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Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Social Development, Department of / Maatskaplike Ontwikkeling, Departement van			
4059	Children's Act, 2005 (Act No.38 of 2005): Amendment General Regulations Regarding Children, 2010 in the Schedule.....	49659	3

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. 4059

10 November 2023

CHILDREN'S ACT, 2005 (ACT NO. 38 OF 2005)**AMENDMENT GENERAL REGULATIONS REGARDING CHILDREN**

I, **Lindiwe Zulu**, the Minister responsible for Social Development, having called for, and obtained public comments, and having considered these, made amendments in terms of section 306 of the Children's Act 38 of 2005 as amended, to the General Regulations Regarding Children, 2010 in the Schedule.



.....
Ms Lindiwe Zulu, MP
Minister of Social Development

SCHEDULE**CHAPTER 1
GENERAL PROVISIONS****Amendment of regulation 1 of the Regulations**

1. Regulation 1 of the Regulations is hereby amended by--

(a) the insertion of the following definition after the definition of "registration holder":

"Suitably qualified person" means a fit and proper person who is qualified, whose details do not appear in Part B of the Child Protection Register, or the National Register for Sex Offenders, and has the relevant skills to deal with a matter raised in a particular regulation in these Regulations."

**CHAPTER 6
CHILD PROTECTION SYSTEM****Insertion of regulation 32A in the Regulations**

2. The following regulation is inserted after regulation 32 of the Regulations:

"32A Quality assurance of child protection services and child protection organisations

(1) The Director- General must, after consultation with all the provincial heads of social development, develop national quality assurance framework for:

(a) child protection services;

(b) designated child protection services;

(c) designated child protection organisations; and

(d) all adoption social workers.

(2) The quality assurance referred to in subregulation (1) must be conducted by the Director-General or provincial head of social development.

(3) The quality assurance must, at least once in every three years:

(a) be conducted at any provincial office in the relevant province;

(b) be conducted at any service delivery point in the relevant province;

(c) be conducted at any child protection organisation in the relevant province;

(d) be conducted at the registered consulting offices of a social worker in private practice;

(e) be conducted at any child care facility;

(f) take into account the framework developed by the Director-General as contemplated in regulation 32A(1);

(g) be executed by a suitably qualified person who has the appropriate training in quality assurance and monitoring and evaluation of child protection services as the Director-General or the provincial head of social development may determine; and

(h) assess and evaluate the efficiency, efficacy of programmes and operations of child protection services in accordance with the quality assurance framework.

(4) The quality assurance framework referred to in subregulation (1) must:

(a) provide for monitoring of compliance with the Act, Regulations, and norms and standards; and

(b) provide for quarterly reporting and monitoring of:

(i) child protection services;

(ii) child protection organisations;

(iii) services rendered by adoption social workers; and

(iv) designated child protection services.

(5) The Director-General or the provincial head of social development may order a quality assurance process at any time if there is a reason to believe that a child protection organisation or service provider does not comply with any provision of the Act or the Regulations.

(6) The Director-General or provincial head of social development must take into account the relevant reports from the quality assurance team and make recommendations or implement any improvement measures required.

Insertion of regulations 56A, 56B and 56C in General Regulations Regarding Children, 2010

3. The following regulations are hereby inserted after Regulation 56 of the General Regulations Regarding Children:

“56A Manner and procedure of placing child in need of care and protection

(1) A designated social worker must subject to the directives and orders of the children’s court and as contemplated in the provisions of sections 155, 156, 157, 158, 159 and 186 of the Act, place the child accordingly.

(2) A designated social worker must, within 15-days of the order or directive issued by the children’s court, confirm the placement of the child as contemplated in subregulation (1) by completing a form similar to **Form 38A**.

56B Monitoring and supervision of services to child

A child placed in accordance with the provisions of regulation 56A must:

- (a) be monitored and supervised as contemplated in the Act;
- (b) be provided with the designated child protection services as contemplated in the Act;
be afforded the opportunity to participate in relevant programmes which are in the best interests of the child.

56C Procedure for approval of child in alternative care to leave Republic

- (1) A provincial head of social development who is requested to approve that a child in alternative care should travel out of the Republic:
 - (a) may authorise such travel only after considering a report of the relevant designated social worker in regard to the travel arrangements and the return of the child;
 - (b) must, prior to authorising the travel request, obtain the details and itinerary of the planned travel of the child including-
 - i. the person accompanying the child;
 - ii. the safety of the child; and
 - iii. the care and protection measures for child in the destination country; and
 - (c) may request further information to be furnished by the person seeking the travel of the child before granting the approval requested.
- (2) The provincial head of social development may stipulate the terms and conditions for granting approval for the travel of a child who is in alternative care out of the Republic.
- (3) The terms and conditions referred to in subregulation (2) may include-
 - (a) where the said travel requires a visa or other travel documents, that copies of such travel documents are furnished to the head of department at least a week prior to travelling;

- (b) the period within which the child is required to be returned to the Republic;
- (c) the foster parent or the person responsible for the travel of the child would be required to present the relevant page of the passport confirming that the child has been returned;
- (d) the foster parent or the person responsible for the travel of the child would be required to present a written report regarding any incidents relating to the safety, health and care of the child to the designated social worker; and
- (e) where necessary, present the child in person at the offices of the designated social worker.”

Transitional measure

4. “All foster care orders that may lapse after 11 November 2023 but before 30 June 2024 due to not being extended in terms of section 159 of the Children’s Act, 2005 as amended, shall be deemed to be valid until 30 June 2024 or until they are extended by the children’s court, whichever occurs first.”

