



**GOVERNMENT NOTICE**  
**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

No. R.

2021

**CHILD JUSTICE ACT, 2008: AMENDMENTS TO REGULATIONS**

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, education and health, made the Regulations in the Schedule.

**SCHEDULE**

**Definitions**

1. In this Schedule "the Regulations" means the Regulations published by Government Notice No. R. 251 of 31 March 2010, as amended by Government Notice No. R. 1337 of 1 December 2017.

**General amendment of the Regulations**

2. The regulations are hereby amended by—
- (a) the substitution for the expression "10 years" of the expression "12 years" where-ever that expression appears in the Regulations; and
  - (b) the substitution for the expression "appropriate adult" of the expression "appropriate person" where-ever that expression appears in the Regulations.

**Amendment of regulation 13 of the Regulations**

3. Regulation 13 of the Regulations is hereby amended by—
- (a) the substitution for subregulations (1) and (2) of the following subregulations:

"(1) An order by a child justice court in terms of section 11(3) of the Act for an evaluation of the criminal capacity of a child must correspond substantially with Form 2 of the Annexure.

(2) Form 2 must be submitted to the person who must conduct the evaluation, together with any documents handed in at the preliminary inquiry or in the child justice court, including the charge sheet and the probation officer's assessment report."; and

- (b) the addition of the following subregulation after subregulation (4):

"(5) The Director-General: Health must annually compile and keep a list of private psychiatrists and clinical, counselling and educational psychologists who are prepared to conduct the evaluation in respect of a child's criminal capacity in terms of section 11(3) of the Act and must provide the Director-General of the Department of Justice and Constitutional Development with a copy thereof for distribution to the registrars of the High Court and all the clerks of the magistrates' courts."

#### Amendment of Annexure A of the Regulations

4. Annexure A of the Regulations is hereby amended—  
(a) by the substitution for Form 1 of the following Form:

**"FORM 1**  
**REFERRAL OF CHILD UNDER THE AGE OF 12 YEARS**  
**SECTION 9(3)(a)(i), (ii) AND (iii) OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)**  
**REGULATIONS RELATING TO CHILD JUSTICE**  
[Regulations 5, 6 and 7]

Ref/File no.: \_\_\_\_\_

CAS No.	
Police Station	

**TO:**

<b>The Clerk of the Children's Court</b>

**AND**

<b>Particulars of the person/Centre where child is</b>

<b>Particulars of Probation Officer</b>				
Full names and Surname:				
Stationed at:				
Contact numbers:	Home:		Business:	
	Cellular:		Fax:	

E-mail address:	

Particulars of child and person or Centre where child is	
Full names and surname of child:	
Full names and surname of person where child is <i>(if not at a centre)</i> :	
Name of the Centre where child is <i>(if not with a person)</i> :	
Physical address of person or Centre:	

### REFERRAL

Please mark appropriate referral with X:

Referral to children's court in terms of section 9(3)(a)(i) of the Act  
*(Complete Part A of Referral)*

Referral of child to counselling or therapy in terms of section 9(3)(a)(ii) of the Act  
*(Complete Part B of Referral)*

Referral of child to an accredited programme in terms of section 9(3)(a)(iii) of the Act  
*(Complete Part C of referral)*

PART A	REFERRAL TO CHILDREN'S COURT IN TERMS OF SECTION 9(3)(a)(i) OF THE ACT
After having assessed the above-mentioned child, I am of the view that *he/she <i>(mark with an X)</i>	
	May be a child in need of care and protection as referred to in section 150(1) and (2) of the Children's Act, 2005.
	Does not live at his or her parents' home or in appropriate alternative care.
	Is alleged to have committed a minor offence/offences aimed at meeting his/her basic needs for food or warmth.
I accordingly refer the matter to the children's court to be dealt with in terms of sections 155 and 156 of that Act.	
I attach a copy of the assessment report referred to in section 40 of the Act and other relevant documents	
Signature of Probation officer:	
Date:	
For the purposes of the section 97(6) register, the probation officer is required to report to the Director-General: Social Development on the child's compliance with the decision.	

PART B		REFERRAL OF CHILD TO COUNSELLING OR THERAPY IN TERMS OF SECTION 9(3)(a)(ii) OF THE ACT			
After having assessed the above-mentioned child, I have decided to refer him or her for counselling/therapy for the reasons set out in the attached assessment report referred to in section 40 of the Act.					
The child must receive counselling /therapy:	For a period of: (Specify period)		OR	From:	Until:
You are requested to furnish me with reports on the child's progress and compliance with the decision (Specify how often):					
Signature of Probation officer:					
Date:					
For the purposes of the section 97(6) register, the probation officer is required to report to the Director-General: Social Development on the child's compliance with the decision.					
PART C		REFERRAL OF CHILD TO AN ACCREDITED PROGRAMME IN TERMS OF SECTION 9(3)(a)(iii) OF THE ACT			
After having assessed the above-mentioned child, I have decided to refer him or her to an accredited programme for the reasons set out in the attached assessment report referred to in section 40 of the Act.					
The child must attend the programme	For a period of: (Specify period)		OR	From:	Until:
You are requested to furnish me with reports on the child's progress and compliance with the decision (Specify how often):					
Signature: Probation officer:					
Date:					
For the purposes of the section 97(6) register, the probation officer is required to report to the Director-General: Social Development on the child's compliance with the decision.					

Copy to: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Appropriate persons such as parent)"; and



(b) 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]**

Ref/File no.: \_\_\_\_\_

In the Child Justice Court:	
Held at:	
CAS No:	
Police station:	

A		PARTICULARS OF CHILD	
Full names:			
Identity number/passport number and date of birth:			
Age of child:			
Sex of child:	Male		Female
Nature of charges against child:			
B		PARTICULARS OF *PARENT/APPROPRIATE PERSON/GUARDIAN/CHILD AND YOUTH CARE CENTRE WHERE CHILD IS PLACED	
Full names of parent, appropriate person or guardian:			
Name of Child and Youth Care Centre:			
Residential address:			
Business address:			
Contact numbers:	Home:		Business:
	Cellular:		Fax:
E-mail address:			

**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

(full names of presiding officer), hereby make the following order:

1. Evaluate the following aspects of the criminal capacity of the undermentioned child:

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<b>Cognitive development</b>	Yes		No	
<b>Moral development</b>	Yes		No	
<b>Emotional development</b>	Yes		No	
<b>Psychological development</b>	Yes		No	
<b>Social development</b>	Yes		No	

2. You are also ordered to provide this court with a written report on the evaluation of the child within 30 days of this order in terms of section 11(4) of the Child Justice Act, 2008 (Act No. 75 of 2008). The report 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 for the finding.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
*Presiding Officer*

Official Stamp
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\*Attach documents in terms of Regulation 13(2), including charge sheet and probation officer's report.\*