

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 108

07 FEBRUARY 2020

**CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT,
2007****REGULATIONS RELATING TO SEXUAL OFFENCES COURTS**

The Minister of Justice and Correctional Services has, in terms of section 67, read with section 55A, of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), and after consultation with the Minister of Safety and Security, Minister of Social Development, Minister of Health and the National Director of Public Prosecutions, made the Regulations in the Schedule.

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CHAPTER I DEFINITIONS AND APPLICATION

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"court preparation officer" means the incumbent of a post—

(a) of court preparation officer; and

(b) where applicable, court preparation manager,

as created on the establishment of the National Prosecuting Authority;

"court preparation programme" means the court preparation programme referred to in regulation 15;

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"court supporter" means a person employed by a nonprofit organisation, registered in terms of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), accountable to the Provincial and Local Departments of Social Development and rendering a voluntary service to complainants and witnesses in sexual offence cases as contemplated in regulation 19;

"designated court" means a sexual offences court established by designation by the Minister in terms of section 55A(1) of the Act;

"intermediary" means a person appointed in terms of section 170A(1) of the Criminal Procedure Act;

"Legal Aid South Africa Act" means the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014);

"National Prosecuting Authority" means the national prosecuting authority contemplated in section 179 of the Constitution;

"older person" means an older person as defined in section 1 of the Older Persons Act, 2006 (Act No. 13 of 2006);

"prosecutor" means a prosecutor in a sexual offence case;

"sexual offence" means any offence referred to in the definition of 'sexual offences court' in section 1 of the Act;

"social worker" means a person registered as a social worker under section 17 of the Social Service Professions Act, 1978 (Act No. 110 of 1978);

"Thuthuzela Care Centres" means the multi-disciplinary one-stop centres for rape care management, as well as other sexual offences, established by the National Prosecuting Authority and supported by relevant stakeholders;

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

"victim assistance officer" means the incumbent of a post of victim assistance officer as created on the establishment of the National Prosecuting Authority and attached to a Thuthuzela Care Centre;

"victim impact report" means a report by a social worker containing an assessment of the effects of a sexual offence on the complainant;

"victim impact statement" means a voluntary written statement, facilitated by the court preparation officer or the victim assistance officer, by—

(a) a complainant;

(b) a person who is by law authorised to make a statement on behalf of a complainant;

(c) a relative of the complainant authorised by the complainant; or

(d) any other person authorised by the complainant,

regarding the emotional, physical, psychological, economical or any other effect of the sexual offence on him or her; and

"witness" means a witness for the State in a sexual offence case, excluding a complainant.

Application

2. These Regulations apply to all designated courts.

CHAPTER II REQUIREMENTS FOR DESIGNATED COURT

Requirements for designated court

3. (1) A designated court must—
 - (a) provide the facilities referred to in Chapter III;
 - (b) have the devices and equipment referred to in Chapter IV;
 - (c) render the services referred to in Chapter V; and
 - (d) proceed in accordance with the requirements set out in Chapter VI.
- (2) Subregulation (1) does not preclude a designated court from dealing with a sexual offence case if, after its designation, it does not comply with any of the requirements referred to in subregulation (1), pending the outcome of the steps taken in terms of subregulation (4).
- (3) It is the responsibility of all the officials and persons working at a designated court to report non-compliance with a requirement referred to in subregulation (1), in writing, to the official, person or institution responsible for solving the non-compliance issue, as soon as he or she becomes aware of the problem causing non-compliance.
- (4) The court manager must ensure that the official, person or institution who received the report referred to in subregulation (3), take immediate steps to solve the problem causing non-compliance with the requirement in question.
- (5) Non-compliance with any requirement referred to in subregulation (1), do not render any proceedings, or any part thereof, in a designated court invalid.

CHAPTER III FACILITIES

Required facilities

4. A designated court must have, at least, the following facilities:
- (a) A waiting area for complainants as provided for in regulation 8;
 - (b) a testifying room as provided for in regulation 9;
 - (c) a court preparation room as provided for in regulation 10; and
 - (d) a consultation room, for the prosecutor to consult with a complainant, as provided for in regulation 10.

General requirements regarding facilities

5. (1) The facilities referred to in regulation 4 and the restrooms to be used by complainants must be child-friendly.
- (2) The facilities referred to in regulation 4, the court room and the restrooms to be used by complainants must—
- (a) be accessible to persons with disabilities and accommodate their assistive devices; and
 - (b) accommodate the needs of older persons.
- (3) The guide dogs, used by complainants or witnesses who are visually impaired, must be allowed into the facilities referred to in subregulation (2).
- (4) The court manager must ensure that there is proper signage of the location of the facilities referred to in regulation 4, the court room and the restrooms to be used by complainants.
- (5) The court manager must ensure that the facilities referred to in regulation 4, the court room and the restrooms to be used by complainants are allocated, available, furnished and maintained as required in terms of these Regulations.
- (6) The court manager must, having regard to the design and layout of and space available at a designated court, make, in relation to the facilities referred to in regulation 4 and the restrooms to be used by complainants, the arrangements or put in place the measures necessary to ensure that complainants do not come into physical contact with the accused or any person associated with the accused.

Access to facilities

6. A court preparation officer, a victim assistance officer, the court manager or a suitable official delegated by the court manager must accompany a complainant to and from any of the facilities referred to in regulation 4, the court room and the restrooms to be used by complainants in order to prevent, to the extent possible, the complainant from coming into physical contact with the accused or from being intimidated by the accused or any other person associated with the accused.

Use of facilities

7. (1) (a) The waiting area referred to in regulation 4(a) is for the exclusive use of complainants and the persons supporting them, to the extent that such persons can be accommodated: Provided that priority must be given to complainants if there is limited space in the waiting area.
- (b) The court manager or an official delegated by him or her must, where a complainant cannot be accommodated in the waiting area, designate an area where such complainant may wait.
- (c) A court preparation officer, a victim assistance officer, the court manager or a suitable official delegated by him or her, must accompany a complainant referred to in paragraph (b), to the designated area contemplated in that paragraph.

(2) A court preparation officer, a victim assistance officer, a court manager or an official delegated by the court manager, must—

- (a) ensure that no person other than the persons referred to in subregulation (1)(a), makes use of the waiting area or a designated area contemplated in subregulation (1)(b); and
- (b) direct any person, not authorised to use any of the areas referred to in paragraph (a), to leave the area immediately.

(3) (a) When a complainant or a witness is giving evidence in a testifying room, and if an intermediary has been appointed, such intermediary must—

- (i) ensure that no person, whose presence is not required in the testifying room, is in or enters the testifying room; and
- (ii) direct any unauthorised person who is in or enters the testifying room, to leave the testifying room immediately.

(b) When a complainant or a witness is giving evidence in a testifying room, and if an intermediary has not been appointed, the court manager or a person designated by him or her must—

- (i) ensure that no person, whose presence is not required in the testifying room, is in or enters the testifying room; and
- (ii) direct any unauthorised person who is in or enters the testifying room, to leave the testifying room immediately.

