

CHILD CARE ACT 74 OF 1983

REGULATIONS IN TERMS OF SECTION 60

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GN R416	GG 18770	31/3/98
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GN R923	GG 25109	27/6/2003

The Minister of National Health and Population Development has, in terms of [section 60](#) of the Child Care Act, 1983 (Act 74 of 1983), made the regulations as set out in the Schedule hereto.

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FORMS

1. Definitions

- (1) In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and -

“**alternative care**” means the placement or confinement of a child outside his or her family in terms of [section 15](#) (1) (b), (c) or (d), [18](#) (1), [34](#) or [36](#) of the Act;

“**basic needs**” means the physical, psychological, emotional and social requirements fundamental to the well-being of a child;

“**canalisation**” means the process whereby a social worker's report contemplated in [section 14](#) (2) of the Act or regulation 8 (2) is verified for proficiency and, if applicable, for compliance with the requirements of regulation 2 (4), and is countersigned by a children's court assistant or social worker appointed or designated for that purpose in terms of regulation 2 (2) in order to assist the

children's court by ensuring that such a report is proficient and, if applicable, that it complies with the requirements of regulation 2 (4), and "canalised" has a corresponding meaning;

"child", for the purposes of these regulations, includes a pupil as defined in [section 1](#) of the Act, where appropriate, and "children" has a corresponding meaning;

"child and youth care worker" means a person accredited as such by an institution or organization approved by the Minister, subject to such conditions as may be determined by the Minister for such accreditation or to be complied with by such institution or organization;

"discipline" means the positive guidance and behaviour management offered to a child to promote inner control of the child and his or her healthy development;

"ecological circumstances" means the circumstances of the relevant child within the context of, and connected to, his or her family and community;

"family" includes a parent, guardian or person in whose custody the child is or was immediately before commencement of any proceedings for the alternative placement of the child;

"family reunification services" means a service whereby a social worker and where applicable in consultation with the child and youth care worker renders a service for the purpose of empowering and supporting parents, the family and children in alternative care, which aims at enabling those children to be reunited with their family and community of origin in the shortest possible period of time, in a manner consistent with the best interests of the child and subject to a provisional maximum time frame of two years or such extended period and "family reunification" has a correspondent meaning;

"form" means a form referred to in the Annexure;

"permanency planning" means giving a child the opportunity to grow up in his or her own family and where this is not possible or not to his or her best interests, to have a timelimited plan which works towards life-long relationships in a family or community setting;

"registrar" means the registrar of adoptions referred to in [section 60](#) (1) (h) of the Act;

"the Act" means the Child Care Act, 1983 (Act No. 74 of 1983).

[Subreg. (1) substituted by GN R416/98]

- (2) For the purposes of the definition of "social worker" in [section 1](#) of the Act any government department under the control of the Minister and any organisation registered in terms of the National Welfare Act, 1978 (Act No. 100 of 1978), as a

welfare organisation shall be a government department and a welfare organisation, respectively.

[Subreg (2) deleted by GN R416/98 and inserted by GN R923/2003]

CHILDREN'S COURTS

2. Appointment, designation and functions of a children's court assistant, social workers' reports, canalisation of such reports and accredited social workers' reports

[Subheading substituted by GN R416/98]

- (1) A children's court assistant shall be an officer of the children's court to which he is attached and may-
 - (a) attend any sitting of the children's court of which he is an assistant;
 - (b) examine or cross-examine the child concerned, a parent or adoptive parent of the child, a respondent or any witness; and
 - (c)
- [Para. (c) deleted by GN R416/98]
- (2)
 - (a) If the Minister under [section 7](#) (2) of the Act appoints a social worker as a children's court assistant, all social workers' reports contemplated in [section 14](#) (2) of the Act or regulation 8 (2), as the case may be, shall be canalised through that assistant.
 - (b) If the commissioner under [section 7](#) (3) of the Act designates a social worker as a children's court assistant, all social workers' reports contemplated in [section 14](#) (2) of the Act or regulation 8 (2), as the case may be, shall be canalised through that assistant.
 - (c) If a social worker has not been appointed by the Minister or designated by the commissioner as a children's court assistant, all social workers' reports contemplated in [section 14](#) (2) of the Act or regulation 8 (2), as the case may be, shall be canalised through a social worker designated by a department under the control of the Minister or by a child and family welfare organisation, as the case may be.
- [Sub-r. (2) substituted by GN R416/98]
- (3) A children's court assistant may request such further information, reports or documents from the social worker of accredited social worker who compiled any such report or from any other person as he or she may deem necessary for the proceedings of the children's court or may request the clerk of the children's court to do so on his or her behalf.

[Sub-r. 3 substituted by GN R416/98]

- (4) The report of a social worker contemplated in [section 14](#) (2) of the Act shall be concise and logically compiled, shall be based on a thorough assessment of the strengths of the child and the family and shall include the following basic components:
- (a) A full family profile setting out the marital, financial, educational, physical and mental health, religious and socio-cultural circumstances of the child and his or her parents, guardian or the person in whose custody he or she is;
 - (b) a summary of prevention and early intervention services rendered in respect of the child and his or her family and a brief background of previous statutory interventions in respect of the child, where applicable;
 - (c) details of the circumstances referred to in [section 14](#) (4) of the Act which identified the child as a child in need of care and necessitated statutory intervention in respect of the child;
 - (d) a motivated evaluation of the circumstances referred to in subparagraph (c), together with a recommendation on a possible determination by the children's court in terms of [section 14](#) (4) of the Act;
 - (e) a fully motivated recommendation on the most empowering and least restrictive order in terms of [section 15](#) (1) of the Act that would best serve the interests of the child;
 - (f) the proposed plan to facilitate the reunification of the child and his or her family and the ultimate restoration of the child to his or her community, where applicable;
 - (g) a clear indication of who will be responsible for the case management and of when the child and family situation will be reviewed; and
 - (h) all such other information as the children's court concerned may require.

[Sub-r. 4 inserted by GN R416/98]

3. Recording of the proceedings of a children's court

The provisions of the Magistrate's Courts Act, 1944 (Act 32 of 1944), and of the rules made thereunder regarding -

- (a) the recording of the proceedings;
- (b) the taking down of the proceedings in shorthand or the recording thereof by mechanical means;
- (c) the transcription of such shorthand notes or mechanical recording;

- (d) the certification of such shorthand notes and transcription, shall *mutatis mutandis* apply to the proceedings of a children's court.

4. Parties to inquiries and summoning of witnesses

- (1) At a children's court inquiry in terms of [section 13](#) of the Act, the child, his or her parent or parents or guardian and a respondent shall have the same rights and powers as a party to a civil action in a magistrate's court in respect of examining witnesses, adducing evidence and addressing the court.

[Sub-r. (1) substituted by GN R416/98]

- (2) A commissioner may on the application of any person, if he or she considers it to be in the best interests of the child concerned, allow that person to join the proceedings, and a person who so joins shall for the purposes of these regulations be deemed to be a party to those proceedings and shall have the same rights and powers as a party referred to in subregulation (1).

[Sub-r. (2) substituted by GN R416/98]

- (3) If a parent or an adoptive parent of a child in respect of whom an inquiry is held, a respondent and, if applicable, the child concerned are present at an inquiry, the court may with the consent of the parent, adoptive parent, respondent or child dispense with the issue of any notice or summons in terms of these regulations and may summarily hold an inquiry.

- (4) (a) A subpoena referred to in paragraph (b) of this subregulation and [section 8](#) (4) and
(5) of the Act shall be in the form of [Form 1](#).

- (b) The children's court may at any time during an inquiry summons or cause to be summonsed any person as a witness or may examine any person who is present although not summonsed, and may recall and re-examine any person who has already been examined.

- (5) The children's court shall receive such evidence as may be adduced by or on behalf of any party to the proceedings and may cross-examine any person who adduces evidence for or on behalf of any party.

4A. Legal representation

- (1) Legal representation at the expense of the state shall be provided for a child who is involved in any proceedings under the Act, in terms of section 8A (5) of the Act, in the following circumstances:
- (a) Where it is requested by the child who is capable of understanding;
- (b) where it is recommended in a report by a social worker or an accredited social worker;

- (c) where any other party besides the child will be legally represented in the proceedings;
 - (d) where it appears or is alleged that the child has been physically, emotionally or sexually assaulted, ill-treated or abused;
 - (e) where the child, a parent or guardian, a person in whose custody the child was immediately before the commencement of the proceedings, a foster parent or proposed foster parent, or an adoptive or proposed adoptive parent contests the placement recommendation of a social worker or of an accredited social worker who has furnished a report contemplated in [section 14](#) (2) of the Act of regulation 8 (2), as the case may be;
 - (f) where two or more persons are each contesting in separate proceedings for the placement of the child in their custody;
 - (g) where the child is capable of understanding the nature and content of the proceedings, but differences in languages used by the court and the child prevent direct communication between the court and the child, a legal representative who speaks both the languages must, subject to paragraph (h), be provided;
 - (h) where a legal representative contemplated in paragraph (g) can not be provided, an alternative arrangement should be made, including the provision of an interpreter for the child;
 - (i) where there is reason to believe that any party to the proceedings or any witness intends to give false evidence or to withhold the truth from the court; and
 - (j) in any other situation where it appears that the child will benefit substantially from legal representation either as regards the proceedings themselves or as regards achieving in the proceedings the best possible outcome for the child.
- (2) Where legal representation at the expense of the state is not provided for any child who is involved in any proceedings under the Act, in terms of section 8A(5) of the Act, the reasons for the decision of the children's court not to order that such legal representation be provided for the child shall be entered in the minutes of the court proceedings.

[Reg. 4A inserted by GN R416/98]

5. Evidence of social workers and other competent persons

- (1) At an inquiry the children's court in terms of [section 13](#) (3) of the Act, the mere submission of a written report purported to be compiled and signed by a social worker or any other person who in the opinion of the court can form an authoritative

opinion on the child or on the circumstances of the child in respect of whom the inquiry is held or of the parents of the child concerned or of the person having custody of the child, shall be *prima facie* proof of the facts stated in that report.

- (2) The contents of a report referred to in subregulation (1) shall at any stage of such inquiry be disclosed to any party who is directly affected by it at his or her request.
- (3) A party referred to in subregulation (2) shall, if he or she so desires, be given an opportunity to cross-examine the author of the report concerned in regard to any matter arising from the report referred to in subregulation (1) and to refute any statement appearing therein.
- (4) The commissioner concerned shall clearly explain to a party referred to in subregulation (2) the consequences of a failure to refute statements appearing in a report referred to in subregulation (1).

