



MINISTER
JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA



Labelled 07/9/16

Private Bag X276, PRETORIA, 0001 • SALU Building, 316 Thabo Sehume Street, PRETORIA • Tel: (012) 406 4669 • Fax: (012) 406 4680 • www.justice.gov.za

Private Bag X256, CAPE TOWN, 8000 • 120 Plein Street, CAPE TOWN • Tel: (021) 467 1700 • Fax: (021) 467 1730 • www.justice.gov.za

Ref: 8/6/child/2
Enq: T Skhosana
E-mail: thskhosana@justice.gov.za

Ms T Mbete
Speaker of the National Assembly
Parliament of South Africa
P O Box 15
CAPE TOWN
8000

Tel: 021 403 2595
Fax: 021 461 9462
Email: speaker@parliament.gov.za

Dear Madame Speaker

AMENDMENTS TO THE REGULATIONS UNDER THE CHILD JUSTICE ACT, 2008

The Child Justice Act, 2008 (Act 75 of 2008) (the Act) commenced in April 2010.

Section 97(1) of the Act empowers the Cabinet member responsible for the administration of justice, after consultation, where appropriate, with other Cabinet members, to make regulations regarding any matter which is required or permitted by the Act to be prescribed by regulation or any other matter which is necessary or expedient to be prescribed in order to achieve the objects of the Act. The current regulations were approved by Parliament and published in the Gazette per Government Notice No. R 215 of 31 March 2010. Recent amendments to the Act have necessitated a few technical amendments to some of the regulations.



Section 97(2), read with section 98(3), of the Act requires that the regulations must be tabled in Parliament for approval. I have, after receiving comments from the Ministers of Health and Police, approved amendments to certain of the current regulations which are attached hereto. I submit them to you in accordance with the said sections for tabling and approval by Parliament.

Kind regards

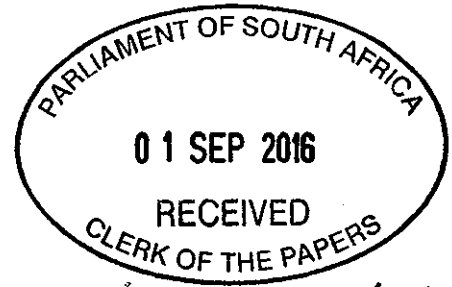
A handwritten signature in cursive script, appearing to read 'Masutha'.

T M MASUTHA, MP (ADV)
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Date: 31/08/2016



MINISTER
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Ref: 8/6/child/2
Enq: T Skhosana
E-mail: thskhosana@justice.gov.za

Ms T R Modise
Chairperson of the National Council of Provinces
Parliament of South Africa
P O Box 15
CAPE TOWN
8000

Tel: 021 403 2321
Fax: 021 461 9640
Email: ljiyane@parliament.gov.za

Dear Ms Modise

AMENDMENTS TO THE REGULATIONS UNDER THE CHILD JUSTICE ACT, 2008

The Child Justice Act, 2008 (Act 75 of 2008) (the Act) commenced in April 2010.

Section 97(1) of the Act empowers the Cabinet member responsible for the administration of justice, after consultation, where appropriate, with other Cabinet members, to make regulations regarding any matter which is required or permitted by the Act to be prescribed by regulation or any other matter which is necessary or expedient to be prescribed in order to achieve the objects of the Act. The current regulations were approved by Parliament and published in the Gazette per Government Notice No. R 215 of 31 March 2010. Recent amendments to the Act have necessitated a few technical amendments to some of the Regulations.



Section 97(2) of the Act, read with section 98(3), requires that the regulations must be tabled in Parliament for approval. I have, after receiving comments the Ministers of Health and Police, approved amendments to certain of the current regulations which are attached hereto. I submit them to you in accordance with the said sections for tabling and approval by Parliament.

Kind regards

A handwritten signature in black ink, appearing to read 'Masutha'.

T M MASUTHA, MP (ADV)
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

Date: 31 / 08 / 2016



GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R

2016

CHILD JUSTICE ACT, 2008:

AMENDMENTS TO REGULATIONS RELATING TO CHILD JUSTICE ACT

The Minister of Justice and Correctional Services has, under section 97 of the Child Justice Act, 2008 (Act No. 75 of 2008) and after consultation, where appropriate, with the Cabinet members responsible for social development, safety and security and health, made the Regulations in this Schedule.

SCHEDULE

In this Schedule "the Regulations" means the Regulations published by Government Notice No. R.251 of 31 March 2010.