Waiting area

8. (1) The waiting area referred to in regulation 4(a) must—

- (a) be furnished in a manner ensuring that it is accessible to adults, people with disabilities and children;
- (b) be furnished in a manner that is conducive to making complainants feel as comfortable as possible;
- (c) have proper and effective ventilation; and
- (d) have water available for the complainants and the persons supporting them.

(2) The waiting area referred to in regulation 4(a) must be furnished in a manner taking into account the following:

- (a) The different ages of complainants who may use the facility;
- (b) persons supporting complainants may also use a waiting area; and
- (c) complainants may have to spend lengthy periods of time in a waiting area.

(3) The court manager must ensure that, in the waiting area referred to in regulation 4(a)—

- (a) information, accessible to persons with disabilities, children and older persons, about—
 - (i) court procedures, the role of a complainant and a witness, witness fees payable to complainants and witnesses and any other relevant court service; and
 - (ii) the manner of accessing support services by complainants; and
- (b) toys and, where possible, age appropriate educational items for children, are available.

(4) The information referred to in subregulation (3)(a), must be obtained by the court manager from the functionaries responsible for the different aspects as contemplated in that subregulation.

Testifying room

9. A testifying room referred to in regulation 4(b) must in addition to the requirements contemplated in section 170A(3)(a) to (c) of the Criminal Procedure Act—

- (a) be conducive to the proceedings;

- (b) have a lay-out that facilitates the enhancement of the quality of the evidence and sets the complainants and witnesses at ease;
- (c) be furnished in a manner that will not distract a complainant or a witness who is giving evidence; and
- (d) have sufficient lighting so that clear images can be conveyed to the court.

Court preparation room and consultation room

10. (1) The court preparation room referred to in regulation 4(c) and the consultation room referred in regulation 4(d) must—

- (a) be designed in such a manner so as to promote privacy;
- (b) not be accessible to the public, the accused and any person associated with the accused;
- (c) be spacious enough to accommodate the complainant or a witness and the personal assistant of a complainant or a witness with a disability or an older person;
- (d) be furnished in such a manner so as to accommodate complainants and witnesses; and
- (e) be furnished in a manner that will not distract a complainant or a witness during a consultation with the court preparation officer, victim assistance officer or the prosecutor.

(2) The court preparation room referred to in regulation 4(c) must have lockable storage facilities to store the court preparation devices and equipment.

CHAPTER IV DEVICES AND EQUIPMENT

Devices and equipment for testifying room

11. (1) A testifying room referred to in regulation 4(b) must have the devices and equipment contemplated in sections 158 and 170A(3)(c) of the Criminal Procedure Act and be installed or set up in accordance with the provisions of that section.

(2) The devices and equipment referred to in subregulation (1) must be of such quality so as to enable the efficient and effective giving of evidence by complainants and witnesses and to avoid secondary traumatising of such complainants and witnesses.

Devices and equipment for court room

12. (1) A court room must have the devices and equipment contemplated in sections 158 and 170A(3)(c) of the Criminal Procedure Act and be installed or set up in accordance with the provisions of that section.

(2) The devices and equipment referred to in subregulation (1) must be of such quality so as to enable the efficient and effective giving of evidence by complainants and witnesses, and to avoid secondary traumatising of such complainant and witnesses.

Operation and repairing of electronic devices in testifying and court rooms

13. (1) The court manager or a person delegated by him or her must, each day, before the commencement of any proceedings, verify that the devices and equipment in the testifying room and court room are functioning properly.

(2) The court manager or a person delegated by him or her must, upon discovery that a device or equipment in the testifying room or court room is not functioning properly, immediately take the necessary steps to have the problem solved.

(3) Any court official must, upon discovery that a device or equipment in the testifying room or court room is not functioning properly, immediately in writing report the matter to the court manager.

(4) The court manager must, upon receipt of a notification in terms of subregulation (3), immediately take the necessary steps to have the problem solved.

(5) Whenever a court manager discovers or receives a written report that a device or equipment in the testifying room or court room is not functioning properly, he or she must immediately inform the relevant Regional Court President or the Judge President, as the case may be, accordingly and of the steps taken to solve the problem.

(6) The court manager must, having regard to the nature of the problem and the nature of the interventions required to solve the problem, on a regular basis inform in writing the relevant Regional Court President or the Judge President, as the case may be, on the progress made to have the problem solved.

Anatomical dolls

14. (1) The court manager must ensure that there is at least one set of anatomical dolls available at the designated court for use by the prosecutor and intermediary.

(2) A set of anatomical dolls must consist of—

- (a) a doll representing a male child;
- (b) a doll representing a female child;
- (c) a doll representing a male adult;
- (d) a doll representing a female adult;
- (e) a doll representing an aged male; and
- (f) a doll representing an aged female.

(3) A prosecutor and an intermediary may only use an anatomic doll after having received training in the use of such dolls.

(4) Anatomical dolls must—

- (a) be a replica of the external human body, including the genital organs;
- (b) always be with clothes; and
- (c) when not in use, be placed in lockable storage.

(5) Anatomical dolls must be designed in such a manner and be made of material that enables the complainant or the witness to manipulate the doll in order to demonstrate what has been done to the complainant by using the dolls.

(6) The clothes of anatomical dolls must be made in such a manner so that they can be removed easily by the complainant or the witness when demonstrating what has been done to the complainant.

CHAPTER V SERVICES

Requirements regarding court preparation programme

15. (1) The court preparation programme is the programme developed by the National Prosecuting Authority, which was accredited with the Health and Welfare Sector Education and Training Authority in terms of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and which is aimed at familiarising complainants and witnesses in sexual offence cases with the court environment, with a view to preparing them to testify in court and providing assistance and support to them, in line with the standard operating procedures for court preparation officers.

(2) (a) A court preparation programme must be operational at a designated court.

(b) The persons involved in the criminal justice system must be made aware of the court preparation programme.

(3) A court preparation programme must be conducted by a court preparation officer or a victim assistance officer, available at a designated court on a full-time or part-time basis, in accordance with the approved National Prosecution Policy and Model.

(4) A court preparation officer or a victim assistance officer may not conduct a court preparation programme unless he or she has received training in the court preparation programme.

(5) A court preparation officer or a victim assistance officer may not—

- (a) engage in discussions with the complainant on the merits of the case when conducting a court preparation programme or assisting the complainant;
- (b) tell the complainant what to say in court; and
- (c) have access to the docket.

(6) Subject to subregulation (7), a court preparation programme must be conducted with a complainant who has to testify in a designated court before testifying in court.

(7) The prosecutor may, if he or she deems it appropriate in the circumstances, dispense with the requirement provided for in subregulation (6).

(8) The needs of a complainant must be identified by the court preparation officer or the victim assistance officer after the court preparation programme has been conducted and he or she must in writing inform, without delay, the —

- (a) relevant prosecutor and if necessary, the senior public prosecutor;
- (b) intermediary, if applicable; and
- (c) court manager, if his or her intervention is required,

of such needs in order to ensure that these needs, to the extent possible, are met.

(9) An interpreter must be available, if required, to assist the court preparation officer or victim assistance officer during a court preparation programme.