[Reg. 5 substituted by GN R416/98]

6. Service of notices and summonses

- (1) Any written notice or a summons required to be served in terms of these regulations or in terms of any provision of the Act on any person in respect of which no special method of service is prescribed in the Act or these regulations may be served by a police officer or an authorised officer *mutatis mutandis* as if it is a summons to appear in order to give evidence in a criminal case in a magistrate's court, or, except in the case of a notice referred to in [section 19A](#) of the Act, by the clerk of the children's court concerned by posting a copy of the notice or summons by registered mail to the postal address of the person to whom the notice or summons is directed.
[Sub-r. (1) substituted by GN R119/99]
- (2) A police officer or authorised officer shall endorse on or attach to a notice or summons served by him a return indicating the date and manner of service and shall forthwith return the notice or summons to the clerk of the children's court.
- (3) A clerk of the children's court by whom a notice or summons is served by registered mail shall attach to the original notice or summons the post office registration receipt, or shall endorse on the original notice or summons the registration serial number and the date on which the document was handed in at the post office for dispatch.
- (4) If any person required by notice or summons to attend proceedings fails to do so, and it appears to the children's court that notwithstanding due service of the notice or summons on that person he has probably not received it, the court may, in its discretion, postpone the hearing and give such directions for further and better service as it may deem necessary.

7. Record of inquiries

The clerk of the children's court shall keep a register in the form of [Form 2](#), in which shall be entered particulars of every inquiry held by the court with the exception of an application for the adoption of a child.

PROTECTION OF CHILDREN

8. Maintenance of children apart from their parents

(1) Any person who in terms of [section 10](#) (1) of the Act has to obtain the consent of a commissioner to care for any child apart from his or her parents or custodian (hereinafter in this regulation referred to as "the applicant") shall apply in writing to the clerk of the children's court concerned in the form of [Form 21](#) on which the following information shall be furnished:

- (a) The name and address of the applicant and his or her spouse;
- (b) the name and age of the child;
- (c) the relationship between the applicant and the child;
- (d) the names and addresses of the child's parents and/or custodian, as the case may be;
- (e) the reasons why the child is maintained apart from his or her parents or custodian;
- (f) the period during which or the date until when the child is expected to be maintained apart from his or her parents or custodian; and
- (g) details of the social worker or accredited social worker who counselled the applicant.

[Sub-r. (1) substituted by GN R416/98]

(2) In considering the said application the commissioner may direct the applicant to submit such further information in regard to the application as he or she may deem fit and shall, if this has not already been done, cause the application to be investigated by a social worker or an accredited social worker.

[Sub-r. (2) substituted by GN R416/98]

(3) It shall be a condition of every consent granted in terms of [section 10](#) (1) of the Act that -

- (a) such consent shall not be transferable;
- (b) any commissioner in whose area of jurisdiction the child happens to be may cancel or amend the said consent or substitute a new consent for it or may

delete or amend any condition determined by a commissioner to which that consent may be subject or determine a new condition;

- (c) the consent shall not prohibit any other action against or treatment of a parent or the child in terms of the Act;
- (d) the child shall remain under the supervision of a social worker or an accredited social worker or any person designated by the children's court;
[Para. (d) substituted by GN R416/98]
- (e) the applicant shall give the social worker or the accredited social worker or the person referred to in paragraph (d) reasonable access to the child;
[Para. (e) substituted by GN R416/98]
- (f) the applicant shall notify the supervising social worker or person as soon as possible -
 - (i) of his new address if he changes his address; and
 - (ii) if the child is no longer in his care and the reason therefor.

(3A) The consent granted in terms of [section 10](#) (1) (ii) of the Act shall be in the form of [Form 21A](#) and a notice of release of the child into the care of the applicant shall be in the form of [Form 21B](#).

[Sub-r. (3A) inserted by GN R416/98]

(4) The clerk of the children's court shall hand or send a copy of the consent to the applicant, the supervising social worker or person and the children's court assistant.

9. Detention and the bringing of children before children's courts

- (1) A warrant by a commissioner in terms of [section 11](#) (2) of the Act shall be in the form of [Form 3](#).
- (2) (a) A policeman, social worker or authorised officer who remove a child under a warrant in terms of [section 11](#) (2) of the Act or removes or apprehends a child without a warrant in terms of [section 12](#) (1) or [section 38](#) (1) of the Act, as the case may be, and brings him or her to a place of safety shall, in the form of [Form 4](#), grant authority to such place of safety for the interim detention of that child.
[Para. (a) substituted by GN R416/98]
- (b) (i) A notice of the removal or apprehension of the child shall be given to the parent or the guardian of the child or the person, institution or place of safety in whose custody the child was immediately before the removal or apprehension and to the children's court assistant by sending or handing a true copy of the authority referred to in paragraph (a) to the

parent or guardian of the child or the person, institution or place of safety in whose custody the child was immediately before the removal or apprehension and to the children's court assistant under cover of a letter in the form of [Form 4A](#) within 48 hours.

- (ii) The parent or guardian of the child or the person, institution or place of safety in whose custody the child was immediately before the removal or apprehension shall be informed by the relevant policeman, social worker or authorised officer of the date and time of the review by the commissioner of the detention of the child or of the date and time of the interrogation of the child by the commissioner, as the case may be, provided that such parent or guardian of the child or such person, institution or place of safety in whose custody the child was immediately before the removal or apprehension is known to be in the district from which the child was removed or in which the child was apprehended, as the case may be, and can be traced without undue delay.
- (iii) If the period referred to in subparagraph (i) expires -
 - (aa) on a day which is not a court day or on any court day after four o'clock in the afternoon, the period shall be deemed to expire at four o'clock on the afternoon of the next succeeding court day; or
 - (bb) on any court day before four o'clock in the afternoon, the said period shall be deemed to expire at four o'clock in the afternoon on that court day.
- (iv) A court day for the purposes of subparagraph (iii) above and paragraph (c) below means a day on which the court in question normally sits as a court.

[Para. (b) substituted by GN R416/98]

- (c) The children's court assistant shall no later than the first court day following his or her receipt of the authority submit it to the commissioner for review of the authority or interrogation of the child by the commissioner in terms of [section 38](#) (2) (a) of the Act, as the case may be: Provided that the review of the authority or the interrogation of the child by the commissioner, as the case may be, shall take place by no later than the first court day following the receipt of the authority by the commissioner.

[Para. (c) substituted by GN R416/98]

- (d) The commissioner shall, after consideration of the reasons for the detention of the child as stated in the authority and such other information as he or she may obtain or as may be furnished to him or her by the parent or the guardian of the child, the person, institution or place of safety in whose custody the child was immediately before the removal or apprehension, the child, the children's court

assistant, the social worker, policeman or authorised officer, as the case may be

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- (i) confirm the detention of the child by issuing an order of detention in the form of [Form 5](#) with such special requirements, subject to variations, as may be deemed necessary in the interests of the child from time to time; or
 - (ii) set the authority aside and direct that the child be restored to the custody of his or her parent, guardian or person in whose custody of his or her parent, guardian or person in whose custody he or she was immediately before the removal; or
 - (iii) deal with the apprehended child in terms of [section 38](#) (2) (a) of the Act.
[Para. (d) substituted by GN R416/98]
- (e) No authority shall be set aside in terms of paragraph (d) (ii) without prior consideration of any information given on oath as to the grounds of the removal, which may be furnished at any stage of the review proceedings by the policeman, social worker or authorised officer concerned.
[Para. (e) inserted by GN R416/98]
- (3) A notice to a parent or guardian of a child or to the person in whose custody the child is to bring the child before the children's court in terms of [section 13](#) (2) or to attend an inquiry in terms of [section 13](#) (5) shall be in the form of [Form 6](#).
[Sub-r. (3) substituted by GN R416/98]
- (4) Any child who is removed from any place to a place of safety in terms of [section 11](#) (1) or (2) or [12](#) (1) of the Act and whose detention in the place of safety is confirmed by the commissioner concerned in terms of subparagraph (i) of paragraph (d) of subregulation (2), shall be brought before the children's court of the district where the child resides or happens to be by any policeman, social worker or authorised officer, in terms of [section 13](#) (1) of the Act, for the purposes of an inquiry in terms of [section 13](#) (3) of the Act, by no later than 14 days after the removal of the child.
[Sub-r. (4) inserted by GN R416/98]
- (5) Any child who is apprehended by a policeman, social worker or authorised officer in terms of [section 38](#) (1) of the Act and who, after being interrogated by the commissioner concerned in terms of [section 38](#) (2) (a) of the Act, is removed to a place of safety in terms of [section 38](#) (2) (a) (ii) of the Act, shall be dealt with by the Minister in terms of [section 38](#) (3) within a period of no more than 14 days after the apprehension of the child.
[Sub-r. (5) inserted by GN R416/98]
- (6) A social worker may, for the purposes of [section 15](#) (2) or [section 34](#) (1 A) (b) of the Act, bring a child before the children's court on a notice in the form of [Form 6A](#), the original of which shall be handed to the parent or guardian of the child or to the

person in whose custody the child is and a true copy of which shall be handed to the children's court assistant.

[Sub-r. (6) inserted by GN R416/98]

- (7) (a) For the purpose of referring an inquiry to the district of another children's court in terms of [section 13](#) (3) of the Act, the district in which the child ordinarily resides shall be determined at the moment a child is brought before a children's court in terms of section 13 (1) or (2).
- (b) An appropriate detention authority in respect of the child and a certified copy of the proceedings of referral shall be forwarded forthwith to the children's court of the district to which the inquiry has been referred.

