

**DRAFT GENERAL NOTICE**  
**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL**  
**DEVELOPMENT**

No. R

2017

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

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

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

T. M Masutha  
Minister of Justice and Correctional Services

## SCHEDULE

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

COLUMN 1	COLUMN 2
Category or class of persons competent to conduct evaluation of criminal capacity of a child	Element of development of a child
A medical practitioner who is registered as such in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), and against whose name the speciality psychiatry is also registered.	Cognitive, emotional, moral, psychological and social
A psychologist who is registered as a clinical, educational or counselling psychologist in terms of the Health Professions Act, 1974.	Cognitive, emotional, moral, psychological and social

### 2. Determination of Remuneration and Allowances

#### 2.1 Determination of Remuneration<sup>1</sup>

- (a) A psychiatrist who, in terms of section 11(3) of the Act, is ordered by the court to evaluate the criminal capacity of a child and who is not in

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<sup>1</sup> Tariffs for remuneration will be revised in line with the tariffs in terms of the Criminal Procedure Act, 1977.

full-time service of the State is remunerated for the evaluation and preparation of the report at the rate of R550,00 per hour or part thereof.

- (b) A clinical, educational or counselling psychologist who, in terms of section 11(3) of the Act, is ordered by the court to evaluate the criminal capacity of a child and who is not in full-time service of the State is remunerated for the evaluation and preparation of the report at the rate of R420,00 per hour or part thereof.

## **2.2 Determination of Allowances**

### **Definitions**

For the purposes of this paragraph -

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

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

### **Transport and travelling expenses**

- (a) For purposes of conducting the evaluation, a competent person referred to in paragraph (1) to the Schedule may, if necessary, make use public or private transport.
  - (i) When using public transport, the competent person is entitled to an amount equal to the fare for the least expensive means of transport along the shortest route.
  - (ii) When using a private motor vehicle, the competent person is entitled to a transport allowance prescribed for the Public Service.
- (b) A competent person may only use air transport at State expense, if the court manager or the registrar has granted prior approval.
- (c) A competent person is entitled to be reimbursed for reasonable, actual parking and toll fees.