion of particulars in Register:

2.1 A person who has been convicted of the commission of a sexual offence against a child or is alleged to have committed a sexual offence against a child and who has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may not—

- (i) be employed to work with a child in any circumstances;
- (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a child, or which, in any other manner, places him or her in a position of authority, supervision or care of a child or where he or she gains access to a child or places where children are present or congregate;

- (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a child; or
- (iv) become the foster parent, kinship care-giver, temporary safe care-giver or adoptive parent of a child.

2.2 A person who has been convicted of the commission of a sexual offence against a person who is mentally disabled or is alleged to have committed a sexual offence against a person who is mentally disabled and who has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may not—

- (i) be employed to work with a person who is mentally disabled in any circumstances;
- (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a person who is mentally disabled, or which, in any other manner, places him or her in a position of authority, supervision or care of a person who is mentally disabled or where he or she gains access to a person who is mentally disabled or places where persons who are mentally disabled are present or congregate;
- (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is mentally disabled; or
- (iv) become a curator of a person who is mentally disabled.

- 2.3
- (i) An employee in the employ of an employer must without delay disclose a conviction or finding referred to in 2.1 or 2.2 above, to his or her employer.
 - (ii) An employee who applies for employment, must, if he or she has been convicted of an offence referred to in 2.1 or 2.2 above, or is alleged to have committed such offence and who has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, disclose such conviction or finding when applying for employment.
 - (iii) An employee who fails to comply with this obligation is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.

- 2.4
- (i) A person who applies for approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a child or a person who is mentally disabled must disclose that he or she has been convicted of a sexual offence against a child or a person who is mentally disabled or is alleged to have committed such offence and was dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.
 - (ii) A person who contravenes the above obligation is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding seven years or to both a fine and such imprisonment.

.....
SIGNATURE OF *CLERK OF THE COURT/ REGISTRAR OF THE HIGH COURT

**Delete whichever is not applicable*

FORM 7

[Regulation 17(1)]

APPLICATION FOR CERTIFICATE BY PERSON IN RESPECT OF OWN PARTICULARS

Section 44 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:

NOTE 1: *In terms of section 44 of the Act an application for a certificate, stating whether or not the particulars of a person mentioned in the application are recorded in the National Register for Sex Offenders may be made by—*

- (a) *an employer in respect of an employee;*
- (b) *a licensing authority in respect of an applicant;*
- (c) *a relevant authority in respect of an applicant;*
- (d) *an employee contemplated in respect of his or her own particulars;*
- (e) *a person contemplated applying for a licence or approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of children or persons who are mentally disabled in respect of his or her own particulars;*
- (f) *a person contemplated in section 48(2) applying to become a foster parent, kinship care-giver, temporary safe care-giver or adoptive parent in respect of his or her own particulars; or*
- (g) *any person whose particulars appear on the Register in respect of his or her own particulars.*

NOTE 2: *A set of fingerprints of applicant must be attached to this form (a set of fingerprints can be taken at any police station)*

1. PARTICULARS OF APPLICANT

Title:

Full names and surname:

Indicate any other surnames:.....

Indicate any known alias or nickname:

Profession or trade:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....

Any other contact details (including postal address):

.....

E-mail address:

Telephone number:

Cell number:

Type of sexual offence:

Date and place of—

conviction:; and

sentence:

Sentence imposed:

Reason for applying for certificate:

SIGNATURE OF APPLICANT

(If application is not submitted electronically)

FORM 8

[Regulation 17(2)]

APPLICATION FOR CERTIFICATE BY PERSON/ LICENCING AUTHORITY/ RELEVANT AUTHORITY IN RESPECT OF PARTICULARS OF ANOTHER

Section 44 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:

NOTE 1: *In terms of section 44 of the Act an application for a certificate, stating whether or not the particulars of a person mentioned in the application are recorded in the National Register for Sex Offenders may be made by—*