(10) A prosecutor must refer complainants to the court preparation officer, victim assistance officer, or the senior public prosecutor before testifying in court in order to ensure that the following arrangements are made:

- (a) Assistance for the complainant in his or her language of choice; and
- (b) reasonable accommodation of the needs of complainants with disabilities when they arrive at court.

(11) The court preparation officer or victim assistance officer must facilitate the referral of a complainant to an appropriate professional service provider for continuum of care, if the complainant requires such service.

Staff and judicial trauma debriefing

16. (1) Trauma debriefing must be available for—

- (a) judicial officers;
- (b) prosecutors;
- (c) court preparation officers;
- (d) victim assistance officers; and
- (e) court officials employed by the State, other than the persons referred to in paragraph (a) – (d),

who are involved in the prosecution or related activities of sexual offence cases.

(2) The trauma debriefing contemplated in subregulations (1) must be—

- (a) rendered when required by the persons referred to in that subregulation; and
- (b) relevant in order to ensure that it is effective.

Interpreting services

17. (1) An interpreter must, in addition to his or her main functions, be available to assist—

- (a) during a court preparation programme;
- (b) during a consultation by the prosecutor with a complainant; and

(c) a complainant who is illiterate, when required.

(2) The principal or senior court interpreter must, as far as possible, assign experienced interpreters permanently employed by the Department of Justice and Constitutional Development to interpret in sexual offence cases.

(3) The principal or senior court interpreter must ensure that there is a pool of interpreters in foreign languages and sign language available for appointment, on an *ad hoc* basis, as interpreters in sexual offence cases.

Intermediary services for witnesses

18. (1) The senior official in charge of the intermediaries must ensure that there is a pool of intermediaries available who can be appointed as intermediaries in sexual offence cases at a designated court.

(2) The senior official referred to in subregulation (1) must take the necessary steps to recruit intermediaries to be appointed on an *ad hoc* basis, if there are not sufficient intermediaries employed at that court.

(3) The senior official referred to in subregulation (1) must keep a database of intermediaries who are available to provide intermediary services at an *ad hoc* basis.

(4) An intermediary must be mindful of the limitations and capacity of a complainant or a witness giving evidence, having regard to his or her form of vulnerability, age, physical and mental status and stage of development.

(5) An intermediary must request the court for a recess if it appears to him or her that a complainant or a witness who is giving evidence is fatigued or stressed.

(6) An intermediary must ensure that the immediate needs of a complainant or a witness who is giving evidence, are met.

(7) An intermediary must, before a complainant or a witness testifies, take the necessary steps to establish a rapport with the complainant or the witness.

(8) An intermediary must, during court proceedings, inform the court about—

(a) any change in the physical, emotional or mental behaviour of a complainant or a witness; and

(b) any communication problem with a complainant or a witness, which may affect the court proceedings.

(9) The intermediary must, after the complainant has given evidence, inform the court preparation officer or the victim assistance officer of the effect of giving evidence on the complainant.

Services rendered by court supporters

19. (1) A court supporter, if available, may—
- (a) accompany complainants and witnesses to and from any of the facilities referred to in regulation 4, the court room and the restrooms to be used by them;
 - (b) accompany complainants referred to in regulation 7(1)(b), to the designated area;
 - (c) provide support to complainants and witnesses during the proceedings in court, if a complainant or witness so wishes;
 - (d) refer complainants and witnesses to the correct institutions for professional services; and
 - (e) assist complainants and witnesses to obtain witness fees.

(2) A court supporter may only conduct a court preparation programme if he or she is authorized to do so in writing by the authority responsible for the court preparation programme: Provided that a court supporter may not render a court support service referred to in subregulation (1) and conduct a court preparation programme in respect of the same complainant or witness.

- (3) A court supporter may not—
- (a) engage in discussions with the complainant or witnesses on the merits of the case when assisting the complainant and witnesses;
 - (b) tell the complainant or witness what to say in court; and
 - (c) have access to the docket or any official documents.

(4) A court supporter may not render any service in terms of these Regulations unless he or she has received training relating to such services from a non-profit organisation or any government department.

CHAPTER VI SPECIAL MEASURES IN RESPECT OF HEARINGS

Sign language interpreters

20. In assigning or appointing a sign language interpreter, due regard must be had to the physical fatigue that may result when he or she is interpreting.

Legal aid practitioners

21. (1) A designated court must ensure that an accused who is charged with a sexual offence must be granted the opportunity, as soon as possible, to apply for legal aid in terms of the Legal Aid South Africa Act.

(2) An application contemplated in subregulation (1) must be evaluated as soon as possible and must to be prioritised where such application relates to a case involving children.

Finalisation of sexual offences cases

22. A designated court must ensure that sexual offence cases are finalised expeditiously and that delays are avoided as far as possible.

Witness complaints mechanisms

23. (1) Accessible complaints mechanisms must be available at a designated court in terms of which complaints may be received from complainants or witnesses in sexual offence cases.

(2) The complaints mechanisms referred to in subregulation (1), must be made known at the designated court by the court manager in any manner he or she deems fit.

(3) Any official or court official who receives a complaint from a complainant or a witness in sexual offence cases in terms of this regulation, must—

- (a) refer the complainant or the witness to the correct person or institution with a view to dealing with the complaint in terms of the rules of conduct regulating the person against whom the complaint was made; and
- (b) provide the complainant or the witness with the necessary contact particulars of the person or institution contemplated in paragraph (a).

(4) The person or institution referred to in subregulation (3)(a) must, in writing, inform the complainant or the witness who lodged the complaint—

- (a) on a regular basis, of the status of the complaint; and
- (b) of the outcome of the complaint.

Transporting of accused persons to designated court

24. An official who is responsible for the transporting of a person accused of a sexual offence to a designated court must—

- (a) check the identity of the person to be transported before leaving the premises of a correctional facility, child and youth care centre or police cell;
- (b) ensure that the person is transported timeously for purposes of the proceedings at the designated court; and
- (c) where applicable, ensure that the accused is transported separately from a complainant and a witness.

Manner of dealing with complainants and witnesses

25. Court officials must, during court proceedings, when interacting with a complainant or a witness—

- (a) use simple vocabulary and avoid technical terms;
- (b) inform or explain to a complainant or a witness any concept or question in a manner appropriate to his or her form of vulnerability, age, maturity and stage of development if the complainant or the witness is a child, or a person's intellectual disability;
- (c) give enough detail so that a complainant or a witness understands the information conveyed to him or her;
- (d) allow sufficient time so that a complainant or a witness can absorb the information conveyed to him or her;
- (e) elicit responses from a complainant or a witness by asking questions in order to ensure that he or she understands the information conveyed to him or her;
- (f) ensure that the atmosphere is conducive to participation by a complainant or a witness; and
- (g) be sensitive to the needs of a complainant or a witness and the fact that he or she may be confused and may be experiencing anxiety and may feel intimidated.

