

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 1338

01 DECEMBER 2017

DETERMINATION OF PERSONS OR CATEGORY OR CLASS OF PERSONS COMPETENT TO CONDUCT EVALUATIONS OF CRIMINAL CAPACITY OF CHILDREN AND ALLOWANCES AND REMUNERATION: SECTION 97(3) OF THE CHILD JUSTICE ACT, 2008

I, Tshililo Michael Masutha, Minister of Justice and Correctional Services, acting under section 97(3) of the Child Justice Act, 2008 (Act No. 75 of 2008) ("the Act"), hereby-

1. withdraw Government Notice No. R.273 dated 1 April 2010;
2. (a) determine that the category or class of persons listed in Column 1 of the Table in paragraph 1 of the Schedule are competent to assess the elements of development of a child listed in Column 2 of the Table in paragraph 1 of the Schedule for purposes of evaluating the criminal capacity of a child; and
 - (b) in consultation with the Minister of Finance, determine the allowances and remuneration set out in paragraph 2 of the Schedule in respect of the persons mentioned in paragraph (a) above.

T M MASUTHA
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

SCHEDULE

1. **Determination of categories or classes of persons competent to conduct evaluation of criminal capacity**

COLUMN 1	COLUMN 2
Category or class of persons competent to conduct evaluation of criminal capacity of a child	Element of development of a child
A medical practitioner who is registered as such in terms of the	Cognitive, emotional, moral, psychological and social

Health Professions Act, 1974 (Act No. 56 of 1974), and against whose name the speciality psychiatry is also registered.	
A psychologist who is registered as a clinical, educational or counselling psychologist in terms of the Health Professions Act, 1974.	Cognitive, emotional, moral, psychological and social

2. Determination of Remuneration and Allowances

2.1 Determination of Remuneration

- (a) A psychiatrist who, in terms of section 11(3) of the Act, is ordered by the court to evaluate the criminal capacity of a child and who is not in full-time service of the State is remunerated for the evaluation and preparation of the report at the rate of R1000,00 per hour or part thereof.
- (b) A clinical, educational or counselling psychologist who, in terms of section 11(3) of the Act, is ordered by the court to evaluate the criminal capacity of a child and who is not in full-time service of the State is remunerated for the evaluation and preparation of the report at the rate of R765,00 per hour or part thereof.

2.2 Determination of Allowances

Definitions

For the purposes of this paragraph -

“**court manager**” means a person in control of the administration of the magistrate’s court and includes a court manager appointed in terms of section 11 of the Superior Courts Act, 2013 (Act No. 10 of 2013);

“**registrar**” means a registrar of any regional division or of any division the High Court, and includes an assistant registrar.

Transport and travelling expenses

- (a) For purposes of conducting the evaluation, a competent person referred to in paragraph (1) to the Schedule, if necessary, may make use of a public or private transport.
- (b) A competent person who uses public transport is entitled to an amount equal to the fare for the least expensive means of transport along the shortest route.
- (c) A competent person who uses private motor vehicle is entitled to a transport allowance as prescribed from time to time for the Public Service.
- (d) A competent person may only use air transport at State expense, if the court manager or the registrar –
- (i) is satisfied that the use thereof is warranted; and

- (ii) has, prior to the flight, approved that the competent person may make use of the air transport.
- (e) A competent person is entitled to be reimbursed for reasonable actual expenses incurred in respect of parking and toll fees.

TLHOMAMISO YA BATHO KGOTSA MOFUTA KGOTSA MAEMO A BATHO BA BA NANG LE BOKGONI JWA GO DIRA TSHEKATSHEKO YA KITSO YA BOSENYI YA NGWANA LE DITUELOTETLA LE MEGOLO: KAROLO 97(3) YA MOLAWANA WA BOSIAMISI WA NGWANA, 2008

Nna, Tshililo Michael Masutha, Tona ya Bosiamisi le Ditirelo tsa Kgopololo, ka go dira ka fa tlase ga karolo 97(3) ya Molao wa Bosiamisi wa Ngwana, 2008 (Molao 75 wa 2008) ("Molao"), ke-

- 3. gogela morago Kitsiso ya Puso ya Nomoro R.273 ya letlha la 1 Moranang 2010;
- 4. (a) tlhomamisa gore mofuta kgotsa maemo a batho a a neetsweng mo Kholomong 1 ya Tafole e e mo temaneng 1 ya Šejule a siametse go lekola dipopi tsa nonofo ya ngwana tse di neetsweng mo Kholomong 2 ya Tafole e e mo temaneng 1 ya Šejule mabapi le maitlomo a go sekaseka kitso ya bosenyi ya ngwana; le
- (b) ka therisano le Tona ya Matlotlo, tlhomamisa dituelotetla le megolo e e tlhagisitsweng mo temaneng 2 ya Šejule mabapi le batho ba ba kailweng mo temaneng (a) fa godimo.