- (a) *an employer in respect of an employee;*
- (b) *a licensing authority in respect of an applicant;*
- (c) *a relevant authority in respect of an applicant;*
- (d) *an employee contemplated in respect of his or her own particulars;*
- (e) *a person contemplated applying for a licence or approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of children or persons who are mentally disabled in respect of his or her own particulars;*
- (f) *a person contemplated in section 48(2) applying to become a foster parent, kinship care-giver, temporary safe care-giver or adoptive parent in respect of his or her own particulars; or*
- (g) *any person whose particulars appear on the Register in respect of his or her own particulars.*

NOTE 2: *A set of fingerprints of the person referred to in paragraph 2 hereunder, must be attached to this form (a set of fingerprints can be taken at any police station)*

1. PARTICULARS OF APPLICANT

*1.1 Title:

Full names and surname:

Profession or trade:

Identity number/ passport number:

Contact details (including postal address):

.....
 Telephone number:
 Cell number:
 Reason for applying for certificate:

If licensing authority or relevant authority as defined in the Act applies for certificate, please state

*1.2 Name of licensing authority/relevant authority:
 Business address of licensing authority/relevant authority:

Details of contact person applying on behalf of licensing authority/relevant authority:

Title:
 Full names and surname:
 Contact details (including postal address):

 E-mail address:
 Telephone number:
 Cell number:
 Reason for applying for certificate:

**Delete whichever is not applicable*

2. PARTICULARS OF PERSON

Title:
 Full names and surname:
 Indicate any other surnames:.....
 Indicate any known alias or nickname:
 Profession or trade:
 Date of birth:.....
 Age:
 Identity number/ passport number:
 Driver's licence number:
 Home address/ Last known physical address:

 Any other contact details (including postal address):

 Telephone number:
 Cell number:

SIGNATURE OF APPLICANT

(If application is not submitted electronically)

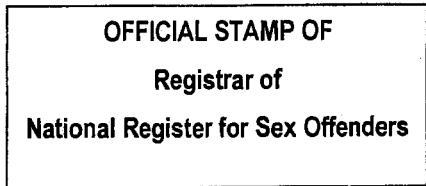
FORM 9

[Regulation 18]

CERTIFICATE IN RESPECT OF PARTICULARS

Section 44 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:



NOTE

In terms of section 43 of the Act the objects of the Register are to protect children and persons who are mentally disabled against sexual offenders by—

- (a) establishing and maintaining a record of persons who—
(i) have been convicted of a sexual offence against a child or a person who is mentally disabled, whether committed before or after the commencement of Chapter 6 and whether committed in or outside the Republic; or
(ii) are alleged to have committed a sexual offence against a child or a person who is mentally disabled in respect of whom a court, whether before or after the commencement of Chapter 6—
(aa) in the Republic has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977; or
(bb) outside the Republic has made a finding and given a direction contemplated in subparagraph (aa) in terms of the law of the country in question;
(b) informing an employer applying for a certificate as contemplated in Chapter 6 whether or not the particulars of an employee contemplated in section 45(1)(a) or (b) are contained in the Register;
(c) informing a licensing authority applying for a certificate as contemplated in Chapter 6 whether or not the particulars of an applicant contemplated in section 47 are contained in the Register; and
(d) informing the relevant authorities dealing with fostering, kinship care-giving, temporary safe care-giving, adoption or curatorship applying for a certificate as contemplated in Chapter 6 whether or not the particulars of an applicant, as contemplated in section 48, have been included in the Register.

PARTICULARS OF PERSON

Title:

Full names and surname:

Indicate any other surnames:.....

Any known alias or nickname:

Profession or trade:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....
 Any other contact details (including postal address):

 Telephone number:
 Cell number:

IT IS HEREBY CERTIFIED THAT—

*1. The particulars of the person referred to above **have been included** in the National Register for Sex Offender on 200.....

*2. The particulars of the person referred to above **have not been included** in the National Register for Sex Offender as at 200.....