CHAPTER VII MISCELLANEOUS

Sitting of designated court on part-time basis

26. Where the case load of a designated court does not require that the court sits on a daily basis, the relevant Regional Court President or Judge President, as the case may be—

- (a) determines how often or on which days such court must sit; and
- (b) ensures that sexual offence cases are timeously heard, in accordance with section 8(4)(b) of the Superior Courts Act, 2013 (Act No. 10 of 2013).

Short title

27. These Regulations are called the Regulations relating to Sexual Offences Courts, 2020.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 108

07 FEBRUARIE 2020

**WYSIGINGSWET OP DIE STRAFREG (SEKSUELE MISDRYWE EN VERWANTE
AANGELEENTHEDE), 2007****REGULASIES BETREFFENDE HOWE VIR SEKSUELE MISDRYWE**

Die Minister van Justisie en Korrektiewe Dienste het, kragtens artikel 67, gelees met artikel 55A van die Wysigingswet op die Strafreë (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007) en na oorleg met die Minister van Veiligheid en Sekuriteit, Minister van Maatskaplike Ontwikkeling, Minister van Gesondheid en die Nasionale Direkteur van Openbare Vervolgings, die Regulasies in die Bylae gemaak.

**BYLAE
KLASSIFIKASIE VAN REGULASIES****HOOFSTUK I
WOORDOMSKRYWINGS EN TOEPASSING**

1. Woordomskrywings
2. Toepassing

**HOOFSTUK II
VEREISTES VIR AANGEWESSE HOF**

3. Vereistes vir aangewese hof

**HOOFSTUK III
FASILITEITE**

4. Vereiste fasiliteite
5. Algemene vereistes aangaande fasiliteite
6. Toegang tot fasiliteite
7. Gebruik van fasiliteite
8. Wag area
9. Getuienisvertrek
10. Hofvoorbereidingskamer en konsultasiekamer

**HOOFSTUK IV
TOESTELLE EN TOERUSTING**

11. Toestelle en toerusting vir getuienisvertrek
12. Toestelle en toerusting vir hofsaal
13. Bedryf en herstel van elektroniese toestelle in getuienisvertrek en hofsale
14. Anatomiese poppe

HOOFSTUK V DIENSTE

15. Vereistes aangaande hofvoorbereidingsprogram
16. Personeel en regterlike trauma-ontlonting
17. Tolkdienste
18. Tussengangersdienste vir getuies
19. Dienste deur hofondersteuners gelewer

HOOFSTUK VI SPESIALE MAATREËLS VIR VERHORE

20. Gebaretaaltolke
21. Regshulp-praktisyns
22. Afhandeling van seksuele misdryf sake
23. Klagtemeganismes vir getuies
24. Vervoer van aangeklaagdes na aangewese hof
25. Wyse van hantering van klaers en getuies

HOOFSTUK VII DIVERSE

26. Sitting van aangewese hof op deelydse grondslag
27. Kort titel

HOOFSTUK I WOORDOMSKRYWINGS EN TOEPASSING

Woordomsrywings

1. In hierdie Regulasies het enige woord of uitdrukking waaraan 'n betekenis in die Wet toegeskryf is daardie betekenis en, tensy dit uit die samehang anders blyk—
 - "aangewese hof" 'n hof vir seksuele misdrywe ingestel by aanwysing deur die Minister ingevolge artikel 55A(1) van die Wet;
 - "aanklaer" 'n aanklaer in 'n seksuelemisdryfsaak;
 - "die Wet" die Wysigingswet op die Strafbereg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007 (Wet No. 32 van 2007);
 - "getuie" 'n getuie vir die Staat in 'n seksuelemisdryfsaak, met uitsondering van 'n klaer;
 - "Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996;
 - "hofondersteuner" 'n persoon in diens van 'n organisasie sonder winsoogmerk, geregistreer ingevolge die Wet op Organisasies Sonder Winsoogmerk, 1997 (Wet No. 71 van 1997), aanspreeklik aan die Provinsiale en Plaaslike Departemente van Maatskaplike Ontwikkeling wat 'n vrywillige diens lewer aan klaers en getuies in seksuelemisdryfsake soos in regulasie 19 beoog;
 - "hofvoorbereidingsbeampte" die bekleër van 'n pos—
 - (a) van hofvoorbereidingsbeampte; en
 - (b) waar van toepassing, hofvoorbereidingsbestuurder,
 wat op die diensstaat van die nasionale vervolgingsgesag geskep is;
 - "hofvoorbereidingsprogram" die hofvoorbereidingsprogram in regulasie 15 na verwys;
 - "Legal Aid South Africa Act" die "Legal Aid South Africa Act", 2014 (Wet No. 39 van 2014);
 - "maatskaplike werker" 'n persoon kragtens artikel 17 van die Wet op Maatskaplike Werk, 1978 (Wet No. 110 van 1978), as 'n maatskaplike werker geregistreer;

“Nasionale Vervolgingsgesag” die nasionale vervolgingsgesag in artikel 179 van die Grondwet beoog;

“ouer persoon” ’n ouer persoon soos omskryf in artikel 1 van die “Older Persons Act”, 2006 (Wet No. 13 van 2006);

“seksuele misdryf” enige misdryf na verwys in artikel 1 van die Wet in die woordomskrywing van 'seksuele misdryf hof;

“slagofferbystandsbeampte” die bekleër van ’n pos van slagofferbystandsbeampte geskep op die diensstaat van die Nasionale Vervolgingsgesag en verbonde aan ’n Thuthuzela-sorgsentrum;

“slagofferimpakverklaring” ’n vrywillige skriftelike verklaring, gefasiliteer deur die hofvoorbereidingsbeampte of die slagofferbystandsbeampte, deur—

(a) ’n klaer;

(b) ’n persoon wat by wet gemagtig is om ’n verklaring namens ’n klaer te maak;

(c) ’n familielid van die klaer deur die klaer gemagtig; of

(d) enige ander persoon deur die klaer gemagtig,

aangaande die emosionele, fisieke, sielkundige, ekonomiese of enige ander uitwerking van die seksuele misdryf op hom of haar;

“slagofferimpakverslag” ’n verslag deur ’n maatskaplike werker met ’n assessering van die uitwerking van ’n seksuele misdryf op die klaer;

“Strafproseswet” die Strafproseswet, 1977 (Wet No. 51 van 1977);

“Thuthuzela-sorgsentrum” die multidissiplinêre eenstopsentrums vir verkrachtingsorgbestuur, asook ander seksuele misdrywe, ingestel deur die Nasionale Vervolgingsgesag en deur tersaaklike belanghebbendes ondersteun; en

“tussenganger” ’n persoon ingevolge artikel 170A(1) van die Strafproseswet aangestel;

Toepassing

2. Hierdie Regulasies is op ’n aangewese hof van toepassing.

HOOFSTUK II VEREISTES VIR AANGEWESSE HOF

Vereistes vir aangewese hof

3. (1) ’n Aangewese hof moet—
 - (a) die fasiliteite hê waarvoor in Hoofstuk III voorsiening gemaak word;
 - (b) die toestelle en toerusting hê waarvoor in Hoofstuk IV voorsiening gemaak word;
 - (c) die dienste waarvoor in Hoofstuk V voorsiening gemaak word, lewer; en
 - (d) voortgaan in ooreenstemming met die vereistes in Hoofstuk VI uiteengesit.
- (2) Subregulasie (1) sluit ’n aangewese hof nie uit van die hantering van ’n seksuele misdryfsaak nie indien die hof, ná aanwysing, nie voldoen aan enige van die vereistes in subregulasie (1) bedoel nie, hangende die resultaat van die stappe wat ingevolge subregulasie (4) gedoen word.
- (3) Dit is die verantwoordelikheid van al die beapptes en persone wat by ’n aangewese hof werk om nievoldoening aan ’n vereiste in subregulasie (1) bedoel, skriftelik aan die beampte, persoon of instelling verantwoordelik vir die oplossing van die probleem wat nienakoming veroorsaak te rapporteer sodra hy of sy bewus word van die probleem wat nienakoming veroorsaak.