[Sub-r. (7) inserted by GN R416/98]

10. Record of inquiries in terms of section 14 of the Act

- (1) The record of an inquiry in terms of [section 14](#) of the Act, which shall be signed by the presiding commissioner, shall consist of -
- (a) [Form 7](#), on which shall be noted -
- (i) the district and place where and the dates on which the inquiry is held, the names of the child or children concerned, and the names of the commissioner, the children's court assistant and the persons present at the inquiry;
 - (ii) if the parents are not present at the inquiry concerned, the reason therefor;
 - (iii) the admission and rejection of and objection to any evidence, report, exhibit or submission;
 - (iv) the finding and, if the court makes an order, the order of the court at the conclusion of the inquiry;
 - (v) the contribution order made or the proposed proceedings for the making of a contribution order, any attachment of the wages of the respondent in the payment of a contribution order, or the fact that no contribution order was made;
 - (vi) if an estimate was made in terms of [section 54](#) of the Act, the estimated age of the child as referred to in a certificate in the form of [Form 7A](#);

[Sub-para. (vi) substituted by GN R416/98]

- (vii) any recommendations by the children's court in connection with financial assistance; and

[Sub-para. (vii) substituted by GN R416/98]

- (b) reports, documents and submissions allowed by the children's court or of which the contents were not disputed.
- (2) The record of an inquiry shall be open for inspection by any party to the inquiry at any time before the conclusion thereof and within one year thereafter against payment of the amount prescribed for inspection of the record of civil proceedings in magistrates' courts at the time of inspection.
- (3) Notwithstanding the provisions of subregulation (2), a commissioner may, subject to [section 8](#) (3) of the Act, give approval in a specific case for the record to be accessible free of charge -
 - (i) for official or research purposes; and
 - (ii) for the purpose of publishing a report on the proceedings in a publication which is intended to be read mainly by social workers, probation officers, medical practitioners, dentists, child and youth care workers, nurses, psychologists, educationists, lawyers, criminologists, jurists or members of any other relevant profession.

[Sub-r. (3) amended by GN R416/98]

11. Orders of children's courts

- (1) An order in terms of [section 15](#) of the Act shall be issued in the form of [Form 8](#).
- (2) The clerk of the children's court concerned shall send -
 - (a) a copy of such an order in terms of paragraph (a) or (b) of [section 15](#) (1) of the Act to the parent or guardian of the child, to the person in whose custody the child was immediately before the commencement of the proceedings or to the foster parent of the child, and to the supervising social worker; and
 - (b) a copy of such an order in terms of paragraph (c) or (d) of the said [section 15](#) (1), a medical report in the form of [Form 9](#), and also a copy of the record of the inquiry to the Director-General for designation of a children's home or a school of industries, as the case may be.

[Para. (a) substituted by GN R416/98]

[Para. (b) substituted by GN R416/98]

- (2A) The Director-General may vary the appointment of a supervising social worker for the purposes of [section 15](#) (1) (a) or (b) of the Act as he or she may deem necessary in the best interests of the child.

[Sub-r. (2A) inserted by GN R416/98]

- (3) The Director-General shall not designate a children's home as contemplated in [section 15](#) (1) of the Act unless the management of the children's home in question

or any person specially authorised by the management for that purpose agrees to the admission of the child concerned.

- (4) After the Director-General has designated a children's home or a school of industries in terms of paragraph (c) or (d), of [section 15](#) (1) of the Act as the case may be, he shall immediately notify the commissioner concerned and the social worker involved in the case of the particulars of the designation.

12. Removal of children under orders issued in terms of section 15, 36 or 38 of the Act

- (1) The Director-General shall -
 - (a) designate a children's home in terms of [section 15](#) (1) (c) of the Act or a school of industries in terms of section 15 (1) (d) of the Act, as the case may be, within a period of no more than 30 days after the making of the order by the children's court in terms of section 15 (1) (c) or (d) of the Act, as the case may be; and
 - (b) in so far as is reasonably practicable, designate a children's home or school of industries in terms of [section 15](#) (1) (c) or (d) of the Act, which is situated in the same district as that in which the parent, guardian or custodian of the child resides.
- (2)
 - (a) The commissioner who issued an order in terms of [section 15](#), [36](#) (2), [38](#) (2) (a) or 38 (4) of the Act shall make arrangements for the removal of the child concerned to the children's home or school of industries designated by the Director-General in respect of that child, or to the foster parent in whose custody the child has been placed or to the institution or the custody or the place of safety from which the child has absconded or to which the child has failed to return after leave of absence or to which the child has been sent by the court as a place of safety.
 - (b) If a child who has to be so removed is being detained in a place of safety, the commissioner shall issue a release order to the place of safety in the form of [Form 10](#) and shall send a copy thereof to the social worker concerned.

[Reg. 12 substituted by GN R416/98]

13. Requirements to be complied with, regarding the custody of children referred to in section 15 (1) (a) or 34 (1A) (a) of the Act

- (1) The requirements to be complied with, regarding the custody of children referred to in [section 15](#) (1) (a) or [34](#) (1A) (a) of the Act are that the parent or guardian of the child or the person in whose custody the child was immediately before the commencement of the proceedings and the child shall -
 - (a) have access to appropriate family reunification services in the form of developmental and therapeutic programmes, and will participate in these

programmes according to a developmental programme which has been agreed upon by the parents, the child (where appropriate), the court and the supervising social worker;

- (b) be provided with support and guidance in order to make the most effective use of the developmental programme;
 - (c) participate in a regular review of the programme which will result in a progress report to the Director-General and the court; and
 - (d) within 14 (fourteen) days, notify the supervising social worker of any change in the parent's, guardian's or custodian's residential address or the place where the child is residing.
- (2) The requirements determined by the court in terms of subregulation (1) shall accompany the [Form 8](#) order of court, as an annexure in the form of [Form 8A](#), where [section 15](#) (1) (a) of the Act is applied.
- (3) The requirements determined by the Minister in terms of subregulation (1) shall accompany the order of transfer as an annexure, where [section 34](#) (1A) (a) of the Act is applied.

[Reg. 13 substituted by GN R416/98]

14. Periods and conditions of leave of absence from institutions or custody

- (1) Leave of absence in terms of [section 35](#) of the Act may be granted to a child or foster child with the consent of the Director-General, as the case may be, at any time and for any period not exceeding six weeks for the purpose of meeting the developmental goals for the child as stipulated in the developmental programme.
- [Sub-r. (1) substituted by GN R416/98]
- (2) No leave of absence shall be granted to such a child or foster child -
- (a) unless the leave will serve the interests of the child or foster child, and unless suitable arrangements for the accommodation, care and supervision of the child or foster child have been made by a social worker for the duration of his or her leave;
 - (b) for a period exceeding six weeks at a time or for consecutive periods which, in total, exceed six months, unless approved by the Minister; and
 - (c) detained in a place of safety on an order of court for a period other than as provided for in subregulation (1) or for compassionate leave, without the approval of the relevant children's court; and

- (d) where such leave is based only on staff shortages or on an absence of developmental programmes at the institution or place of safety during the holiday period.

[Sub-r. (2) substituted by GN R416/98]

- (3) When leave of absence from a place of safety in terms of [section 35](#) (1) (c) is granted, the Director-General shall immediately inform the children's court which issued the detention order, in writing, that leave has been granted to a child or foster child for the period or periods stipulated.

[Sub-r. (3) inserted by GN R416/98]

15. Family reunification services

- (1) Should it be in the interests of meeting the developmental goals for the child in the custody of a foster parent, children's home or school of industries by virtue of an order in terms of [section 15](#) (1) of the Act or any extension thereof, to transfer such child in terms of [section 34](#) of the Act or to discharge such child in terms of [section 37](#) of the Act, the social worker rendering family reunification services and the supervising social worker shall in consultation with each other and, where possible, the parent or guardian of the child or the person in whose custody the child was immediately before the commencement of the proceedings, the head of the children's home or school of industries and the child concerned, submit a report and recommendation to the Director-General.
- (2) The reports referred to in subregulation (1) shall be based on the developmental assessment of the child and his or her ecological circumstances and shall reflect the existing and future developmental programme for the child and family as well as services provided to the child and family to meet developmental goals as stipulated in the developmental programmes.
- (3) The Director-General shall, in addition to any other reports he or she may require, not later than three months before the expiry of an order referred to in [section 15](#) (1) of the Act, require a report and motivated recommendation from the social worker rendering family reunification services and the supervising social worker, on whether the Minister should extend the validity of the said order for a further period in terms of [section 16](#) (2) of the Act.
- (4) The reports referred to in subregulation (3) shall be based on the developmental assessment of the child and his or her ecological circumstances and shall reflect the existing and future developmental programmes for the child and family as well as services provided to the child and family to meet developmental goals, as stipulated in the developmental programmes.
- (5) Upon receipt of the reports contemplated in subregulations (1), (3) or (8), the Director-General shall submit the said reports to the Minister who may review the alternative placement of the child in terms of subregulation 6.

- (6) In conducting the review contemplated in subregulation (5) the Minister [shall] take full account of the reports contemplated therein.
- (7) The following interested parties shall be entitled to be invited to and to participate in proceedings of the review contemplated in subregulation (5):
 - (a) The supervising social worker;
 - (b) the family reunification social worker;
 - (c) the child and his or her legal representative as contemplated in regulation 4A;
 - (d) the parent, guardian or person contemplated in [section 15](#) (1) (a) of the Act;
 - (e) the foster parent in whose custody the child was placed in terms of [section 15](#) (1) (b) and [section 34](#) (1) of the Act;
 - (f) the duly appointed representative of the management of the children's home referred to in [section 15](#) (1) (c) or [34](#) (1) of the Act;
 - (g) the duly appointed representative of the management of the school of industries contemplated in [section 15](#) (1) (d) or [34](#) (2) of the Act.
- (8) The report referred to in regulations (1) and (3) shall include a fully motivated recommendation-
 - (a) on the possibility or desirability of restoring the child to the custody of his or her parent or guardian or the person in whose custody the child was immediately before the commencement of the proceedings where the prognosis for the restoration objective is positive; or
 - (b) for the extension of the order for a further period in alternative care where the prognosis for the restoration objective is fair and continued family reunification services are justified and consistent with the well-being of the child.
- (9) Where family reunification services is not possible the social worker shall, in consultation with any social worker rendering family reunification services and where applicable a child and youth care worker rendering submit a report to the Director-General, giving due weight to the views of the child in accordance with his or her age and maturity and, where applicable, to the views of the parent or guardian of the child or of the person in whose custody the child was immediately before the commencement of the proceedings, and request an extension of the order for a further period in terms of [section 16](#) (2) of the Act.