**Delete whichever is not applicable*

.....
SIGNATURE OF REGISTRAR

FORM 10

[Regulation 19]

APPLICATION FOR REMOVAL OF PARTICULARS FROM REGISTER

Section 51 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:

NOTE 1: *A set of fingerprints of applicant must be attached to this form (a set of fingerprints can be taken at any police station)*

NOTE 2: *Section 51 of the Act provides that subject to subsections (2) and (3), the particulars of a person—*

- (a) *who—*
 - (i) *has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of at least six months but not exceeding eighteen months, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed after that person has been released from prison or the period of suspension has lapsed;*
 - (ii) *has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of six months or less, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of seven years has lapsed after that person has been released from prison or the period of suspension has lapsed; or*
 - (iii) *is alleged to have committed a sexual offence against a child or a person who is mentally disabled in respect of whom a court, whether before or after the commencement of Chapter 6, has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may, on application as contemplated in subsection (3), be removed from the Register after a period of five years has lapsed after such*

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 on him or her; or

(b) who has been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to any other form of lesser punishment or court order may, on application as contemplated in subsection (3), be removed from the Register after a period of five years has lapsed since the particulars of that person were included in the Register.

(2) The particulars of a person who has—

(a) been sentenced for a conviction of a sexual offence against a child or a person who is mentally disabled to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period exceeding eighteen months, whether the sentence was suspended or not; or

(b) two or more convictions of a sexual offence against a child or a person who is mentally disabled, may not be removed from the Register.

(3) (a) A person falling into the categories contemplated in subsection (1) may apply, in the prescribed manner, to the Registrar to have his or her particulars removed from the Register.

(b) The Registrar must, after considering the application, remove the particulars of the person contemplated in paragraph (a) from the Register, unless the person concerned has an investigation or a charge relating to a sexual offence against a child or a person who is mentally disabled pending against him or her and the relevant investigation or case has not yet been finalised, in which event the finalisation of the application must be postponed until the Registrar has, in the prescribed manner, received information on the outcome of the investigation or case.

(c) The Registrar may, at the request of a person whose particulars are included in the Register, remove those particulars from the Register if the Registrar is satisfied that the entry of those particulars in the Register was clearly in error.

1. PARTICULARS OF APPLICANT

Title:

Full names and surname:

Indicate any other surnames:.....

Any known alias or nickname:

Profession or trade:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....

Any other contact details (including postal address):

.....

E-mail address:

Telephone number:

Cell number:

2. REASON FOR APPLICATION OF REMOVAL OF PARTICULARS

See note 2 above:

.....

.....

.....

3. DECLARATION

Note: Regulation 20 of the Criminal Law (Sexual Offences and Related Matters) Regulations provides that a person who applies for the removal of his or her particulars from the Registrar, who falsely declares that there are no criminal proceedings for allegedly having committed a sexual offence against a child or a person who is mentally disabled, pending against him or her, is guilty of an offence and is liable on conviction to a fine or imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

I hereby declare that there are no criminal proceedings, for allegedly having committed a sexual offence against a child or a person who is mentally disabled, pending against me.

.....

SIGNATURE OF APPLICANT

(If application is not submitted electronically)

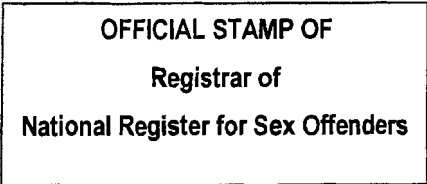
FORM 11

[Regulation 19(3)]

CERTIFICATE CONFIRMING REMOVAL OF PARTICULARS FROM REGISTER

Section 51 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:



IT IS HEREBY CERTIFIED THAT—

THE PARTICULARS OF—

Title:

Full names and surname:

Indicate any other surnames:.....

Any known alias or nickname:

Profession or trade:

Date of birth:.....

Age:

Identity number/ passport number:

Driver's licence number:

Home address/ Last known physical address:

.....

Any other contact details (including postal address):

.....

Telephone number:

Cell number:

***HAVE BEEN REMOVED FROM THE NATIONAL REGISTER FOR SEX OFFENDERS WITH EFFECT FROM**

20....

OR

***HAVE NOT BEEN REMOVED FROM THE NATIONAL REGISTER FOR SEX OFFENDERS**

**Delete whichever is not applicable*

.....
SIGNATURE OF REGISTRAR