(4) Die hofbestuurder moet verseker dat die beampte, persoon of instelling wat die verslag bedoel in subregulasie (3) ontvang, onmiddellike stappe doen om nakoming aan die betrokke vereiste te verseker.

(5) Nienakoming aan enige vereiste in subregulasie (1) bedoel, maak nie enige verrigtinge, of enige deel daarvan, ongeldig nie.

HOOFSTUK III FASILITEITE

Vereiste fasiliteite

4. 'n Aangewese hof moet ten minste die volgende fasiliteite hê:
- (a) 'n Wagarea vir klaers, soos in regulasie 8 voor voorsiening gemaak;
 - (b) 'n getuienisvertrek soos in regulasie 9 voor voorsiening gemaak;
 - (c) 'n hofvoorbereidingsvertrek soos in regulasie 10 voor voorsiening gemaak; en
 - (d) 'n konsultasievertrek, vir die aanklaer om met 'n klaer te konsulteer, soos in regulasie 10 voor voorsiening gemaak.

Algemene vereistes aangaande fasiliteite

5. (1) Die fasiliteite in regulasie 4 bedoel en die ruskamers wat deur die klaers gebruik moet word, moet kindvriendelik wees.

(2) Die fasiliteite in regulasie 4 bedoel, die hofsaal en die ruskamers wat deur die klaers gebruik moet word, moet—

- (a) toeganklik wees vir persone met gestremdhede en hulle bystandstoestelle akkommodeer; en
- (b) in die behoeftes van ouer persone voorsien.

(3) Die gidshonde wat deur klaers, en tot die mate wat dit van toepassing is, getuies, met gesiggestremdhede, gebruik word, moet in die fasiliteite bedoel in subregulasie (2) toegelaat word.

(4) Die hofbestuurder moet verseker dat daar behoorlike aanwysings is van die ligging van die fasiliteite bedoel in regulasie 4, die hofsaal en die ruskamers wat die klaers moet gebruik.

(5) Die hofbestuurder moet verseker dat die fasiliteite in regulasie 4 bedoel, die hofsaal en die ruskamers wat deur die klaers gebruik moet word, toegewys word, beskikbaar is, gemeubileer is en in stand gehou word soos ingevolge hierdie Regulasies vereis.

(6) Die hofbestuurder moet, met inagneming van die ontwerp en uitleg van en spasie beskikbaar by 'n aangewese hof, in verband met die fasiliteite in regulasie 4 bedoel en die ruskamers wat die klaers moet gebruik, die nodige reëlings tref of die nodige maatreëls in plek stel om te verseker dat klaers nie met die aangeklaagde of enige persoon wat met die aangeklaagde geassosieer word, in fisiese aanraking kom nie.

Toegang tot fasiliteite

6. 'n Hofvoorbereidingsbeampte, 'n slagofferbystandsbepaalde, die hofbestuurder of 'n gepaste beampte aangewys deur die hofbestuurder, moet 'n klaer na en van enige van die fasiliteite in regulasie 4 bedoel, na en van die hofsaal en na en van die ruskamers wat deur die klaers gebruik moet word, vergesel ten einde sover moontlik te voorkom dat die klaer in fisiese aanraking kom met die aangeklaagde of deur die aangeklaagde of enige ander persoon wat met die aangeklaagde geassosieer word, geïntimideer word.

Gebruik van fasiliteite

7. (1) (a) Die wagarea in regulasie 4(a) bedoel is vir die uitsluitlike gebruik van klaers en die persone wat hulle ondersteun, tot die mate wat hierdie persone geakkommodeer kan word: Met dien verstande dat voorkeur aan klaers gegee moet word as die spasie in die wagarea beperk is.

(b) Die hofbestuurder of 'n beamppte deur hom of haar aangewys, moet, waar 'n klaer nie in die wagarea geakkommodeer kan word nie, 'n area aanwys waar hy of sy kan wag.

(c) 'n Hofvoorbereidingsbeamppte, 'n slagofferbystandsbeamppte, die hofbestuurder of 'n gepaste beamppte deur hom of haar aangewys, moet 'n klaer bedoel in paragraaf (b), na die aangewese area vergesel.

(2) 'n Hofvoorbereidingsbeamppte, 'n slagofferbystandsbeamppte, 'n hofbestuurder of 'n beamppte deur die hofbestuurder aangewys, moet—

(a) verseker dat geen persoon behalwe diegene in subregulasie (1)(a) bedoel, die wagkarea of 'n aangewese area bedoel in subregulasie (1)(b) gebruik nie; en

(b) enige persoon wat nie gemagtig is om enige van die areas in paragraaf (a) na verwys, te gebruik nie, gelas om die area onmiddellik te verlaat.

(3) (a) Wanneer 'n klaer of 'n getuie getuienis lewer in 'n getuienisvertrek en indien 'n tussenganger aangestel is, moet hy of sy—

(i) verseker dat geen persoon wie se teenwoordigheid nie in die getuienisvertrek benodig word nie, binne is of die getuienisvertrek binnekom nie; en

(ii) enige ongemagtigde persoon wat binne is of die getuienisvertrek binnekom, beveel om die getuienisvertrek onmiddellik te verlaat.

(b) Indien 'n klaer of 'n getuie getuienis lewer in 'n getuienisvertrek en indien 'n tussenganger nie aangestel is, moet die hofbestuurder of 'n persoon deur hom of haar aangewys—

(i) verseker dat geen persoon wie se teenwoordigheid nie in die getuienisvertrek benodig word nie, binne is of die getuienisvertrek binnekom nie; en

(ii) enige ongemagtigde persoon wat binne is of die getuienisvertrek binnekom, beveel om die getuienisvertrek onmiddellik te verlaat.

Wagarea

8. (1) Die wagarea in regulasie 4(a) bedoel—

(a) moet op 'n wyse gemeubileer wees wat dit toeganklik vir volwassenes, persone met gestremdhede en kinders maak;

(b) moet op 'n wyse gemeubileer wees wat verseker dat klaers so gemaklik as moontlik is;

(c) moet behoorlike en effektiewe ventilasie hê; en

(d) moet water vir die klaers en persone wat hulle ondersteun beskikbaar hê.