[Reg. 15 substituted by GN R416/98]

16. Forms determined by the Minister

- (1) The extension by the Minister of the validity of an, order of a children's court in terms of [section 16](#) (2) of the Act, an order by the Minister for the transfer or removal of a child or foster child in terms of [section 34](#) (1) and [section 36](#) (1) of the Act, respectively, and an order by the Minister for the discharge of a child or foster child from the effects of a court order in terms of [section 37](#) of the Act shall in each case be in a form determined by the Minister.
- (2) A copy of the order of extension, transferral, removal or discharge referred to in subregulation (1) shall be sent to the children's court of origin.
[Reg. 16 substituted by GN R416/98]

ADOPTIONS

17. Registrar of Adoptions

- (1) The Director-General shall designate an officer in his or her Department as Registrar of Adoptions, who shall exercise the powers and perform the functions conferred upon or assigned to him or her under these regulations or any other law.
- (2) The Director-General may at any time withdraw a designation referred to in subregulation (1) or designate an officer in his or her Department as acting Registrar of Adoptions.
[Reg. 17 substituted by GN R416/98]

18. Applications for the adoption of children

- (1) Any person, or a husband and his wife jointly, referred to in [section 17](#) (1) of the Act desiring to adopt a child shall apply in the form of [Form 11](#) in respect of each child such person or persons wish to adopt.
- (2) Such application shall be lodged with the clerk of the children's court in the district where the child is residing, together with -
 - (a) a certified copy of the identity document of each applicant and the original birth certificate or the original identity document of each child who stands to be adopted;
[Para. (a) substituted by GN R416/98]
 - (b) in the case of the adoption of a foster child, the written statement of the child's foster parent in the form of [Form 12B](#) that he or she does not wish to adopt the child, in terms of [section 18](#) (4) (g) of the Act;
[Para. (b) substituted by GN R416/98]
 - (c) where applicable, the written consent of the parent in the form of [Form 12](#) and of the child in the form of [Form 13](#) as required by [section 18](#) (4) (d) and 18 (4) (e), as the case may be.
[Para. (c) substituted by GN R416/98]

- (d) where the applicant wishes to receive a child who stands to be adopted into his or her or their custody, a report from a social worker or an accredited social worker that the applicant is a potentially suitable adoptive parent.

[Para. (d) inserted by GN R416/98]

18A. Parental duties

A parent shall, for the purposes of [section 19](#) (b) (vii) of the Act, be deemed to have failed to discharge his or her parental duties with regard to the child if the parent has, without good cause, failed -

- (a) in the case of the father of the child, to contribute towards the reasonable prenatal and delivery medical expenses incurred in respect of the child or any other expenses directly connected with the medical care provided to the mother of the child in respect of the pregnancy or the birth of the child;
- (b) to maintain or to contribute towards the maintenance of the child; and
- (c) in the case of a parent having custody of the child, to care for the child.

[Reg. 18A inserted by GN R119/99]

19. Consent to adoption

- (1) Any consent to the adoption of a child by a parent of the child and, if applicable, a child referred to in [section 18](#) (4) (e) of the Act shall be granted in the form of [Form 12](#) or [Form 13](#), respectively.
- (2) Before the commissioner attests the consent referred to in subregulation (1) in terms of [section 18](#) (5) of the Act he shall inform the person granting the consent-
 - (a) of the legal consequences of an adoption;
 - (b) in the case of consent by a parent, that the parent concerned may withdraw the consent in writing in the [Form 12A](#) before any commissioner at any time during a period of up to 60 days after having given such consent;
[Para. (b) substituted by GN R416/98]
 - (c) in the case of consent by a child, that the child concerned may withdraw the consent in writing in the form of Form 13A before any commissioner at any time before the order, of adoption is made by the children's court.
[Para. (c) substituted by GN R416/98]
 - (d) that the person concerned is not entitled to be present when the application for adoption is considered unless he or she is allowed to be present at the discretion of the court if it is of the opinion that his or her presence will serve the best interest of the child.

[Para. (d) inserted by GN R416/98]

- (3) If such consent is granted outside the Republic it shall be signed in the presence of and attested by an officer in the service of a South African diplomatic or consular mission, or by a judge, magistrate, justice of the peace or public officer of the country concerned.
- (4) (a) Should consent be withdrawn in a district other than the district in which consent was given or in which the application for adoption is to be heard, the commissioner referred to in subregulation (2) (b) or (2) (c), as the case may be, shall immediately -
- (i) if the court which is to hear the application for adoption is known, notify such court and the relevant social worker or accredited social worker accordingly; or
- (ii) if the court which is to hear the application for adoption is not known, notify the commissioner who attested the consent in terms of [section 18](#) (5) of the Act.
- (b) The commissioner referred to in paragraph (a) (ii) shall immediately identify the court which is to hear the application for adoption and notify it and the relevant social worker or accredited social worker of such withdrawal.

[Sub-r. (4) substituted by GN R416/98]

20.

[Reg. 20 repealed by GN R416/98]

21. Adoption procedure

- (1) (a) The children's court assistant shall, if this has not already been done, cause the application for adoption to be investigated by a social worker or an accredited social worker and submit a report by the social worker or accredited social worker on this investigation to the children's court in which the application was made.
- (b) The report on the investigation referred to in paragraph (a) shall be a proficient and objective document and shall include the following:
- (i) Reference to the provisions of [section 18](#) (3) and (4) of the Act with specific mention of the circumstances of the applicant or applicants, and of the parent and child;
- (ii) details of any counselling in respect of the proposed adoption;

- (iii) a disclosure statement itemising all moneys paid or estimated to be or to have been paid in cash or in kind, either directly or indirectly, by or on behalf of the applicant for services rendered, professional fees and disbursements, other fees and other costs incurred or to be incurred in respect of the adoption or for the care of the child, including prenatal, delivery and postnatal medical expenses, housing, food, clothing, travel and hospital costs and legal fees and fees to the messenger of the court;
 - (iv) a motivated recommendation; and
 - (v) such other matters as the court concerned may require.
- (c) If the court has satisfied itself on the strength of the said report and any other information obtained as regards the matters mentioned in [section 18](#) (4) of the Act, and that the application for adoption is not being opposed, the court may, in its discretion, consider the application and make an order granting the adoption without giving a hearing to any person.
- (d) Notwithstanding the provisions of paragraph (b), the contents of a report referred to in subregulation (a) shall not disclose details relating to the identity or whereabouts of the proposed adoptive parents or of the child, if he or she is already in their custody, without their prior written approval, unless required by court.

[Para. (d) inserted by GN R119/99]

- (2) If an application has not been or cannot be finalised in terms of subregulation (1) (c), a date for the formal hearing of the application by the children's court shall be fixed and a notice in the form of [Form 1A](#) shall be issued by the clerk of the children's court concerned to notify each adoptive parent of the hearing.
- (3) A parent shall not be present during the proceedings of the children's court involving an application for the adoption of his or her child unless allowed to be present at the discretion of the court if it is not of the opinion that his or her presence will serve the best interest of the child.
- (4) If a children's court assistant or a children's court is, at any stage of the proceedings for the adoption of a child, of the opinion that reasonable grounds exist to dispense with the consent of a parent in terms of [section 19](#) (b) of the Act, the court shall request the clerk of the children's court to cause a notice in the form of [Form 22](#) to be served on the parent concerned requiring him or her to appear in that children's court at the time and place stated in the notice should he or she wish to advance reasons why his or her consent should not be dispensed with.
- (5) The notice referred to in subregulation (4) shall set out particulars that are reasonably sufficient to notify the parent concerned of the grounds why his or her consent may be dispensed with and shall be served on the parent concerned at least 21 days before the said date of appearance.

(5A) An application to the children's court contemplated in [section 19 \(A\)](#) (9) of the Act shall be made within a period of 14 days of the mother's refusal to grant consent in terms of [section 11](#) (4) of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).

[Sub-r. (5A) inserted by GN R119/99]

(5B) A natural father of a child born out of wedlock contemplated in [section 19A](#)(9) of the Act shall, within a period of seven days of the granting of the order, cause an amendment to be effected to the registration of birth of the child, as contemplated in that section.

[Sub-r. (5B) inserted by GN R119/99]

(5C) A natural father of a child born out of wedlock contemplated in subregulation (5B) shall, within a period of seven days of making an application for the amendment of the registration of birth of the child, in writing, give notice of such application to the clerk of the children's court in which the application for the adoption of the child was made, providing details of the date and place where such application for the amendment of the registration of birth of the child was made.

[Sub-r. (5C) inserted by GN R119/99]

(5D) A natural father of a child born out of wedlock contemplated in [section 19A](#) (8) of the Act shall, within a period of seven days of making an application for the amendment of the registration of birth of the child, in writing, give notice of such application contemplated in section 19A (1) of the Act to the commissioner, providing details of the date and place where such application was made.

[Sub-r. (5D) inserted by GN R119/99]

(6) If the parent is not present at the children's court on the said date and the court is satisfied that -

(a) proper notice has been duly served on the parent and there is no apparent reason for the parent's failure to appear, the court may immediately hold the hearing and give judgement; or

(b) proper notice has not or could not be served on the parent the court may, in its discretion, give direction for such further or better service of the notice as it may deem fit or, only in the case of the circumstances referred to in [section 19](#) (b) (ii) of the Act, immediately hold the hearing and give judgement.

(7) (a) When the children's court considers an application for the adoption of a child, the mere submission of the written report referred to in subregulation 21 (1), purported to be compiled and signed by a social worker or an accredited social worker, and, in addition, if applicable, the report of any other person who can form an authoritative opinion on any matter relevant to the application, shall be *prima facie* proof of the facts stated in that report.

- (b) The contents of the report referred to in paragraph (a) shall at any formal hearing referred to in subregulation (2) be disclosed to any party who is directly affected by it at his or her request.
 - (c) A party referred to in paragraph (b) shall, if he or she so desires, be given an opportunity to cross-examine the author of the report concerned in regard to any matter arising from the report referred to in paragraph (a) and to refute any statement appearing therein.
 - (d) The commissioner concerned shall clearly explain to a party referred to in paragraph (b) the consequences of a failure to refute statements appearing in a report referred to in paragraph (a).
 - (e) At a hearing of an application for the adoption of a child, the applicant and the parent on whom a notice referred to in subregulation (4) has been, served, shall have the same rights and powers as a party to a civil action in a magistrate's court in respect of examining witnesses, adducing of evidence and addressing the court.
- (8) Where an order for the adoption of a child has not been granted or where consent to the adoption of a child has been withdrawn or has not been dispensed with in terms of [section 19](#) of the Act, the child shall, subject to the provisions of [section 13](#) or [15](#) of the Act, at the request of the parent or guardian be restored to his or her custody through a social worker or an accredited social worker or person designated by the children's court in the form of [Form 21C](#), where this is deemed by the children's court to be in the best interests of the child.
- (9) An order of adoption shall be in the form of [Form 14](#).
[Reg. 21 substituted by GN R416/98]

22. Record of adoption proceedings

The record of the adoption inquiry, which shall be signed by the presiding commissioner, shall consist of -

- (a) [Form 23](#), on which shall be entered
 - (i) the district and place where and the dates on which the proceedings are held and the names of the adoptive parents, the child or children concerned, the presiding commissioner, the children's court assistant and the persons who are present;
 - (ii) the admission or rejection of and objection to any evidence, report, exhibit or submission;

- (iii) the approvals granted and orders made by the children's court during or after the inquiry;
 - (iv) if an estimate of the age of any person concerned has been made in terms of [section 54](#) of the Act, the estimated age of the person;
[Para. (a) amended by GN R416/98]
- (b) the application for the adoption and every consent to the adoption; and
 - (c) reports, documents and submissions allowed by the children's court or of which the contents have not been disputed.