**T M MASUTHA
TONA YA BOSIAMISI LE DITIRELO TSA KGOPOLOLO**

ŠEJULE

1. Tihomamiso ya mefuta kgotsa maemo a batho ba ba nang le bokgoni jwa go dira tshekatsheko ya kitso ya bosenyi ya ngwana

KHOLOMO 1	KHOLOMO 2
Mofuta kgotsa maemo a batho ba ba nang le bokgoni jwa go dira tshekatsheko ya kitso ya bosenyi ya ngwana	Popi ya nonofo ya ngwana
Modiri wa tsa kalafi yo o kwadisitsweng jalo go ya ka <i>Health Professions Act, 1974</i> (Molao 56 wa 1974), le yo kगतलhanong le leina la gagwe saekhaeteri ya kgethego e kwadisitsweng .	Tlhaloganyo, maikutlo, maitsholo, bosaekholoji le loago
Mosaekholoji yo o kwadisitsweng jaaka mosaekholoji wa tliliniki, wa tsa thuto kgotsa yo o gakololang go ya ka <i>Health Professions Act, 1974</i> .	Tlhaloganyo, maikutlo, maitsholo, bosaekholoji le loago

2. Tihomamiso ya Megolo le Dituelotetla

2.1 Tihomamiso ya Megolo

- (a) Mosaekhaeteri yo, go ya ka karolo 11(3) ya Molao, o laelwa ke kgotlatshekelo go sekaseka kitso ya bosenyi ya ngwana le yo o seng mo tselong ya Puso ya leruri o duelwa mabapi le tshekatsheko le paakanyo ya pegelo ka seelo sa R1000,00 ura nngwe le nngwe kgotsa karolo ya sona.
- (b) Mosaekholoji wa tsa tliliniki, tsa thuto kgotsa yo o gakololang yo, go ya ka karolo 11(3) ya Molao, o laelwa ke kgotlatshekelo go sekaseka kitso ya bosenyi ya ngwana le yo o seng mo tselong ya Puso ya leruri o duelwa mabapi le tshekatsheko le paakanyo ya pegelo ka seelo sa R765,00 ura nngwe le nngwe kgotsa karolo ya sona.

2.2 Tihomamiso ya Dituelotetla

Ditlhaloso

Mabapi le maitlhommo a temana eno -

“**molaodi wa kgotlatshekelo**” o kaya motho yo o laolang tsamaiso ya kgotlatshekelo ya magiseterata le go akaretsa molaodi wa kgotlatshekelo yo o thapilweng go ya ka karolo 11 ya *Superior Courts Act, 2013* (Molao 10 wa 2013);

“**mokwadisi**” o kaya mokwadisi wa lekala lengwe le lengwe la kgaolo kgotsa wa lekala lengwe le lengwe la Kgotlatshekelokgolo, le go akaretsa mothusamokwadisi.

Sepalangwa le ditshenyegelo tsa mosepele

- (a) Mabapi le maitlhomo a go dira tshekatsheko, motho yo o nang le bokgoni yo o kailweng mo temaneng (1) ya Šejule, fa go tlokega, o ka dirisa sepalangwa sa botlhe kgotsa sa poraefete.
- (b) Motho yo o nang le bokgoni yo o dirisang sepalangwa sa botlhe o tshwanetswe ke madi a go palama a boleng jo bo lekanang le jwa sepalangwa sa tuelo e e kwa tlase mo tseleng ya sekgala se se khutshwane.
- (c) Motho yo o nang le bokgoni yo o dirisang koloi ya poraefete o tshwanetswe ke tuelotetla ya sepalangwa jaaka e tlhalositswe nako le nako mabapi le Tirelosetšhaba.
- (d) Motho yo o nang le bokgoni o ka dirisa fela sepalangwa sa mo moweng ka ditshenyegelo tsa Puso, fa motsamaisi wa kgotlatshekelo kgotsa mokwadisi—
 - (i) a kgotsofaditswe ke gore tiriso ya sona e a tlokega; le
 - (ii) o, pele ga go namela sefofane, netefaditse gore motho yo o nang le bokgoni o ka dirisa senamelwa sa mo moweng.
- (e) Motho yo o nang le bokgoni o tshwanetswe ke go busetswa mabapi le ditshenyegelo tsa nnete ka mabaka tse di bonweng mabapi le go paka le dituelelo tsa makgetho.