(2) Die wagarea in regulasie 4(a) bedoel, moet met die volgende in gedagte gemeubileer word:

(a) Die verskillende ouderdomme van klaers wat die fasiliteit mag gebruik;

(b) persone wat klaers ondersteun mag ook 'n wagarea gebruik; en

(c) klaers mag nodig hê om lank in die wagarea te wag.

(3) Die hofbestuurder moet verseker dat in die wagarea in regulasie 4(a) bedoel—

- (a) inligting beskikbaar is wat toeganklik is aan persone met gestremdhede, kinders en ouer persone, oor—
- (i) hofprosedures, die rol van 'n klaer en 'n getuie, getuiegelde betaalbaar aan klaers en getuies en enige ander tersaaklike hofdiens; en
 - (ii) die wyse waarop toegang tot ondersteuningsdienste aan klaers, gekry kan word; en
- (b) speelgoed en, waar moontlik, ouderdomsgepaste items vir kinders beskikbaar is.
- (4) Die inligting in subregulasie (3)(a) bedoel, moet deur die funksionariesse verantwoordelik vir die verskillende aspekte, aan die hofbestuurder voorsien word.

Getuienisvertrek

9. 'n Getuienisvertrek in regulasie 4(b) bedoel, moet benewens die vereistes in artikel 170A(3)(a) tot (c) van die Strafproseswet bedoel—

- (a) bevorderlik tot die verrigtinge wees;
- (b) so uitgele wees dat dit die verhoging van die gehalte van die getuienis fasiliteer en die klaers en getuies op hulle gemak stel;
- (c) op 'n wyse gemeubileer wees wat nie 'n klaer of 'n getuie wat getuig se aandag sal aftrek nie; en
- (d) voldoende beligting hê sodat duidelike beelde aan die hof versend kan word.

Hofvoorbereidingsvertrek en konsultasiekamer

10. (1) Die hofvoorbereidingsvertrek in regulasie 4(c) bedoel en die konsultasiekamer in regulasie 4(d) bedoel moet—

- (a) op so 'n wyse ontwerp wees om privaatheid te bevorder;
- (b) nie vir die publiek, die aangeklaagde en enige persoon wat met die aangeklaagde geassosieer word, toeganklik wees nie;
- (c) ruim wees ten einde die klaer of 'n getuie en die persoonlike helper van 'n klaer of 'n getuie met 'n gestremdheid of 'n ouer persoon te akkommodeer;
- (d) op so 'n wyse gemeubileer wees om klaers en getuies te akkommodeer; en
- (e) moet op so 'n wyse gemeubileer wees dat 'n klaer of 'n getuie se aandag nie tydens 'n konsultasie met die hofvoorbereidingsbeampte, slagofferbystandsbeampte of aanklaer, afgelei word nie.

(2) Die hofvoorbereidingsvertrek in regulasie 4(c) na verwys moet sluitbare bergings fasiliteite hê om die hofvoorbereidingsbeampte se toestelle en toerusting te berg.

HOOFSTUK IV TOESTELLE EN TOERUSTING

Toestelle en toerusting vir getuienisvertrek

11. (1) 'n Getuienisvertrek in regulasie 4(b) bedoel, moet die toestelle en toerusting in artikels 158 en 170A(3)(c) van die Strafproseswet beoog hê, en moet ooreenkomstig die bepalings van daardie artikel geïnstalleer word.

(2) Die toestelle en toerusting in subregulasie (1) bedoel, moet van sodanige gehalte wees dat dit die doeltreffende en effektiewe gee van getuienis deur klaers en getuies moontlik maak en om sekondêre traumatisering van sodanige klaers en getuies te vermy.

Toestelle en toerusting vir hofsaal

12. (1) 'n Hofsaal moet die toestelle en toerusting beoog in artikels 158 en 170A(3)(c) van die Strafproseswet beoog hê en moet geïnstalleer of opgestel word in ooreenstemming met die bepalings van daardie artikel.

(2) Die toestelle en toerusting in subregulasie (1) bedoel, moet van sodanige gehalte wees dat dit die doeltreffende en effektiewe gee van getuienis deur klaers en getuies moontlik maak, en om sekondêre traumatisering van hierdie persone vermy.

Bedryf en herstel van elektroniese toestelle in getuienisvertreke en hofsale

13. (1) Die hofbestuurder of 'n persoon deur hom of haar aangewys, moet elke dag, voor die aanvang van enige verrigtinge, nagaan dat die toestelle en toerusting in die getuienisvertrek en hofsaal na behore werk.

(2) Die hofbestuurder of 'n persoon deur hom of haar aangewys, moet, as ontdek word dat 'n toestel of toerusting in die getuienisvertrek of hofsaal nie na behore werk nie, onmiddellik die nodige stappe doen om die probleem te laat oplos.

(3) Enige hofbeampte moet, as dit ontdek word dat 'n toestel of toerusting in die getuienisvertrek of hofsaal nie na behore werk nie, die aangeleentheid onmiddellik skriftelik aan die hofbestuurder rapporteer.

(4) Die hofbestuurder moet, by ontvangs van 'n kennisgewing ingevolge subregulasie (3), onmiddellik die nodige stappe neem om die probleem te laat oplos.

(5) Wanneer 'n hofbestuurder ook al ontdek of 'n skriftelike verslag ontvang dat 'n toestel of toerusting in die getuienisvertrek of hofsaal nie na behore werk nie, moet hy of sy die tersaaklike Streekhofpresident of Regter-president, na gelang van die geval, onmiddellik dienoooreenkomstig verwittig en inlig van die stappe gedoen om die probleem op te los.

(6) Die hofbestuurder moet, met inagneming van die aard van die probleem en die aard van die ingrypings wat benodig word om die probleem op te los, die tersaaklike Streekhofpresident of Regter-president, na gelang van die geval, gereeld skriftelik inlig van die vordering gemaak om die probleem op te los.

Anatomiese poppe

14. (1) Die hofbestuurder moet verseker dat daar ten minste een stel anatomiese poppe by die aangewese hof beskikbaar is vir gebruik deur die aanklaer en die tussenganger.

(2) 'n Stel anatomiese poppe bestaan uit—

- (a) 'n pop wat 'n manlike kind verteenwoordig;
- (b) 'n pop wat 'n vroulike kind verteenwoordig;
- (c) 'n pop wat 'n volwasse man verteenwoordig;
- (d) 'n pop wat 'n volwasse vrou verteenwoordig;
- (e) 'n pop wat 'n bejaarde man verteenwoordig; en
- (f) 'n pop wat 'n bejaarde vrou verteenwoordig.

(3) 'n Aanklaer en 'n tussenganger mag 'n anatomiese pop slegs gebruik ná opleiding in die gebruik van sodanige poppe ontvang is.

(4) Anatomiese poppe moet—

- (a) 'n replika van die eksterne menslike liggaam wees, met inbegrip van die geslagsorgane;
- (b) altyd geklee wees; en
- (c) toegesluit word wanneer dit nie gebruik word nie.

(5) Anatomiese poppe moet op so 'n wyse ontwerp wees en van 'n stof gemaak wees wat die klaer of die getuie in staat stel om die poppe te manipuleer sodat met die poppe gedemonstreer kan word wat aan die klaer gedoen is.