23. Adoptions record book

- (1) The clerk of the children's court shall keep an adoptions record book in the form of [Form 24](#) in which he or she shall enter particulars of all applications made to the court, of all orders of adoption made by the court and of any rescissions of or appeals against such orders.
[Sub-r. (1) substituted by GN R416/98]
- (2) No person, except an officer of the court or any person generally or specially authorised thereto by the commissioner shall inspect or have access to the adoptions record book.

24. Register of adoptions

The registrar shall keep a register in which shall be entered -

- (a) the registration number he allocates to the adoption;
- (b) the personal particulars of the adopted child, his parents and adoptive parents;
- (c) particulars of successful appeals against and rescissions of adoptions; and
- (d) generally, all the other information the registrar considers necessary and expedient.

25. Registration of adoptions

- (1) As soon as is practicable after the issue of an order of adoption the clerk of the children's court shall cause that order to be registered by submitting the following documents to the registrar:
 - (a) The original of -
 - (i) the application for adoption;
 - (ii) every consent to the adoption which has been lodged;

- (iii) the order of adoption and two copies thereof signed by the commissioner and not certified as copies;
 - (iv) the child's identity document or birth certificate; and
 - (b) a copy of the record of the proceedings concerned, with the exception of the documents of which the originals must be submitted in terms of paragraph (a).
- (2) After registration the registrar shall enter the date of registration and the registration number on each order of adoption and shall send a copy of the order of adoption referred to in subregulation (1) (a) (iii) and the original identity document or birth certificate to the adoptive parents and the remaining copy of the adoption order to the clerk of the children's court.

26. Rescission of orders of adoption

- (1) Notice of an application for the rescission of an order of adoption in terms of [section 21](#) of the Act shall be in the form of [Form 15](#).
- (2) If the adoptive parents are unknown to the applicant the said notice and two copies thereof shall be lodged with the clerk of the children's court at least 28 days before the date set for the hearing.
- (3) On receipt of that notice the clerk of the children's court shall send a copy thereof by registered mail to the adoptive parents at their last known address.
- (4) If the adoptive parent concerned is not present at the children's court on the said date and the court is satisfied that the notice -
 - (a) has been duly served on the adoptive parent and there is no apparent reason for his failure to appear, the court may proceed to hold an inquiry without delay and give judgment; or
 - (b) could not be served on the adoptive parent because his address or residence is unknown, the court may give instructions for such further or improved service of the notice as the court may deem fit.
- (5) The provisions of regulation 22 shall, as far as they are applicable, apply *mutatis mutandis* to the keeping of a record of an inquiry in terms of this regulation.
- (6) If an adoption is rescinded the clerk of the children's court shall send a certified copy of the record to the registrar for registration purposes.

27. Appeal against an order of adoption

If the court of appeal concerned rescinds an order of adoption in terms of [section 21](#) or [section 22](#) of the Act, the clerk of the children's court shall notify the Director-General in terms of the Births, Marriages and Deaths Registration Act, 1992 (Act 51 of 1992), of that order.

[Reg. 27 substituted by GN R416/98]

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

[Subheading substituted by GN R146/98]

- (1) Subject to the provisions of subregulations (3) and (6) and the instructions of the registrar on the handling of documents by persons inspecting them, the record of the proceedings shall lie for inspection during normal office hours in the office of the registrar by -
 - (a) an adoptive parent from the date on which the child concerned reaches the age of 18 years;
 - (b) an adopted child from the date on which he reaches the age of 21 years; and
 - (c) a natural parent of a previous adoptive parent of the adopted child, with the written consent of the adoptive parent or parents and of the adopted child, from the date on which the child concerned reached the age of 21 years.

[Para. (c) inserted by GN R416/98]
- (2) Any person who may inspect the record in terms of subregulation (1) may obtain a copy of the record on prepayment of an amount of R10 payable by means of uncanceled revenue stamps affixed to his application for such copy.
- (3) The Registrar may require an adoptive parent, a natural parent, a previous adoptive parent or a child referred to in subregulation (1) to receive counselling from a social worker or an accredited social worker designated by the Registrar before allowing that adoptive parent, natural parent, previous adoptive parent or child to inspect the record concerned or to obtain a copy thereof,

[Sub-r. (3) substituted by GN R416/98]
- (4) The Registrar may, in his discretion and at any time, furnish specific information regarding an adoption to any person who in the opinion of the registrar has sufficient reason to obtain the information: Provided that the identity of the child, his parents, or adoptive parents shall not be revealed thereby.
- (5) Subject to the conditions he determines generally or in a particular case the Director-General may approve that an adoptions record book referred to in regulation 23, the register of adoptions referred to in regulations 24 and a record of the children's court of an adoption inquiry may be inspected for official and *bona fide* research purposes.
- (6) (a) The registrar may notwithstanding the provisions of this regulation for good reason refuse any person access to the said record and registers.

- (b) Any persons aggrieved by any decision of the registrar under paragraph (a) may appeal to the Minister against such decision.

CONTRIBUTION ORDERS

- 29.** (1) The clerk of a children's court or the clerk of a magistrate's court, as the case may be,

shall at the request of the children's court assistant issue a summons in the form of [Form 16](#) calling on the respondent to appear before the court at a time and place stated in the summons in order to show cause why a contribution order should not be made against him or her.

[Sub-r. (1) substituted by GN R416/98]

- (2) (a) A notice of an application by the children's court assistant for the variation, suspension, rescission or revival of a contribution order shall be in the form of [Form 17](#) and shall be duly served on the respondent.

(b) An application by a respondent for the variation, suspension, rescission or revival of a contribution order shall be made in the form of [Form 17A](#) and shall be lodged with the clerk of the children's court or magistrate's court as the case may be.

[Sub-r. (2) substituted by GN R416/98]

- (3) A contribution order or a provisional contribution order shall be made in the form of [Form 18](#) and a certified copy thereof shall be handed to the respondent or be sent to him by registered mail.

- (4) The clerk of the children's court or the magistrate's court, as the case may be, shall send a copy of the said contribution order to -

(a) the Director-General; and

(b) the social worker involved in the case.

- (5) An order to an employer in terms of [section 46](#) of the Act for the deduction of an amount from the wages of respondent in compliance with a contribution order shall be made in the form of [Form 19](#).

CHILDREN'S HOMES, PLACES OF CARE, PLACES OF SAFETY, SCHOOLS OF INDUSTRIES AND SHELTERS

30. Application for registration as a children's home, place of care or shelter

- (1) Application for registration of a children's home, place of care or shelter in terms of [section 30](#) (3) of the Act shall be made on a form determined by the Director-General.

- (2) The application shall be accompanied by -
 - (a) the constitution of the association of persons that is to manage the children's home, place of care or shelter;
 - (b) a certificate issued by the local authority within whose area the children's home, place of care or shelter is situated or is to be erected to the effect that plans for the said building or buildings, if still to be erected, have been approved by the local authority or, alternatively, that the said building or buildings, if already erected, complies or comply with all the structural and health requirements of the local authority;
 - (c) a certificate issued by the Director-General confirming that a needs assessment which supports the need for this resource in the community undertaken by the applicant in collaboration with the Director-General; and
 - (d) in the case of a children's home or shelter a certificate referred to in paragraph (c) shall also contain a conformation that the children's home or shelter is able to comply with residential care minimum standards.
- (3) The constitution referred to in subregulation (2) (a) shall contain at least the following particulars and stipulations:
 - (a) The name of the children's home, place of care or shelter and a description of the category or categories of children to be cared for;
 - (b) the composition, powers and duties of the management and of the executive committee or management committee, as the case may be;
 - (c) the powers, obligations and undertaking of the management to delegate all authority with regard to the care, behaviour management and development of children to the head of the children's home, place of care or shelter;
 - (d) the procedures in respect of amending the constitution; and
 - (e) the commitment of the management to ensure the establishment and maintenance of minimum standards.
- (4) Registration of a children's home, place of care or shelter shall be reviewed every 24 months on the basis of a quality assurance assessment undertaken by appropriately trained officials appointed by the Director-General.

[Reg. 30 substituted by GN R416/98]

30a. Additional requirements with which a place of care shall comply

- (1) Subject to the provisions of the Act and these regulations no place of care shall be registered or shall remain registered after 24 months unless the Director-General is satisfied that the following behaviour management practices are expressly forbidden:
 - (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 parents and family;
 - (g) denial, outside of the child's specific development plan, of visits, telephone calls or correspondence with family and significant others;
 - (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. This measure is governed by specific policy and procedure, can only be undertaken by service providers trained in this measure, and must be thoroughly documented and monitored;
 - (j) assignment of inappropriate or excessive exercise or work;
 - (k) undue influence by service providers regarding their religious or personal beliefs including sexual orientation;
 - (l) measures which demonstrate discrimination on the basis of cultural or linguistic heritage, gender, race, or sexual orientation;
 - (m) verbal, emotional or physical harm;
 - (n) punishment by another child; and
 - (o) behaviour modification such as punishment or reward systems, of 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.

- (2) All children in a place of care shall, where appropriate, have the right -
- (a) to know their rights and responsibilities;
 - (b) to a plan and programme of care and development, which includes a plan for reunification, security and life-long relationships;
 - (c) to participate in formulating their plan of care and development, to be informed about their plan, and to make changes to it;
 - (d) to expect that their plan and programme is based on an appropriate and competent assessment of their developmental needs and strengths and, where possible, is in the context of their family and community environments;
 - (e) to a regular review of their placement and care or development programme;
 - (f) to be fed, clothed and nurtured according to community standards and to be given the same quality of care as other children in the places of care;
 - (g) to be consulted and to express their views, according to their abilities, about significant decisions affecting them;
 - (h) to reasonable privacy and to possession of the personal belongings;
 - (i) to be informed of behaviour expected by service providers and of the consequences of not meeting the expectations of service providers;
 - (j) to care and intervention which respects their 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 the involvement of their family or significant others in their care or development programme, unless proved not to be in their best interests, and to return to live in their community in the shortest appropriate period of time;
 - (m) to be free from physical punishment;
 - (n) positive disciplinary measures appropriate to their level of maturity;
 - (o) to protection from all forms of emotional, physical, sexual and verbal abuse;

- (p) to education appropriate to their level of maturity, their aptitude and their ability;
- (q) to be informed that prohibited items in their possession may be removed and withheld;
- (r) to respect and protection from exploitation and neglect;
- (s) to opportunities of learning and opportunities which develop their capacity to demonstrate respect and care for others;
- (t) to an interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care and development; and
- (u) to privacy during discussions with families and significant others, unless this can be shown not be in the best interests of the child.

