

- (a) include members from the government and the non-government sector;
- (b) include at least one individual who has specific knowledge, skill and practical experience which establishes him or her as an expert in the field of service delivery in which the child and youth care centre is involved; and
- (c) select from within its own ranks a team leader.

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

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

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

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

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

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

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

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

CHAPTER 16

DROP-IN CENTRES

(Sections 213 – 227 of the Act)

105. National norms and standards

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

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

(1) Subject to the provisions of subregulation (2), an application for the registration or conditional registration or for the renewal of registration of a drop-in centre must be lodged with the provincial head of social development of the province where the facility is situated in a form that substantially corresponds with **Form 57**.

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

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

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

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

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

- (i) The name of the drop-in centre;
 - (ii) the category or categories of children it will cater for;
 - (iii) the composition, powers and duties of the management;
 - (iv) the powers, obligations and undertaking of management to delegate all authority with regards to care, behaviour management and development of children to the head of the drop-in centre, where applicable;
 - (v) the procedure for amending the written plan; and
 - (v) a commitment from the management to ensure compliance with the norms and standards for drop-in centres reflected in Annexure A;
- (c) an original copy of the approved building plans or a copy of the plans that has been submitted for approval if the application for the approval of the plans is still under consideration;
- (d) an emergency plan; and
- (e) clearance certificates to the effect that the name of the applicant and the name of any employee do not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

107. Consideration of application

(1) On granting an application referred to in regulation 106(1), the provincial head of social development or, where the function has been assigned to a municipality in terms of section 225 of the Act, the municipal manager or social service professional concerned, must issue to the applicant a certificate of registration or conditional registration or renewal of registration in a form that substantially corresponds with **Form 58**.

(2) The provincial head of social development or, where the function has been assigned to a municipality in terms of section 225 of the Act, the municipal manager or social service professional concerned, may grant an application referred to in regulation 106(1) for a period not exceeding five years.

(3) In granting an application referred to in subregulation (2), the provincial head of social development or, where the function has been assigned to a municipality in

terms of section 225 of the Act, the municipal manager or social service professional concerned, may impose such conditions as he or she deems necessary or expedient.

(4) In rejecting an application for registration of a drop-in centre, the provincial head of social development or, where the function has been assigned to a municipality in terms of section 225 of the Act, the municipal manager or social service professional concerned, must duly inform the applicant of the refusal in a form substantially corresponding with **Form 59** by registered post and must furnish reasons for such rejection.

(5) (a) An applicant or a registration holder aggrieved by a decision of a provincial head of social development may appeal against such decision to the MEC for social development of that province in a form that substantially corresponds with **Form 60** within 90 days of the receipt of such decision.

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

108. Management of drop-in centre

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

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

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

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

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

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

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

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

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

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

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

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

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

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

109. Persons rendering services at a drop-in centre

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

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

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

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

to his or her employer.

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

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

110. Assignment of functions to municipalities

(1) Before a provincial head of social development may assign functions to a municipality as contemplated in section 225 of the Act, he or she must conduct a needs assessment on the assignment of the functions referred to in that section in consultation with the municipality concerned.

(2) The provincial head of social development, before assigning all or part of the functions contemplated in section 225 of the Act, must be satisfied that the municipality concerned has –

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

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

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

(4) The agreement between the provincial head of social development and the municipal manager contemplated in section 225(2) of the Act must contain the following particulars:

- (a) A strategic plan containing a business plan for a period of three years, an operational plan for a period of one year and a budget for a period of three years;

- (b) a service level agreement; and
- (c) an organogram for the establishment responsible for the administration of the assigned functions.

CHAPTER 17

ADOPTION

(Sections 228 – 253 of the Act)

111. Register on Adoptable Children and Prospective Adoptive Parents

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

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

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

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

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

(5) When a child is available for adoption –

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

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

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

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

112. Applications for the adoption of children

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

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

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

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

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

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

113. Consent to adoption

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

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

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

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

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

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

Republic, must verify the identity of the person giving such consent against a valid identity document or a valid passport.

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

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

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

114. Determination of age of child

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

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

(2) The medical practitioner referred to in subregulation (1) must submit his or her assessment of the age of the child in a form substantially corresponding with **Form 71**.