(6) Die klere van anatomiese poppe moet sodanig gemaak wees dat die klaer of die getuie dit maklik kan verwyder wanneer gedemonstreer word wat aan die klaer gedoen is.

HOOFSTUK V DIENSTE

Vereistes aangaande hofvoorbereidingsprogram

15. (1) Die hofvoorbereidingsprogram is die program ontwikkel deur die Nasionale Vervolgingsgesag, wat geakkrediteer is by die sektorale onderwys- en opleidingsgesag vir gesondheid en welsyn ingevolge die "National Qualifications Framework Act", 2008 (Wet No. 67 van 2008), en wat daarop gemik is om klaers en getuies in seksuele misdryfsake aan die hofomgewing gewoon te maak, sodat hulle gereed gemaak kan word om in die hof te getuig en om hulle by te staan en te ondersteun, in ooreenstemming met die standaardbedryfsprosedures vir hofvoorbereidingsbeamptes.

(2) (a) 'n Hofvoorbereidingsprogram moet operasioneel by 'n aangewese hof wees.

(b) Die persone betrokke by die regsproses moet van die hofvoorbereidingsprogram bewus gemaak word.

(3) 'n Hofvoorbereidingsprogram moet deur 'n hofvoorbereidingsbeampte of 'n slagofferbystandsbeampte, op 'n heeltydse of deeltydse grondslag by 'n aangewese hof beskikbaar, gedoen word volgens die goedgekeurde Nasionale Vervolgingsbeleid en -model.

(4) 'n Hofvoorbereidingsbeampte of 'n slagofferbystandsbeampte mag nie 'n hofvoorbereidingsprogram doen nie, tensy hy of sy opleiding in die hofvoorbereidingsprogram ontvang het.

(5) 'n Hofvoorbereidingsbeampte of 'n slagofferbystandsbeampte mag nie—

(a) die meriete van die saak met die klaer bespreek tydens die doen van 'n hofvoorbereidingsprogram of terwyl die klaer bygestaan word nie;

(b) die klaer voorsê wat hy of sy in die hof moet sê nie; en

(c) toegang tot die dossier kry nie.

(6) Behoudens subregulasie (7), moet 'n hofvoorbereidingsprogram gedoen word met 'n klaer wat in 'n aangewese hof moet getuie is lewer.

(7) Die aanklaer kan, as hy of sy dit in die omstandighede gepas ag, wegdoen met die vereiste in subregulasie (6) voor voorsiening gemaak.

(8) Die behoeftes van 'n klaer moet deur die hofvoorbereidingsbeampte of die slagofferbystandsbeampte, nadat die hofvoorbereidingsprogram gedoen is, geïdentifiseer word en hy of sy moet skriftelik, sonder oponthoud, die—

(a) tersaaklike aanklaer en, indien nodig, die senior staatsaanklaer;

(b) tussenganger, indien van toepassing; en

(c) hofbestuurder, indien sy of haar ingryping nodig is,

van sodanige behoeftes verwittig ten einde te verseker dat sover moontlik aan hierdie behoeftes voldoen word.

(9) 'n Tolk moet beskikbaar wees om die hofvoorbereidingsbeampte of slagofferbystandsbeampte tydens 'n hofvoorbereidingsprogram by te staan, indien nodig.

(10) 'n Aanklaer moet klaers na die hofvoorbereidingsbeampte, slagofferbystandsbeampte, of die senior staatsaanklaer verwys voordat hulle in die hof getuie is lewer om te verseker dat die volgende reëlings getref word:

(a) Bystand vir die klaer in die taal van sy of haar keuse; en

(b) redelike akkommodasie van die behoeftes van klaers met gestremdhede wanneer hulle by die hof aankom.

(11) Die hofvoorbereidingsbeampte of slagofferbystandsbeampte moet die verwysing van 'n klaer na 'n gepaste professionele diensverskaffer fasiliteer vir 'n kontinuum van versorging, indien die klaer sodanige diens benodig.

Personeel en regterlike trauma-ontlonting

16. (1) Trauma-ontlonting moet beskikbaar wees vir—
- (a) regterlike beamptes;
 - (b) aanklaers;
 - (c) hofvoorbereidingsbeamptes;
 - (d) slagofferbystandsbeamptes;
 - (e) hofpersoneel deur die Staat aangestel, anders as die persone in paragraaf (a) – (d) na verwys,
- wat betrokke is in die vervolging of verbandhoudende aktiwiteite van seksuelemisdryfsake.
- (2) Die trauma-ontlonting in subregulasie (1) bedoel, moet—
- (a) gelewer word wanneer die persone in hierdie subregulasies bedoel, dit benodig; en
 - (b) relevant wees ten einde te verseker dat dit werk.

Tolkdienste

17. (1) 'n Tolk moet, benewens sy of haar hoof funksies, beskikbaar wees om bystand te lewer—
- (a) tydens 'n hofvoorbereidingsprogram;
 - (b) tydens 'n konsultasie deur die aanklaer met 'n klaer; en
 - (c) 'n klaer wat ongeletterd is, indien aldus vereis.
- (2) Die hoof of senior tolk moet, so ver as moontlik, tolke met ondervinding, in die permanente diens van die Departement van Justisie en Grondwetlike Ontwikkeling toeken om in seksuelemisdryfsake te tolk.
- (3) Die hoof of senior tolk moet verseker dat daar 'n poel van tolke is in uitheemse tale en gebare taal, beskikbaar vir aanstelling op 'n *ad hoc* basis, as tolke in seksuelemisdryfsake.

Tussengangersdienste vir getuies

18. (1) Die senior beampte wat die tussengangers se hoof is, moet verseker dat daar 'n poel van tussengangers beskikbaar is wat as tussengangers in seksuelemisdryfsake by 'n aangewese hof aangestel kan word.
- (2) Die senior beampte in subregulasie (1) bedoel, moet die nodige stappe doen om tussengangers te werf om op 'n *ad hoc*-grondslag aangestel te word, indien daar nie genoeg tussengangers by daardie hof aangestel is nie.
- (3) Die senior beampte in subregulasie (1) bedoel, moet 'n databasis byhou van tussengangers wat beskikbaar is om tussengangersdienste op 'n *ad hoc*-grondslag te voorsien.
- (4) 'n Tussenganger moet let op die beperkings en kapasiteit van 'n klaer of 'n getuie wat getuig, met inagneming van sy of haar vorm van kwesbaarheid, ouderdom, fisieke en verstandelike toestand en vlak van ontwikkeling.
- (5) 'n Tussenganger moet die hof om 'n reses vra indien dit vir hom of haar voorkom dat 'n klaer of 'n getuie wat getuig, moeg is of onder stres verkeer.
- (6) 'n Tussenganger moet verseker dat die onmiddellike behoeftes van 'n klaer of 'n getuie wat getuie is, aan voldoen word.

(7) 'n Tussenganger moet, voordat 'n klaer of 'n getuie getuig, die nodige stappe doen om 'n rapport met die klaer of die getuie te vorm.