Amendment of regulation 21 of Regulations

1. Regulation 21 of the Regulations is hereby amended –
 - (a) by the substitution for paragraph (d) of subregulation (1) of the following paragraph:

"(d) The police official who received the complaint or made the observation must, upon completion of the actions required in terms of this regulation, ensure that the following details are entered in the register referred to in section 28(3) of the Act:

- (i) The number allocated to the complaint;
- (ii) the date on which the complaint was lodged;
- (iii) the nature of the injury sustained or severe psychological trauma suffered;
- (iv) the circumstances surrounding the injury or trauma;
- (v) the signature and particulars of the complainant;
- (vi) the date on which the report was handed to the station commissioner;
- (vii) the particulars of the medical treatment which the child received, if any;
- (viii) the date on which the report referred to in subregulation (1)(a) was submitted to the Provincial Commissioner of Police and a copy thereof to the National Commissioner;
- (ix) the nature of the instructions, if any, given by the Provincial Commissioner of Police; and
- (x) the steps taken to comply with the instructions of the Provincial Commissioner of Police.";

(b) by the substitution for subregulation (4) of the following subregulation:

"(4) The station commissioner must—

- (a) after having investigated the matter and, if necessary, after ensuring that the child received medical treatment, submit the report together with the medical report, if any, to the Provincial Commissioner of Police and a copy thereof to the National Commissioner of Police in an appropriate manner;
- (b) ensure that the Provincial Commissioner of Police has received the report and that the National Commissioner of Police has received a copy of the report; and
- (c) file a copy of the report and its attachments in the docket.";

(c) by the substitution for subregulation (5) of the following subregulation:

"(5) The Provincial Commissioner of Police may, after considering the report and recommendations made by the station commissioner, issue any instruction he or she deems fit." ; and

(d) by the substitution for subregulation (6) of the following subregulation:

"(6) (a) The station commissioner must, upon submission to the Provincial Commissioner of Police of the documents referred to in subregulation (4), submit a copy thereof to the Independent Complaints Directorate, established by section 50(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995).

(b) The station commissioner may submit the documents in any manner he or she deems fit but must keep proof of the manner of submission."

Amendment of regulation 50 of Regulations

2. Regulation 50 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) An official of the Department of Justice and Constitutional Development who is responsible for processing applications relating to the expungement of convictions and sentences in terms of the Act may, if the information in Form 13 is inadequate or not clear, request further information from the applicant or any organ of state."

Amendment of Annexure to Regulations

3. The Annexure to the Regulations is hereby amended -
(a) by the substitution for Form 2 of the following Form:

"Form 2

**ORDER FOR THE EVALUATION OF CRIMINAL CAPACITY OF CHILD
SECTION 11 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE**

[Regulation 13]

At the Preliminary Inquiry / In the Child Justice Court	
Held at	
Case no/File no.	

1. Particulars of the child

Full names and surname:.....
Date of birth/ID.No:..... Age:..... Sex.....

**2. Particulars of parent, appropriate adult or guardian/ Child and Youth Care
Centre**

(State particulars of person or centre where the child is placed)

Full names and surname of parent, appropriate adult or guardian /Name of Child and Youth Care Centre:.....
Physical address of parent, appropriate adult or guardian / Child and Youth Care Centre:.....
Contact details of parent, appropriate adult or guardian / Child and Youth Care Centre:.....

3. Order by presiding officer

To:.....
.....
.....
.....

.....
(Particulars of person / institution to conduct evaluation)

In view of the fact that there is doubt about the criminal capacity of the abovementioned child, I hereby make the following order:-

(a) You are ordered to evaluate the following aspects of the criminal capacity of

.....;

- (i) Cognitive development
 - (ii) Moral development
 - (iii) Emotional development
 - (iv) Psychological development
 - (v) Social development
- and

(b) to provide the court with a written report on the evaluation within 30 days of this order.

.....
Signature: Presiding officer

.....
Date

Full names of Presiding officer:.....
Official Stamp

Note: 1. In terms of section 11(4) of the Act, you are required to furnish the inquiry magistrate or child justice court with a written report of the evaluation within 30 days of this order.

2. The written report referred to in paragraph (b) above must contain a brief description of how the evaluation of the cognitive, moral, emotional, psychological and social development of the child was done, and include findings and supporting reasons.”;

(b) by the substitution for Form 7 of the following Form:

"Form 7

CERTIFICATE OF ACCREDITATION OF DIVERSION SERVICE PROVIDER

SECTION 56 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)

REGULATIONS RELATING TO CHILD JUSTICE

[Regulation 31]

This is to certify that:

(Name and physical address)

Reg No:-----

Accreditation Certificate No: -----

is an accredited diversion service provider to provide diversion programmes, provided that the service provider continues to comply with the minimum standards referred to in section 55 of the Act.

This certificate of accreditation is valid for a period of years, commencing on and expiring on

Member of the Executive Council: Social Development

Date:

Official Stamp"; and

(c) by the substitution for Form 8 of the following Form:

"Form 8

**CERTIFICATE OF ACCREDITATION OF DIVERSION PROGRAMME
SECTION 56 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE**

[Regulation 31]

This is to certify that:

-----,

an accredited service provider,

Accreditation Certificate No.-----

is accredited to provide the following diversion programme-

-----,

provided that the diversion programme/s continue to comply with the minimum standards referred to in section 55 of the Act.

This certificate of accreditation is valid for a period of years, commencing onand expiring on

Member of the Executive Council: Social Development

Date:

Official Stamp".