**Report of the Select Committee on Security and Justice on Amendments to Regulations for approval in terms of section 97(2) of the Child Justice Act, 2008 (Act No. 75 of 2008), dated 25 May 2022.**The Select Committee on Security and Justice, having considered the Amendments to Regulations for approval in terms of section 97(2) of the Child Justice Act, 2008 (Act No. 75 of 2008), reports as follows:

Amendments to Regulations for approval in terms of section 97(2) of the Child Justice Act, 75 of 2008 was tabled on 25 March 2022 and referred to the Committee for consideration and report. Section 97(1) of the Child Justice Act, 75 of 2008, empowers the Minister to make Regulations after consultation, where appropriate, with Cabinet members responsible for social development, safety and security, education, correctional services and health. In terms of section 97(2) of the Act, the Regulations must be referred to Parliament for approval.

The Committee received a briefing from the Department of Justice and Constitutional Development on 20 April 2022.  
  
The Department reported the Act is amended by the Child Justice Amendment Act 28 of 2019 and it is necessary to amend the Regulations to align them with the changes brought about by the Amendment Act.

The proposed amendments to the Regulations are largely consequential and include:

1. The increase of the minimum age of criminal capacity from 10 years to 12 years.

2. The rebuttable presumption is retained for children who are older than 12 years, but younger than 14 years.

3. Technical amendments.

4. The manner of dealing with a child, depending on the age of the child, from the time of arrest to assessment, preliminary inquiry and until trial at the child justice court.

5. The removal of the requirement that prosecutors must consider the cognitive ability of children when determining whether or not to prosecute a child since they are not equipped to do so.

6. That the criminal capacity of the child will only be addressed during a plea and trial in a child justice court and not during the preliminary enquiry and for diversion purposes.

7. To prohibit a magistrate to dispense with a pre-sentence report where the court may impose a sentence involving compulsory residence in a child and youth care centre or imprisonment.

8. Technical amendments.  
  
The Amendment Act has not yet come into operation, as it is envisaged that the draft Regulations will come into operation on the same date. Therefore, until Parliament has approved the amendments to the Regulations, a commencement date for the Amendment Act cannot be determined.

Recommendation

The Select Committee recommends that the National Council of Provinces approve the Amendments to Regulations tabled for approval in terms of section 97(2) of the Child Justice Act, 2008 (Act No. 75 of 2008).

Report to be considered.