

- (b) the report must be based on the developmental assessment of the child and his or her ecological circumstances and must reflect the existing and future individual developmental and permanency plans for the child to meet developmental and permanency goals as stipulated in the plans;
- (c) the report must reflect the incidence of parental contact or contact by relatives with the child during the period of his or her placement in alternative care; and
- (d) the report must include a fully motivated recommendation –
 - (i) on the possibility or desirability of restoring the child to the custody of his or her immediate family or other family members; and
 - (ii) if family reunification is desirable, on the nature of activities which can be employed to promote an environment conducive to the development of the strengths and skills of the parent, guardian, care-giver, family members and the child.

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

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

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

68. Manner in which children in alternative care must be transferred or provisionally transferred, their residential care programmes changed, be removed or permanently discharged from alternative care

- (1) A child in alternative care –

- (a) who is to be transferred from a child and youth care centre or person to another child and youth care centre or person in terms of section 171 of the Act;
- (b) whose residential care programme has been changed and is to be transferred to another child and youth care centre or person in terms of section 172 of the Act;
- (c) who is to be removed from current alternative care to a specified place of temporary safe care in terms of section 173 of the Act;
- (d) who is to be provisionally transferred to another form of care in terms of section 174 of the Act; or
- (e) who is to be discharged from alternative care in terms of section 175 of the Act, must be accompanied by a social worker or escort, who must be a suitably qualified or experienced person employed by the provincial department of social development or by an accredited child protection organisation.

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

(3) The costs related to the transport of the child, including the costs of an escort, must be paid for out of funds made available for this purpose by the provincial department of social development.

(4) A child who is being transported in terms of this regulation –

- (a) may not be transported in the back of a marked police vehicle;
- (b) must be allowed such reasonable breaks as may be required given the distance that is to be travelled;
- (c) must have access to water and food if the distance to be travelled exceeds 100 kilometres; and
- (d) must be given access to adequate overnight facilities, shelter and food in the event that the distance to be travelled requires staying over.

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

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

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

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

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

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

70. Responsibilities of foster parents

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

- (a) ensure that any state grant or financial contribution from such child's biological parent or parents is used towards the upbringing of the child and applied in his or her best interests;

- (b) not obstruct contact between the foster child and his or her biological family members and other persons with an interest in the well-being and development of the child, including contact as provided for in any foster care plan or order of court assigning parental responsibilities and rights referred to in section 188(1)(d) or (e) of the Act, if such contact is in the best interests of the child and if such biological family members and other persons are available for the purposes of maintaining contact with the child;
- (c) ensure that if such child is of school-going age, he or she attends school on a regular basis;
- (d) co-operate with a designated child protection agency or designated social worker towards the eventual re-unification of such child with his or her biological parents or family members, as the case may be, where this is indicated in the permanency plan;
- (e) co-operate with a designated child protection agency or designated social worker in any review of the possible extension of the foster care order;
- (f) permit a designated child protection agency or designated social worker to have access to his or her home and to the child concerned, for the purposes of monitoring of the foster care placement, provision of reunification services, review of the foster care order or for any other matter relevant to the foster care placement;
- (g) respect the views of such child and generally promote his or her well-being, best interests and physical, emotional and social development, and where applicable, participation in early childhood development programmes;
- (h) guide the behaviour of such child in a humane manner and refrain from imposing any form of physical violence or punishment, or humiliating or degrading forms of discipline;
- (i) where a foster care plan has been formulated in accordance with section 188(1)(e), comply with the provisions of such plan;
- (j) ensure that where such child is from a different cultural, linguistic or religious background, the child is assisted to maintain links with his or her culture, language or religion; and
- (k) ensure that such child is treated in a manner substantially similar to other children living in the same household, except where the special needs of such child or any other child in the household require otherwise.

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

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

(c) A foster parent must notify the designated social worker or designated child protection organisation, as the case may be, within 14 days, of any material changes in his or her living circumstances, or his or her family's living circumstances, which are likely to have a material effect on the foster placement.

71. Rights of foster parents

(1) A foster parent has the right to take all day to day decisions necessary for the care, upbringing and development of the foster child in his or her care.