[Reg. 30A inserted by GN R416/98]

31. Additional requirements with which a children's home or shelter shall comply

Subject to the provisions of the Act and these regulations no children's home or shelter shall be registered in terms of [section 30](#) of the Act or remain registered after 24 months unless the Director-General is satisfied that proper arrangements have been made or will be made

- (a) for the care, protection and development of each child in the children's home or shelter, in line with the established minimum standards; and
- (b) to ensure that children who are of school-going age attend school or are enrolled in an appropriate alternative education programme.

[Reg. 31 substituted by GN R416/98]

31A. Care, protection and development to ensure the well-being of children in children's homes, places of safety, schools of industries and shelters

- (1) All children in a children's home, place of safety, school of industries or shelter shall have the right -
 - (a) to know their rights and responsibilities;
 - (b) to a plan and programme of care and development, which includes a plan for reunification, security and life-long relationships;
 - (c) to participate in formulating their plan of care and development, to be informed about their plan, and to make changes to it;

- (d) to expect that their plan and programme is based on an appropriate and competent assessment of their developmental needs and strengths, and where possible is in the context of their family and community environments;
- (e) to a regular review of their placement and care and development plan;
- (f) to be fed, clothed and nurtured according to community standards and to be given the same quality of care as other children in the children's home, place of safety, school of industries or shelter, as the case may be;
- (g) to be consulted and to express their views, according to their level of maturity, about significant decisions affecting them;
- (h) to reasonable privacy and to possession of their personal belongings;
- (i) to be informed of behaviour expected by service providers and of the consequences of not meeting the expectations of service providers;
- (j) to care and intervention which respects their 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 the involvement of their family and significant others in their care or development programme, unless proved not to be in their best interests, and the right to return to live in their community in the shortest appropriate period of time;
- (m) to be free from physical punishment;
- (n) positive disciplinary measures appropriate to their level of maturity;
- (o) to protection from all forms of emotional, physical, sexual and verbal abuse;
- (p) to education appropriate to their age, their aptitude and their ability;
- (q) to send and receive mail which is not read by others: Provided that in those rare cases when mail must be read by a service provider, the child has a right to be present or to give permission for mail to be read without being present;
- (r) to be informed that prohibited items in their possession may be removed and withheld;
- (s) to respect and protection from exploitation and neglect;

- (t) to opportunities of learning and opportunities which develop their capacity to demonstrate respect and care for others;
 - (u) to an interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care and development;
 - (v) to privacy during discussions with families or significant others, unless this can be shown not to be in the best interests of the child;
 - (w) in the event of any violation of their rights as referred to in this subregulation notify -
 - (i) any nurse, social worker, child and youth care worker or person authorised thereto by the Director-General or any commissioner when interviewed in terms of [section 31](#) (1) (b) of the Act; or
 - (ii) any dentist, medical practitioner, nurse, social worker, teacher, child and youth care worker or person employed by or managing a children's home, place of safety, school of industries or shelter, when examined, attended to or dealt with in terms of [section 42](#) (1) of the Act, or at any other stage.
- (2) Every child who is cared for in a children's home, place of safety, school of industries or shelter, or is in the care of a foster parent shall be informed of his or her rights responsibilities 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 or next of kin informed 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 of his or her admission or detention, as the case may be;
 - (c) in the case of a place of safety, to be detained only as a measure of last resort in his or her best interests 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, religious counsellor, medical practitioner, psychologist, legal representative, child and youth care worker or any other person with the approval of the children's home, school of industries, place of safety or shelter concerned;
 - (e) to personal privacy and to privacy with regard to any visitation or any communication addressed to or by him or her, unless there is reason to believe

that intervention by a social worker, child and youth care worker, educationist or psychologist, after due consultation with such child, is justified as being in his or her-best interests; and to be cared for separately from persons over the age of 18 years.

- (3) Any place not established as a place of safety under [section 28](#) of the Act but designated as such by a social worker, policeman, authorised officer or a court in terms of [section 1](#) of the Act shall be -
 - (a) suitable for the reception of the child;
 - (b) entitled to accept or refuse such a child;
 - (c) issued with a valid [Form 4](#) detention authority or a [Form 5](#) or [Form 8](#) court order; and
 - (d) entitled to be conceded for a place of safety grant at the discretion of the commissioner in terms of regulation 39.
- (4) A place of safety referred to in subregulation (3) shall -
 - (a) retain, care for and protect the child in such place, as a place of safety, in accordance with the conditions and requirements of such detention authority and the provisions of regulation 31A (1) and (2), until an order of release or variation is issued by the court;
 - (b) give the relevant parent, guardian, custodian, next of kin, social worker, religious counsellor, medical practitioner, psychologist, psychiatrist, legal representative, child and youth care worker or any other person with the approval of the place of safety concerned access to the child at all reasonable times, subject to the terms of the detention order and provided that such access is in the best interests of the child; and
 - (c) notify the social worker immediately of any difficulties with such placement and of any change in the child's residential address.

[Reg. 31 A inserted by GN R416/98]

32. Control, maintenance of good order and behaviour management of children in children's homes, places of safety, schools of industries and shelters

- (1) The superintendent of a place of safety established under [section 28](#) of the Act or designated as such by a social worker, policemen, authorised officer or a court in terms of [section 1](#) of the Act shall -
 - (a) receive no child therein without a valid [Form 4](#) detention authority or a [Form 5](#) or [Form 8](#) court order or a warrant for the detention of such a child;

- (b) ensure that a valid [Form 5](#) or [Form 8](#) court order is received confirming any [Form 4](#) detention authority issued in respect of a child within seven days of the child being received and shall report to the children's court concerned should such confirmation not be received;
 - (c) see to it that when any child is delivered to the place of safety 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; and
 - (d) if a medical certificate is not furnished in terms of paragraph (c), arrange for such child to be examined by a medical officer as soon as may be after his or her reception and in the meantime not allow the child, as far as is practicable, to have contact which may not be in the best interests of the other children in the place of safety.
- (2) It shall be the responsibility of the head of a children's home, place of safety, school of industries or shelter to 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 children's home, place of safety, school of industries or shelter, as the case may be, and with regard to the child's rights and responsibilities.
- (3) The following prohibited behaviour management practices shall not be used by any person in a children's home, place of safety, school of industries, shelter or by a foster parent:
- (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, clothing, shelter, bedding;
 - (f) deprivation of access to parents and family;
 - (g) denial, outside of the child's specific development programme, of visits, telephone calls or correspondence with family or significant others;
 - (h) isolation from service providers and other children admitted to the children's home, place of safety, school of industries, shelter or in the custody of a foster parent; other than for the immediate safety of such children or such service providers in the children's home, place of safety, school of industries shelter or in the custody of a foster parent, as the case may be, 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 in the children's home, place of safety, school of industries or shelter, as the case may be, and only as an extreme measure: Provided that such a measure is governed by specific policy and procedure, can only be undertaken by service providers trained in this measure, and must be thoroughly documented and monitored;
 - (j) assignment of inappropriate or excessive exercise or work;
 - (k) undue influence by service providers regarding their religious or personal beliefs including sexual orientation;
 - (l) measures which demonstrate discrimination on the basis of cultural or linguistic heritage, gender, race, or sexual orientation;
 - (m) verbal, emotional or physical harm;
 - (n) punishment by another child; and
 - (o) behaviour modification such as punishment, 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 which the child is part of and monitored by an appropriately trained multi-disciplinary team.
- (4) The head of the children's home, place of safety, school of industries or shelter shall ensure that children are provided with the skills and support which enables constructive and effective social behaviour.
- (5) The head and staff team of the children's home, place of safety, school of industries or shelter shall demonstrate the expected behaviour by modelling this in their attitudes and interactions with the children.
- (6) The head of the children's home, place of safety, school of industries or shelter shall ensure that children feel respected, and physically, emotionally and socially safe when service providers manage their behaviour and provide support.
- (7) The head of the children's home, place of safety, school of industries or shelter shall ensure that children are given plenty of opportunity and encouragement to demonstrate and practice positive behaviours.
- (8) (a) Only in cases where the child concerned cannot be managed and may be deemed

to be in danger to himself or herself or others may he or she be isolated from other children for a very limited period of no longer than 2 hours, for the purposes of providing support and giving him or her time to regain control and dignity. 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. No child may be isolated or locked up as a form of discipline or punishment.

- (b) A register must be maintained which details why a child was isolated and for how long, together with a report on the support and counselling provided and the response of the child during the period of isolation.
- (9) (a) Information concerning behaviour management intervention shall be entered into a daily register within four hours of the intervention. Such information shall include:
- (a) Name and age of the child concerned;
 - (b) date, time and description of the incidence which required management;
 - (c) description of the behaviour management strategy used and the outcomes thereof., and
 - (d) description of the follow-up actions by the social worker or child and youth care worker or psychologist.
- (b) The register referred to in paragraph (a) shall be signed by the head of the children's home, place of safety, school of industries or shelter on a weekly basis and shall be scrutinised during the quality assurance procedure.
[Reg. 32 substituted by GN R416/98]

33. Registers and files to be kept by children's homes

- (1) In addition to the behaviour management intervention register referred to in regulation 32 (9) (a) a register or registers shall be kept in a children's home in which the following particulars of each child shall be entered:
- (a) His or her full name, sex, date of birth, identity number;
 - (b) names, addresses and telephone numbers of parent or parents, guardians or next of kin;
[Para. (b) substituted by GN R416/98]
 - (c) date of admission;

- (d) date on which the court order or extension thereof expires in terms of which a child is detained;
 - (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 pupil who absconded from the children's home or who is a pupil referred to in [section 38](#) (1) (b) of the Act, the date on which he so absconded or on which his leave of absence, referred to in section 38 (1) (b), expired, as the case may be, and if he returns or is returned to the children's home, the date on which he so returned or was brought back.
[Sub-r. (1) amended by GN R416/98]
- (2) A separate file shall be kept in a children's home in respect of each pupil in that children's home in which the following documents shall be filed:
- (a) All documents relating to the pupil received at the time of his admission;
 - (b) all reports received from the school which the pupil attends or attended;
 - (c) all reports on any physical, psychiatric or clinical-psychological examination of the pupil and any report on the results of any treatment given;
 - (d) reports and notes from social workers and the state of the children's home on the pupil;
 - (e) for each leave of absence, the address where the leave of absence was spent;
[Para. (e) substituted by GN R416/98]
 - (f) for each leave of absence, a report of whether the leave served the best interests of and was conducive to the welfare of the child;
[Para. (f) substituted by GN R416/98]
 - (g) the assessment programme for the child and any evaluation reports in regard thereto; and
[Para. (g) substituted by GN R416/98]
 - (h) any other documents or correspondence relating to the child.
[Para. (h) inserted by GN R416/88]

33A. Register to be kept by shelter

Every shelter registered under [section 30](#) of the Act shall keep a register of children attending that shelter in which the following particulars in respect of each child shall be entered:

- (a) Full name, date of birth and sex;

- (b) date of admission;
- (c) names, addresses and telephone numbers of parent, guardian or next of kin;
- (d) date on which care of the child is terminated; and
- (e) any other information regarding the child which the shelter may deem necessary or expedient to enter.