(8) 'n Tussenganger moet, tydens hofverrigtinge, die hof inlig oor—

(a) enige veranderinge in die fisieke, emosionele of verstandelike gedrag van 'n klaer of 'n getuie; en

(b) enige kommunikasieprobleem met 'n klaer of 'n getuie, wat die hofverrigtinge kan beïnvloed.

(9) Die tussenganger moet, ná die klaer getuig het, die hofvoorbereidingsbeampte of die slagofferbystandsbeampte inlig van die uitwerking wat die gee van getuienis op die klaer gehad het.

Dienste deur hofondersteuners gelewer

19. (1) 'n Hofondersteuner, indien beskikbaar, kan—

(a) klaers en getuies na en van enige van die fasiliteite in regulasie 4 bedoel, die hofsaal en die kleedkamers wat hulle moet gebruik, vergesel;

(b) klaers in regulasie 7(1)(b) bedoel, na die aangewese area vergesel;

(c) ondersteuning aan klaers en getuies voorsien tydens die verrigtinge in die hof indien 'n klaer of getuie dit verlang;

(d) klaers en getuies na die regte instellings verwys vir professionele dienste; en

(e) klaers en getuies help om getuiegelde te kry.

(2) 'n Hofondersteuner kan slegs 'n hofvoorbereidingsprogram doen as hy of sy skriftelik deur die gesag verantwoordelik vir die hofvoorbereidingsprogram, gemagtig is om dit te doen: Met dien verstande dat 'n hofondersteuner nie 'n hofondersteuningsdiens bedoel in subregulasie (1) mag lewer en 'n hofvoorbereidingsprogram mag doen ten opsigte van dieselfde klaer of getuie nie.

(3) 'n Hofondersteuner mag nie—

(a) die meriete van die saak met die klaer of getuies bespreek terwyl hy of sy die klaer en getuies bystaan nie;

(b) die klaer of getuie voorsê wat hy of sy in die hof moet sê nie; en

(c) toegang tot die dossier, of enige vertroulike staatsdokumente hê nie.

(4) 'n Hofondersteuner mag geen diens ingevolge hierdie Regulasies lewer tensy hy of sy opleiding aangaande sodanige dienste van 'n organisasie sonder winsoogmerk of enige staatsdepartement ontvang het nie.

HOOFSTUK VI SPESIALE MAATREËLS VIR VERHORE

Gebaretaaltolke

20. By die aanwysing of aanstelling van 'n gebaretaaltolk, moet die fisieke uitputting wat hy of sy kan ervaar terwyl hy of sy tolk, behoorlik in ag geneem word.

Regshulp-praktisyns

21. (1) 'n Aangewese hof moet verseker dat die beskuldigde wat aangekla word van 'n seksuele misdryf, die geleentheid gebied word om, so gou as moontlik, aansoek te doen vir regshulp ingevolge die 'Legal Aid South Africa Act'.

(2) 'n Aansoek beoog in subregulasie (1) moet so gou as moontlik geevalueer word en moet voorkeur geniet waar sodanige aansoek verband hou met 'n saak waarin kinders betrokke is.

Afhandeling van seksuelemisdryfsake

22. 'n Aangewese hof moet verseker dat seksuelemisdryfsake spoedig afgehandel word en dat verdragings so ver as moontlik vermy word.

Klagtemeganismes vir getuies

23. (1) Toeganklike klagtemeganismes moet by 'n aangewese hof beskikbaar wees ingevolge waarvan klagtes van klaers of getuies in seksuelemisdryfsake ontvang kan word.

(2) Die klagtemeganisme na verwys in subregulasie (1) moet by die aangewese hof deur die hofbestuurder op enige wyse wat hy of sy goeddink, bekend gemaak word.

(3) 'n Beampte of 'n hofbeampte wat 'n klagte van 'n klaer of 'n getuie ontvang, moet—

- (a) die klaer of die getuie na die regte persoon of instelling verwys wat met die klagte sal handel ingevolge die gedragskode waaraan die persoon teen wie die klagte gemaak is, onderhewig is; en
- (b) die klaer of die getuie voorsien van die nodige kontakbesonderhede van die persoon of instelling bedoel in paragraaf (a).

(4) Die persoon of die instelling na verwys in subregulasie (3)(a) moet die klaer of die getuie wat die klagte ingedien het, skriftelik—

- (a) gereeld inlig oor die status van die klagte; en
- (b) inlig oor die uitslag van die klagte.

Vervoer van aangeklaagdes na aangewese hof

24. 'n Beampte wat verantwoordelik is vir die vervoer van 'n persoon aangekla van 'n seksuele misdryf na 'n aangewese hof moet—

- (a) die identiteit nagaan van die persoon wat vervoer moet word, voordat hulle die perseel van die korrektiewe fasiliteit, kinder- en jeugsorgsentrum of polisiehoofkwartier verlaat;
- (b) verseker dat die persoon betyds vervoer word vir die doeleindes van die verrigtinge by die aangewese hof; en
- (c) waar van toepassing, verseker dat die aangeklaagde apart van 'n klaer en 'n getuie vervoer word.

Wyse van hantering van klaers en getuies

25. Hofbeamptes moet tydens hofverrigtinge, by interaksie met 'n klaer of 'n getuie—

- (a) maklike woordeskat gebruik en tegniese terme vermy;
- (b) 'n klaer of getuie inlig of enige konsep of vraag verduidelik, op 'n wyse wat gepas is vir sy of haar vorm van kwesbaarheid, ouderdom, volwassenheid en stadium van ontwikkeling indien die klaer of die getuie 'n kind is, of 'n persoon se verstandelike gestremdheid;
- (c) genoeg besonderhede verstrek sodat 'n klaer of 'n getuie die inligting wat aan hom of haar oorgedra word, verstaan;
- (d) genoeg tyd toelaat sodat 'n klaer of 'n getuie die inligting wat aan hom of haar oorgedra is, kan inneem;
- (e) reaksies uit 'n klaer of 'n getuie kry deur vrae te vra ten einde vas te stel of hy of sy die inligting wat aan hom of haar oorgedra is, verstaan;
- (f) verseker dat die atmosfeer bevorderlik is vir deelname deur 'n klaer of 'n getuie; en

- (g) sensitief wees vir die behoeftes van 'n klaer of 'n getuie en die feit dat hy of sy deurmekaar mag wees of angstig of geïntimideer mag voel.

HOOFSTUK VII DIVERSE

Sitting van aangewese hof op deeltydse grondslag

26. Waar die saaklading van 'n aangewese hof nie vereis dat die hof daagliks sit nie, moet die tersaaklike Streekhofpresident of Regter-president, na gelang van die geval—

(a) bepaal hoe gereeld of op watter dae daardie hof moet sit; en

(b) verseker dat seksuelemisdryfsake betyds aangehoor word, in ooreenstemming met artikel 8(4)(b) van die Wet op Hoër Howe, 2013 (Wet No. 10 van 2013).

Kort titel

27. Hierdie Regulasies heet die Regulasies betreffende Howe vir Seksuele Misdrywe, 2020.