(2) A foster parent has the right to reasonable privacy of home life, and not to be subjected to threats, harassment and undue intrusions upon the exercise of his or her foster care responsibilities by biological parents or family members of the foster child.

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

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

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

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

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

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

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

(8) A foster parent has the right to be informed by the designated social worker or the designated child protection organisation, as the case may be, of any fact or occurrence that may substantially affect the foster placement of the child in his or her care.

72. Participation in training programmes

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

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

73. Notice of adoption of a foster child

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

(2) A foster parent may give notice that he or she has been informed of a pending application for the adoption of a foster child in his or her care, and that he or she does not wish to adopt the child or to submit an application for the adoption of the foster child, in a form that substantially corresponds with **Form 43**.

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

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

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

75. Foster care plans

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

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

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

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

(4) A foster care plan may contain details relating to –

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

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

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

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

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

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

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

PART II

CLUSTER FOSTER CARE

76. Registration

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

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

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

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

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

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

(5) In rejecting an application for registration of a cluster foster care scheme, the provincial head of social development must duly inform the applicant of the rejection in a form that substantially corresponds with **Form 47** by registered post and must furnish reasons for such rejection.

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

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

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

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

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

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

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

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

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

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

(4) An organisation managing or operating a cluster foster care scheme must ensure that clearance certificates to the effect that the names of any active members providing foster care to children in the scheme do not appear in Part B of the Register or the National Register for Sex Offenders established by Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).

(5) An organisation managing or operating a registered cluster foster care scheme must have –

- (a) in its employ at least one person registered as a social worker with the Council for Social Services Professions for every 50 children served by the cluster foster care scheme or schemes that it manages or operates;
- (b) at least not less than one registered social worker for the appropriate number of children as specified in the norms and standards for cluster foster care developed by the Department of Social Development; or
- (c) entered into a formal agreement with a designated child protection organisation to provide such child protection services as are required.

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

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

(2) A cluster foster care scheme must keep proper financial records of all social assistance grants and other monies received for the provision of social services for the support of the foster children placed in such scheme by a children's court.

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

(4) The written plan, agreement or articles of association must contain sufficient details about the system of assessment of children placed in cluster foster care and their placement with active members of the scheme who are to be assigned responsibility for them.

(5) The written plan, agreement or articles of association referred to in subregulation (3) must contain details as to how disputes concerning the management, operation or day to day functioning of the scheme are to be resolved, and how decisions are to be taken regarding transfer of children between, or placement with, foster parents who are active members of the scheme assigned responsibility for foster children.

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

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

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

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

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

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

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

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

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

80. Functioning of a cluster foster care scheme

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

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

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

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

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

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

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

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

CHAPTER 15
CHILD AND YOUTH CARE CENTRES
(Sections 191 – 212 of the Act)

82. National norms and standards

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

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

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

- (a) to be informed promptly in a language which he or she understands of the reason for his or her admission or detention, as the case may be;
- (b) to have his or her parent, guardian, custodian, next of kin or significant other person informed, within 48 hours of admission, of the place to which he or she has been admitted or in which he or she is being detained, as the case may be, and of the reason for his or her admission or detention, as the case may be;

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

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

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

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

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

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

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

(b) The education referred to in paragraph (a) must, as far as possible, be accessed at a school or other training facility in the community.

(c) Where children cannot access education or other appropriate skills training in the community, such education or skills training must be provided at the child and youth care centre.

85. Behaviour management in child and youth care centres

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

- (a) ensuring that children are provided with the skills and support which enables constructive and effective social behaviour;

- (b) demonstrating the expected behaviour by modelling this in their attitudes and interactions with the children;
- (c) ensuring that children feel respected, and physically, emotionally and socially safe when service providers provide positive discipline; and
- (d) ensuring through programmes and effective role modelling that children are given opportunity and encouragement to demonstrate and practice positive behaviour.