[Reg. 33A inserted by GN R416/98]

33B. Register and files to be kept by place of safety

- (1) Every place of safety established under [section 28](#) of the Act or designated as such by a social worker, policeman, authorised officer or a court in terms of [section 1](#) of the Act shall keep a register of children detained in that place of safety in which the following particulars in respect of each child shall be entered:
 - (a) Full name, date of birth and sex;
 - (b) date of admission;
 - (c) names, addresses and telephone numbers of parent, guardian or next of kin;
 - (d) date on which care of the child is terminated; and
 - (e) any other information regarding the child which the place may deem necessary or expedient to enter.
- (2) A separate file shall be kept in every place of safety referred to in subregulation (1) in respect of each child in which the following documents shall be filed:
 - (a) All documents relating to the child received at the time of his or her admission;
 - (b) all reports received from the school which the child attends or attended;
 - (c) all reports on any physical, psychiatric or clinical-psychological examination of the child and may report on the results of any treatment given;
 - (d) reports and notes on the child from social workers, child and youth care workers and the staff of the place of safety;
 - (e) for each leave of absence, the address where the leave of absence was spent;
 - (f) for each leave of absence, a report on whether the leave served the best interests of and was conducive to the welfare of the child;

- (g) the assessment programme for the child and any evaluation reports in regard thereto; and
- (h) any other documents or correspondence relating to the child.
[Reg. 33B inserted by GN R416/98]

34. Register to kept by place of care

[Subheading substituted by GN R416/98]

Every place of care registered under [section 30](#) of the Act shall keep a register of children attending that place of care in which the following particulars in respect of each child shall be entered:

- (a) The full name, date of birth and sex of the child;
- (b) the date of his admission;
- (c) the names, addresses and telephone numbers of his parents and foster parent;
- (d) date on which care is terminated; and
- (e) any other information regarding the child which the place of care may deem necessary or expedient to enter.

34A. Review and evaluation of children's homes, places of safety, places of care and shelters

- (1) On receipt of a report referred to in [section 31](#) (4) of the Act indicating that a requirement for registration of a children's home, places of care, place of safety or shelter in terms of regulation 30 or 31 has not been met, the Director-General shall -
 - (a) inform the management and the head of the children's home, places of care, places of safety or shelter, in writing, of the contents of the report;
 - (b) where necessary, require the head and management to respond to the report, in writing, within 14 days of receipt of such report;
 - (c) provide a developmental programme, guidance and support to enable the management and head to meet the requirements within a specified period being not less than two months and not more than six months of receipt of such report;
 - (d) require that the head and management meet the developmental goals set out in the report referred to in paragraph (b) and in the programme referred to in paragraph (c); and

- (e) after the period referred to in paragraph (c) ensure that a further review and report is undertaken.
 - (f) if the report referred to in paragraph (e) indicates that the requirements for registration of a children's home, place of care or shelter in terms of regulation 30 or 31 have still not been satisfactorily met, withdraw the registration certificate and instruct the children's home, place of care or shelter to arrange for the transfer of children to a registered children's home, place of care or shelter, as the case may be, whereupon the Director-General may close down the children's home, place of care or shelter.
- (2) On receipt of a report referred to in [section 31](#) (4) of the Act expressing concern about any matter relating to the care, protection or development of children in terms of regulation 31A, the control, maintenance of good order and behaviour management of children in terms of regulation 32 or the keeping of registers or files in terms of regulation 33, 33A, 33B or 34, as required of children's homes, places of care and places of safety established under [section 28](#) of the Act and of shelters, or on receipt on a review report referred to in paragraph (e) of subregulation (1), the Director-General -
- (a) shall inform the head of the department responsible for such children's home, place of care, place of safety or shelter, as the case may be, of the contents of the report;
 - (b) shall require that the head of the department respond in writing to the concern or concerns raised or any other matter contained in such report within 14 days of receipt of such information;
 - (c) shall instruct the head of department to provide a developmental plan, guidance and support to the children's home, place of care, place of safety or shelter, as the case may be, for a stipulated period;
 - (d) shall after the period referred to in paragraph (c) give instructions .for a re-inspection of the children's home, place of care, place of safety or shelter, as the case may be, and for a report thereon to be furnished within 14 days of receipt of such instruction;
 - (e) shall, if the report referred to in paragraph (d) indicates that the concern or concerns raised in the original report have not been satisfactorily addressed or remedied, request the head of the department to take whatever steps he or she deems necessary and to report back to the Director-General within three months of receipt of such request; and
 - (f) may close down the children's home, place of care, place of safety or shelter.

- (3) In terms of [section 31](#) (1) of the Act all children’s homes, places of care, shelters and places of safety, including facilities maintained and controlled by the State, shall be subject to a quality assurance review every 24 months with respect to the minimum standards for residential care: Providing that such a review will result in a report and developmental programme and shall be undertaken by the Director-General.

[Reg. 34A inserted by GN R416/98]

35. Notice of movement of pupils

A children’s home shall notify the Director-General in the form of [Form 20](#) immediately of the date of admission, discharge, abscondment or readmission, admission to or discharge from a hospital or any absence of a pupil from the children’s home.

FINANCIAL ASSISTANCE FOR THE MAINTENANCE OF PUPILS AND CEULDREN

36.

[Reg. 36 repealed by GN R416/98]

37. Children’s home grants

- (1) Application for a contribution towards the maintenance of a pupil in a children’s home in terms of [section 56](#) (1) (b) of the Act (hereinafter in this regulation referred to as a “children’s home grant”) shall be made to the Director-General on a form obtainable from the Director-General.
- (2) A children’s home grant shall amount to an amount determined or calculated in accordance with a formula or in a manner determined by the Minister with the concurrence of the Minister of Finance and shall be payable from the first day of the month in which the pupil is admitted to the children’s home in terms of the Act or any other law and shall lapse at the end of the last month in which the pupil thus remains in the custody of the children’s home.
- (3) Notwithstanding the provisions of subregulation (2) the Director-General may, subject to such conditions and in such circumstances as the Minister with the concurrence of the Minister of Finance may determine, give approval for the payment of a children’s home grant to be continued and not to lapse as contemplated in subregulation (2).
- (4) A children’s home grant shall be payable at such times, and in such manner as the Director-General may determine.
- (5) The payment of a children’s home grant shall be subject to the following conditions:
- (a) The pupil shall -
- (i) remain in the care of the children’s home; and

- (ii) attend school regularly if he is of school-going age; or
 - (iii) be enrolled in informal lifeskills and literacy training programmes.
[Sub-para. (iii) inserted by GN R416/98]
- (b) The children's home shall -
- (i) care for the pupil properly; and
 - (ii) submit the returns and financial statements to the Director-General determined by him or her.
[Sub-par. (ii) substituted by GN R416/98]
- (c) A children's home grant may not be transferred, ceded or encumbered.
- (d) The Director-General shall, at any time, be entitled to inspect the children's home, its books and registers or cause it to be inspected, or may examine or cause to be examined any pupil therein.
- (6) The provisions of regulation 36 (6) shall *mutatis mutandis* apply to a children's home grant.

38. Place of care grant

- (1) The Minister may, with the concurrence of the Minister of Finance, give approval for a grant to be paid to a place of care for the care of children older than one month;
- (2) An application for a grant in terms of this regulation shall be made on a form determined by the Director-General.
- (3) A grant in terms of this regulation shall amount to an amount or shall be calculated in accordance with a formula or in manner determined by the Minister with the concurrence of the Minister of Finance and shall be payable in respect of each day during which the child concerned is registered in the place of care in accordance with the provisions of this regulation, provided that such child should not be absent from the place of care for a period longer than six weeks at a time or for consecutive periods which, in total, exceed two months.
- (4) The payment of a grant to a place of care in terms of this regulation shall be subject to the following conditions:
 - (a) The hours of a place of care shall be for a minimum of eight hours from Mondays to Fridays and from 07:00 to 13:00 (where necessary to 14:30) on Saturdays: Provided that

- (i) the grant may be paid in respect of children who attend places of care on Sundays and public holidays on condition that they are children of *bona fide* working parents, guardians or custodians whose conditions of service provide that they must work on Sundays or public holidays;
 - (ii) if the management of a place of care is of the opinion that there is not sufficient justification for keeping the place of care open during the prescribed hours and days, it may close it; and
 - (iii) no grant shall be payable in respect of periods during which the place of care has been so closed.
- (b) The payment of a grant to a place of care shall be subject to the following additional conditions:
- (i) Meals and refreshments shall be served to every child who is present at a meal time or tea time;
 - (ii) the basic need of every child as defined in regulation 1 shall be met;
 - (iii) an appropriate educational programme focusing on the intellectual development of every child shall be offered;
 - (iv) the Director-General or a person authorised by him or her shall at all times be entitled to evaluate the place of care, its books, documents and registers and its developmental programmes, and to examine the health, nutrition and general well-being of the children in the place of care;
 - (v) a grant shall not be transferred, ceded or encumbered and shall not be liable to execution or attachment; and
 - (vi) the management of the place of care shall send the reports and the returns required by the Director-General to him or her.