115. Abandonment of a child

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

116. Post adoption agreements

(1) A post adoption agreement contemplated in section 234 of the Act must –
(a) contain the following particulars of the parent or guardian and the prospective adoptive parent:

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

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

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

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

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

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

117. Freeing orders

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

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

118. Record of adoption proceedings

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

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

119. Adoption register

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

120. Adoptions record book

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

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

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

121. Registration of adoptions

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

(a) The original of –

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

(b) a copy of the record of the proceedings concerned.

(2) After registration as contemplated in subregulation (1) the Registrar of Adoptions must enter the date of registration and the registration number on each order of adoption and must forward –

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

122. Appeal against and rescission of an order of adoption

(1) If the High Court concerned rescinds an order of adoption in terms of section 51 or section 243 of the Act, the Registrar of that Court must submit a copy of the court order to the clerk of the relevant children's court.

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

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

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

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

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

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

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

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

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

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

124. Fees

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

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

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

125. Accreditation to provide adoption services

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) surname;

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

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

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

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

accreditation of such social worker to provide adoption services as provided for in section 251(1)(a) of the Act; or

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

126. Advertisements

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

127. Guidelines on adoption

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

CHAPTER 18

INTER-COUNTRY ADOPTION

(Sections 254 – 273 of the Act)

128. Accreditation to provide inter-country adoption services

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

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

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

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

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

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

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

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

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

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

(a) identifying information with certified copies of supporting documents;

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

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

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

(1) In addition to the requirements set out in article 16 of the Hague Convention on Inter-country Adoption, the report on a child required by section 261(3) of the Act must be a comprehensive child study report compiled by a registered social worker employed by a child protection organisation accredited to provide inter-country adoption services.

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

- (a) identifying information with an original birth certificate or identity document, or where these are not available, a sworn statement from the social worker to supplement the lack of documentary information;
- (b) details regarding the child's language, culture, race and religion;
- (c) a medical report confirming the health status of the child, and where applicable, a description of any special needs that the child may have;
- (d) information about the child's natural parents (where such information is known);

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

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

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

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

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

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

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

(4) The Central Authority of the Republic must appoint an escort to accompany a child on his or her return to the Republic, who must be a suitably qualified

or experienced person employed by the Department or by a child protection organisation accredited to provide inter-country adoption services.

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

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

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

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

The report on the applicant required by section 262(2) of the Act must include –

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

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

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

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

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

- (a) identifying information with an original birth certificate or identity document or where these are not available, a sworn statement from the social worker to supplement the lack of documentary information;
- (b) details regarding the child's language, culture, race and religion;
- (c) a medical report confirming the health status of the child, and where applicable, a description of any special needs that the child may have;
- (d) information about the child's natural parents (where such information is known), including –
 - (i) a description of the counseling they have received;
 - (ii) whether they have consented to the adoption; and
 - (iii) if their consent is not required, the reasons for such non-requirement;
- (e) information regarding the siblings of the child, where applicable;
- (f) comprehensive information regarding the efforts that have been made to provide suitable alternative care within the Republic;
- (g) the views of the child concerning the adoption, where the child is capable of forming his or her own view; and
- (h) the child's consent form, if he or she is ten years of age or older, which must be annexed to the report.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) identifying information with certified copies of supporting documents;
- (b) a medical report of the applicant's health status;
- (c) a police clearance certificate;
- (d) proof of residence;
- (e) the applicant's ethnic, religious and cultural background;
- (f) information regarding the applicant's own childhood;
- (g) information regarding other family members;
- (h) details of the attitude of other family members towards the adoption,
- (i) plans for integration with siblings, where applicable;
- (j) the reasons why the applicant wishes to adopt a child, and the reasons why adoption from the particular convention country is sought; and
- (k) plans to move the child from the convention country to the Republic.

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

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

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

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

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

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

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

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

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

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

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

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

139. Declaration of recognition of inter-country adoption

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

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

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

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

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

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

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

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

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

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

141. Guidelines on inter-country adoption

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

CHAPTER 19

CHILD TRAFFICKING

(Sections 281 – 291 of the Act)

142. Behaviour facilitating trafficking in children prohibited

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

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

143. Repatriation of child who is victim of trafficking

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

ANNEXURE A: NATIONAL NORMS AND STANDARDS

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

A. NATIONAL NORMS AND STANDARDS FOR PARTIAL CARE

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

(a) A safe environment for children

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