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

- (a) Group punishment for individual behaviour;
- (b) threats of removal, or removal from the programme;
- (c) humiliation or ridicule;
- (d) physical punishment;
- (e) deprivation of basic rights and needs such as food and clothing;
- (f) deprivation of access to family members or significant other persons;
- (g) denial, outside of the child's specific development plan, of visits, telephone calls or correspondence with family members and significant other persons;
- (h) isolation from service providers or other children admitted to the place of care, other than for the immediate safety of such children or such service providers only after all other possibilities have been exhausted and then under strict adherence to policy, procedure, monitoring and documentation;
- (i) restraint, other than for the immediate safety of the children or service providers and as an extreme measure, which measure must be governed by specific policy and procedures compliant with subregulations (3), (4) and (5), may only be undertaken by service providers trained in such measure, and must be thoroughly documented and effectively monitored;
- (j) assignment of exercise or inappropriate chores;
- (k) undue influence by service providers regarding their religious or personal beliefs including sexual orientation or cross-gendered identity;
- (l) measures which demonstrate discrimination on the basis of cultural or linguistic heritage, gender, race, sexual orientation or cross-gendered identity;
- (m) verbal, emotional or physical harm;
- (n) punishment by another child; and
- (o) behaviour modification such as punishment or reward systems or privilege systems, other than as a treatment or development technique within a

documented individual treatment or development programme which is developed by a team including the child and monitored by an appropriately trained multi-disciplinary team.

(3) A child may be isolated from other children, only if he or she cannot be managed and is deemed to be a danger to himself or herself or others, for a very limited period of no longer than two hours, for the purposes of providing support and giving him or her time to regain control and dignity.

(4) (a) Any child isolated from other children must be under the constant observation of a social worker or child and youth care worker or psychologist, and must be provided with physical care, emotional support, and counselling which assists in re-integration into the group as soon as possible.

(b) No child may be isolated or locked up as a form of discipline or punishment.

(c) The room where a child is isolated may not be a bathroom or toilet, a windowless room, a basement room, vault or store-room.


(5) A register must be maintained which details the reasons for and period of a child's isolation, together with a report on the support and counselling provided and the response of the child during the period of isolation.

86. Reportable incidents

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

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

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



- (a) removal or any attempted removal of a child from the child and youth care centre or programme by anyone who does not have the appropriate permission;
- (b) any situation in which restraint, isolation, or prohibited behaviour management measures is used;
- (c) accident or illness requiring medical attention or hospitalisation;
- (d) allegations of physical, emotional, sexual or verbal abuse;
- (e) absence of a child or young person from the centre without permission, or as otherwise agreed within the individual development plan;
- (f) interventions by security personnel or the South African Police Services;
- (g) the death or injury of a child;
- (h) any criminal charge or conviction of a service provider, volunteer or other adult involved with the centre;
- (i) any substance abuse by a service provider while on duty, or arrival on duty under the influence of alcohol or drugs;
- (j) any strike by workers at the centre; or
- (k) any other unusual circumstances that are likely to affect the safety or well-being of any child at the centre.

87. Complaints

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

(2) Each child and youth care centre must have a written complaints procedure, approved by the centre's management board, which must –

- (a) be appropriate to the age and stage of development of the children residing at the centre;
- (b) allow for children to complain about particular incidents or staff members;
- (c) be accessible to the children;
- (d) be structured in such a manner that it does not cause or steepen conflict;
- (e) encourage restorative justice interventions, where appropriate;
- (f) allow for fair procedures for those who have allegations made against them; and
- (g) be aligned with the system in place for reportable incidents.

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

88. Reception of children in child and youth care centre

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

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

89. Register of children in child and youth care centre

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

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

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

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

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

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

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

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

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

91. Notice of movement of children

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

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

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

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

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

- (a) The particulars of the applicant;
- (b) the physical and postal address of the child and youth care centre;

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

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

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

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

93. Notice of application

The provincial head of social development who has received an application for the registration of a child and youth care centre must –

- (a) publish a notice that such an application has been received by him or her in a local newspaper circulating in the area where the child and youth care centre is or will be situated in at least three official languages within 14 days of the receipt of such an application;
- (b) indicate in the notice referred to in paragraph (a) that the application is available for scrutiny, comment and objection for a period of 21 days after publication of the notice; and
- (c) consider the application within a reasonable time after receipt of any objection or comment.

