

MINISTER SOCIAL DEVELOPMENT REPUBLIC OF SOUTH AFRICA

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Ms. J M Masilo MP
Chairperson of the Select Committee on
Social Services in the National Council of Provinces P.O. Box 15
CAPE TOWN
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By fax: 021 403 2808

Dear Ms. Masilo

DRAFT REGULATIONS TO THE CHILDREN'S ACT

With reference to your letter of 21 November 2008, I wish to advise that I have found that regulation 8 of the draft regulations to be made under the Children's Act, 2005 is in conflict with certain provincial legislation.

Section 12 (9) (a) of the Children's Act, 2005 provides that circumcision of male children older than 16 (and younger than 18) may only be performed if the child has given consent to the circumcision in the prescribed manner. Regulation 8 subsequently provides that consent by a male child older than 16 years (and younger than 18 years) to circumcision must be in a form substantially corresponding with Form 3.

The application of Health Standards in Traditional Circumcision Act (Eastern Cape) No. 6 of 2001 provides in section 7(1) that the parent or guardian of a prospective initiate must sign a consent form if the prospective initiate is younger than 21 years (and older than 16 years). Annexure A of the said Act also requires proof that the prospective initiate is at least 18 years old or if the parents of the prospective initiate requests the circumcision, at least 16 years old.

The Free State Initiation School Health Act No. 1 of 2004 provides that the minimum required age for an initiate to be accepted at an initiation school is 16 and that the parent of a prospective initiate below the age of 18 years must complete and sign the consent to be initiated.

The Regulations made under the Northern Province Circumcision School Act No. 6 of 1996 provides that no person below the age of twelve can be admitted to an initiation school and that a person below the age of 21 can only be admitted with the prior consent of his parent or guardian.

From the above it is clear that the provisions of the Children's Act, 2005 and the draft regulations relating to circumcision are in conflict with provincial legislation.

Kind regards,

DR ZŠT SKWEYIYA, MP

MINISTER OF SOCIAL DEVELOPMENT

DATE: 30