[Reg. 38 substituted by GN R416/98]

39. Place of safety grant

- (1) If a child is detained in a place of safety, other than a place of safety referred to in [section 28](#), in terms of the Act or any other law a commissioner may give approval for a place of safety grant to be paid to the owner, occupier or person in charge of that place of safety, as the case may be, in respect of the period during which the child is so detained.
- (2) A place of safety grant shall amount to an amount determined by the Minister with the concurrence of the Minister of Finance.

SPECIAL PROVISIONS REGARDING THE PROTECTION OF CHILDREN

39A. Notification of suspicions of ill-treatment of or injury to children and of children suffering from nutritional deficiency diseases

- (1) Notification in terms of [section 42](#) (1) of the Act of suspicions of ill-treatment of or of deliberate injury to children and of children suffering from nutritional deficiency diseases shall be made in the form of [Form 25](#) or [Form 26](#), as the case may be, and submitted to the Director-General.
- (2) Upon receipt of a notification referred to in subregulation (1) the Director-General shall immediately -
 - (a) request any policeman, social worker or authorised officer to take appropriate steps as contemplated in [sections 11, 12, 13](#) and [36](#) (1) of the Act, or any other steps necessary to ensure the safety and welfare of the child identified in such notification;
 - (b) request any social worker or any other person to conduct a preliminary investigation into the circumstances giving rise to the suspicions described in the notification; and
 - (c) transmit the said notification to the Director-General within 30 days of receipt thereof, together with a report on the steps taken in terms of paragraphs (a) and (b).
- (3)
 - (a) Should the preliminary investigation contemplated in subregulation 2 (b) reveal reasonable ground to believe that a child has been ill-treated or deliberately injured by an alleged perpetrator whose identity is or may be known, the Director-General may direct that the alleged perpetrator be removed from any direct contact with children, and that the matter be referred to the South African Police Service with a view to possible prosecution of that person.
 - (b) Should the preliminary investigation reveal that a child is suffering from a nutritional deficiency disease, the Director-General may direct that appropriate steps to remedy the situation be taken and a report and recommendation thereon shall be submitted to the Director-General within 30 days of such preliminary investigation.
- (4)
 - (a) Whenever an accused is convicted in a criminal court of ill-treatment of a child in terms of [section 50](#) (1) (a) of the Act, or any crime resulting in the infliction of deliberate injury on any child, the clerk of the criminal court shall immediately notify the Director-General of such conviction in the form of Form J 14.

- (b) Whenever a children's court determines that a child is a child in need of care in terms of [section 14](#) (4) (aB) of the Act, in that the child has been physically, emotionally or sexually abused or ill-treated by a parent, guardian or person in whose custody the child was, the clerk of the children's court shall immediately notify the Director-General of such finding.

[Reg. 39A inserted by GN R416/98]

39B. National Child Protection Register

- (1) The Director-General shall keep a National Child Protection Register for the sole purpose of protecting children as provided for in this regulation in which the following shall be entered:
 - (a) All notifications, in terms of [section 42](#) (1) of the Act, of possible ill-treatment of or deliberate injury to children which are transmitted to the Director-General together with the corresponding reports as contemplated in regulation 39A (2) (c);
 - (b) all convictions as contemplated in regulation 39A (4) (a); and
 - (c) all determinations of the children's court as contemplated in regulation 39A (4) (b).
- (2) The register referred to in subregulation (1) shall contain:
 - (a) Identifying details of the child concerned;
 - (b) particulars of the place, date and time of the incident, including any children's home, place of care, place of safety, school of industries or shelter;
 - (c) particulars of the parent, guardian, foster parent or other custodian of the child;
 - (d) the nature and extent of the ill-treatment of or deliberate injury inflicted on the child;
 - (e) identifying details and address of the convicted perpetrator;
 - (f) details of the relationship between the child and the perpetrator; and
 - (g) details of the court, case number, conviction and sentence in respect of such perpetrator.
- (3) The Director-General may, subject to the conditions he or she determines generally or in a particular case, approve that the register may be examined or inspected for official and *bona fide* research purposes such as the following:

- (a) Collecting of information on the occurrence, distribution and prevalence of cases of ill-treatment of or deliberate injury to children, or of physical, emotional or sexual abuse of children; and
 - (b) collecting of information on cases of ill-treatment of or deliberate injury to children and of the various interventions made in such cases.
- (4) The Director-General may, subject to the conditions he or she determines generally or in a particular case, disclose information contained in the register to such person or persons as he or she may determine with the sole purpose of serving the interests, safety and welfare of any child.
- (5) No person shall be liable in respect of any information provided for entry in the register and given in good faith in accordance with these regulations.
[Reg. 37B inserted by GN R416/98]

GENERAL PROVISIONS

40. Forms

The forms included in the Annexure may be used with such variations as circumstances may require, provided that the text of a form shall not be varied, and the format and design of [Forms 2, 4, 8, 11, 12, 13, 14](#) and [24](#) shall be as prescribed in these regulations.

[Reg. 40 substituted by GN R416/98]

41. Commencement

- (1) These regulations shall, subject to subregulation 2, come into effect on 1 April 1998.
- (2) Regulation 4A shall come into effect on the date of commencement of section 2 of the Child Care Amendment Act, 1996 (Act No. 96 of 1996).

FORMS

[Form 1 SUBPOENA TO WITNESS TO ATTEND INQUIRY: REGULATION 4\(4\)](#)

[Form 1A NOTICE TO PROSPECTIVE ADOPTIVE PARENT: REGULATION 21\(2\)](#)

[Form 2 CHILDREN'S COURT REGISTER: REGULATION 7](#)

[Form 3 WARRANT TO SEARCH FOR AND TO REMOVE A CHILD TO A PLACE OF SAFETY: REGULATION 9\(1\)](#)

[Form 4 INTERIM AUTHORITY FOR THE DETENTION OF A CHILD IN A PLACE OF SAFETY: REGULATION 9\(2\)\(a\)](#)

[Form 4A COVERING LETTER FOR BRINGING A CHILD BEFORE THE COMMISSIONER: REGULATION 9](#)

Form 5 DETENTION ORDER BY COMMISSIONER: REGULATION 9(2)(d)

Form 6 NOTICE TO PARENT, GUARDIAN OR CUSTODIAN OF A CHILD TO ATTEND AN INQUIRY AND TO BRING A CHILD BEFORE A CHILDREN'S COURT: REGULATION 9(3)

Form 6A NOTICE TO PARENT, GUARDIAN OR CUSTODIAN BY SOCIAL WORKER FOR BRINGING A CHILD BEFORE THE CHILDREN'S COURT IN TERMS OF SECTION 15(2)/SECTION 34(1A)(b) OF THE CHILD CARE ACT: REGULATION 9(4)

Form 7 RECORD OF INQUIRY BY CHILDREN'S COURT: REGULATION 10(1)

Form 7A COURT CERTIFICATE OF ESTIMATED AGE OF CHILD : REGULATION 10(1)(a)(vi)

Form 8 ORDER OF A CHILDREN'S COURT: REGULATION 11

Form 8A ANNEXURE TO ORDER OF COURT: PRESCRIBED REQUIREMENTS: FORM 8

Form 9 MEDICAL REPORT AND/OR AGE ASSESSMENT OF CHILD: [REGULATION 11(2) (b) AND/OR SECTION 54(1)]

Form 10 REMOVAL OF CHILD FROM PLACE OF SAFETY: REGULATION 12(b)

Form 11 APPLICATION FOR THE ADOPTION OF A CHILD: REGULATION 18

Form 12 CONSENT BY PARENT OR GUARDIAN TO THE ADOPTION OF A CHILD: REGULATION 19

Form 12A WITHDRAWAL OF CONSENT TO ADOPTION BY PARENT OR GUARDIAN OF CHILD: REGULATION 19(2)(b)

Form 12B ADOPTION OF FOSTER CHILD: STATEMENT BY FOSTER PARENT: SECTION 18(4)(g)

Form 13 CONSENT BY CHILD TO ADOPTION : REGULATION 19

Form 14 ORDER OF ADOPTION: REGULATION 21

Form 15 NOTICE OF APPLICATION FOR RESCISSION OF ORDER OF ADOPTION: REGULATION 26(l)

Form 16 SUMMONS IN CONTRIBUTION ORDER OR ATTACHMENT OF WAGES ORDER PROCEEDINGS: REGULATION 29(1)

Form 17 NOTICE OF HEARING OF APPLICATION FOR VARIATION, SUSPENSION, RESCISSION OR REVIVAL OF CONTRIBUTION ORDER OR ORDER FOR ATTACHMENT OF WAGES: REGULATION 29(2)(a)

Form 17A APPLICATION FOR THE VARIATION, SUSPENSION, RESCISSION OR REVIVAL OF CONTRIBUTION ORDER OR ATTACHMENT OF WAGES: REGULATION 29(2)(b)

Form 18 CONTRIBUTION ORDER: REGULATION 29 (3)

Form 19 ORDER TO AN EMPLOYER TO DEDUCT AN AMOUNT FROM A RESPONDENT'S WAGES: REGULATION 29(5)

Form 20 CHILDRENS HOME: NOTICE OF MOVEMENT OF A PUPIL: REGULATION 35

Form 21 APPLICATION TO CARE FOR A CHILD APART FROM PARENTS OR CUSTODIAN: REGULATION 8(1)

Form 21A CONSENT IN TERMS OF SECTION 10(1)(ii) TO CARE FOR CHILD APART

FROM PARENT: REGULATION 8

Form 21B NOTICE OF RELEASE OF CHILD BY HOSPITAL OR MATERNITY HOME:
REGULATION 8(3A)

Form 21C NOTICE TO PROSPECTIVE ADOPTIVE PARENT FOR RELEASE OF CHILD
TO

CUSTODY OF PARENT OR GUARDIAN : REGULATION 21(8)

Form 22 NOTICE TO PARENT TO ADVANCE REASONS IN TERMS OF REGULATION
21 (4)

Form 23 RECORD OF ADOPTION PROCEEDINGS: REGULATION 22

Form 24 ADOPTIONS RECORD BOOK

Form 25 NOTIFICATION OF SUSPICIONS OF ILL-TREATMENT OF OR DELIBERATE
INJURY TO CHILDREN: SECTION 42(1) CHILD CARE ACT NO. 74 OF 1983:
REGULATION 39A

Form 26 NOTIFICATION OF CHILD SUFFERING FROM A NUTRITIONAL
DEFICIENCY DISEASE: SECTION 42(1) CHILD CARE ACT NO. 74 OF 1983:
REGULATION 39A