94. Consideration of application

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

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

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

(4) In rejecting an application for registration or the renewal of registration of a child and youth care centre, the provincial head of social development must duly

inform the applicant of the rejection in a form that substantially corresponds with **Form 55** by registered post and must furnish reasons for such rejection.

(5) An applicant or a registration holder aggrieved by a decision of a provincial head of social development may appeal against such decision to the MEC for social development of that province in a form that substantially corresponds with **Form 56** within 90 days of the receipt of such decision.

95. Skills

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

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

96. Amendment of registration

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

97. Appointment of management board

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

- (a) The provincial head of social development must appoint four board members, in accordance with the requirements set out in section 208(3) and (4) of the Act;
- (b) a call for nominations for the remaining members of the board must be advertised by the provincial head of social development in a local newspaper in the area where the child and youth care centre is situated, and must be published in at least three official languages;
- (c) any person from the community may be nominated, provided that the nomination is made in writing and is accompanied by a *curriculum vitae* of the nominee, as well as a letter indicating that he or she agrees to the nomination;
- (d) the provincial head of social development must consider all the nominations, and appoint from the persons nominated the remaining number of board members to make up a total of not less than six and not more than nine board members, provided that if he or she is not satisfied that there are sufficient suitable candidates, he or she may call for further nominations;
- (e) no person with a conflict of interests, or a potential conflict of interests may be appointed to the management board;
- (f) subject to paragraph (g), the board is appointed for a period of three years; and
- (g) in order to allow for effective leadership transition, the provincial head of social development may extend the period of membership of the four members directly appointed by him or her, for a second three year period.

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

- (a) The registration holder must appoint four board members, in accordance with the requirements set out in section 208(3) and (4) of the Act;
- (b) a call for nominations for the remaining members of the board must be advertised by the registration holder in a local newspaper in the area where the child and youth care centre is situated, and must be published in at least three official languages;
- (c) any person from the community may be nominated, provided that the nomination is made in writing and is accompanied by a *curriculum vitae* of the nominee, as well as a letter indicating that he or she agrees to the nomination;

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

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

98. Procedures of the management board

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

- (a) The board must meet at least four times a year, and may call meetings more frequently if required;
- (b) a chairperson must be elected at the first meeting of the board;
- (c) one half of the members of the board plus one other member constitutes a quorum;
- (d) a member of the board may resign by way of a letter to the chairperson of the board;
- (e) the chairperson of the board may resign by way of a letter to the provincial head of social development, if constituted in terms of 208(2)(a) of the Act or to the registration holder, if constituted in terms of section 208(2)(b) of the Act;
- (f) the decisions of the board must as far as possible be made by consensus, but where the matter is put to the vote, a simple majority prevails, and where the votes are split equally the chairperson has the casting vote;

- (g) the board must receive regular reports by the manager of the child and youth care centre who, together with a social worker and a nominated child and youth care worker, must attend all board meetings;
- (h) the board may request the attendance of or a report by any member of staff, and may be addressed by any child who is resident at the centre, either at the request of the child or at the board's own request;
- (i) minutes are to be recorded at all meetings, which must include a summary of the discussions and a record of all decisions taken;
- (j) the minutes of the previous meeting must be circulated together with an agenda at least two weeks prior to the following meeting, provided that if the meeting is called urgently, this rule may be dispensed with; and
- (k) the board may decide on its own procedures regarding matters on which these regulations are silent, provided that there is consensus regarding such procedures, failing which the procedure set out in paragraph (f) must be followed.

99. Responsibilities of the management board

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

(2) The management board must –

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

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

100. Children's forum

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

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

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

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

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

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

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

- (b) at least one member who has a qualification in child and youth care; and
- (c) a community representative from the community where the child and youth care centre is situated.

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

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

- (a) is a registered professional from an appropriate discipline;
- (b) has specialised knowledge of child and youth care work,
- (c) has proven leadership ability;
- (d) is able to demonstrate management and administration skills; and
- (e) has knowledge and experience of the particular programme or programmes that the child and youth care centre is registered to provide.

102. Management system

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

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

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

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

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

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

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

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

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

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

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

104. Developmental quality assurance process

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

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

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

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

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

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

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

(8) The team contemplated in subregulation (7) must –