Short Title

5. These regulations are called the Amendment General Regulations Regarding Children, 2023.

FORM 38A

**PLACEMENT OF CHILD
(Regulation 56A)**

The alternative care provider/caregiver

My Reference Number:

Your Reference Number:

Enquiries: Ms/Mrs/Mr: _____

Telephone number: _____

E-mail address: _____

Dear Sir/Madam

In terms of Section 156/158(3) an application is hereby made for the placement of the following child(ren) in your care:

- 1.
- 2.
- 3.
- 4.
- 5.

A panel discussion was held on _____(date); after careful deliberations it was concluded that in terms of the needs of this child(ren) the programmes that you are offering will be best suited for the child(ren) concerned.

Attached please find the panel discussion report.

SOCIAL WORKER

DATE

ISAZISO SIKAHULUMENI

UMNYANGO WEZOKUTHUTHUKISWA KOMPHAKATHI**UMTHETHO WEZINGANE, 2005 (UMTHETHO NO. 38 KA-2005)****ISICHIBIYELO IMITHETHO EJWAYELEKILEYO MAYELANA NEZINGANE**

Mina, uNksz Lindiwe Zulu, uNgqongqoshe obhekele ukuThuthukiswa koMphakathi, ngibize, futhi ngathola ukuphawula komphakathi, futhi sengikucubungulile lokhu, ngenza izichibiyelo zeMithethonqubo Ejwayelekile Emaqondana Nezingane, 2010 oHlelweni ngokwesigaba 306 soMthetho Wezingane 38. ka-2005 njengoba uchitshiyelwe.



.....
UNksz Lindiwe Zulu

Ungqongqoshe Wezokuthuthukiswa Komphakathi

Idethi:

UHLELO**ISAHLUKO 1****IZINHLELO EZIJWAYELEKILE****Ukuchitshiyelwa komthethonqubo woku-1 weMithethonqubo**

1. Umthethonqubo woku-1 weMithethonqubo ngalokhu uchitshiyelwa ngu--

(a) ukufakwa kwencazelo elandelayo ngemva kwencazelo "yomnikazi wokubhalisa":

"Umuntu ofaneleke ngokufanele" kusho umuntu ofanele futhi ofanelekile oqegeshiwe, omininingwane yakhe ingaveli eNgxenyeni B yeRejista Yokuvikelwa Kwezingane, noma kwiRejista Kazwelonke Yabahlukumezi Bocansi, futhi onamakhono afanele okubhekana nodaba oluphakanyiswe encwadini. umthethonqubo othile kule Mithethonqubo.

ISAHLUKO 6**UHLELO LOKUVIKELA INGANE****Ukufakwa komthethonqubo 32A kuMithethonqubo**

2. Lo mthethonqubo olandelayo ufakwa ngemva komgomo wama-32 weMithethonqubo:

"32A Ukuqinisekiswa kwekhwalthi yezinsizakalo zokuvikela izingane kanye nezinhlangano zokuvikela izingane

(1) UMqondisi-Jikelele kufanele, emva kokubonisana nazo zonke izinhloko zezifundazwe zentuthuko yezenhlahakahle, enze uhlaka lukazwelonke lokuqinisekisa ikhwalthi:

(a) izinsiza zokuvikela izingane;

(b) izinsiza ezimisiwe zokuvikela izingane;

(c) izinhlango zokuvikela izingane eziqokiwe; futhi

(d) bonke osonhlalakahle abathola izingane.

(2) Ukuginisekiswa kwekhwalthi okukhulunywe ngakho kwisigatshana somthethongubo

(1) kufanele kube oluqhutshwa nguMqondisi-Jikelele noma inhloko yezenhlalakahle yesifundazwe ukuthuthukiswa.

(3) Ukuginisekiswa kwekhwalthi kumele, okungenani kanye eminyakeni emithathu:

(a) luqhutshwe kunoma yiliphi ihhovisi lesifundazwe esifundazweni esifanele;

(b) luqhutshwe kunoma iyiphi indawo yokulethwa kwezidingo esifundazweni esifanele;

(c) luqhutshwe kunoma iyiphi inhlangano evikela izingane esifundazweni esifanele;

(d) luqhutshwe emahhovisi okubonisana abhalisiwe kasonhlalakahle osebenza ezimele;

(e) siphathwe kunoma yisiphi isikhungo sokunakekela izingane;

(f) icabangele uhlaka olwakhiwe uMqondisi-Jikelele njengoba kuhlangozwe kumthethongubo 32A(1);

(g) sikhishwe ngumuntu oqeqeshwe ngokufanele onokuqeqeshwa okufanele ekuqinisekiseni izinga kanye nokuqapha kanye nokuhlaziya izinsiza zokuvikela izingane njengoba kunganquma uMqondisi-Jikelele noma inhloko yesifundazwe yentuthuko yezenhlalakahle; futhi

(h) ihlole futhi ihlole ukusebenza kahle, ukusebenza kahle kwezinhlelo kanye nokusebenza kwezinsizakalo zokuvikela izingane ngokuhambisana nohlaka lokuqinisekisa ikhwalthi.

(4) Uhlaka lokuqinisekisa ikhwalthi okukhulunywe ngalo esigatshaneni somthethongubo (1) kumele:

(a) ukuhlinzekela ngokuqapha ukuthotshelwa koMthetho, iMithethongubo, kanye nezinkambiso namazinga; futhi

(b) ukuhlinzekela ukubikwa kanye nokuqapha njalo ngekota:

(i) izinsiza zokuvikela izingane;

(ii) izinhlango ezivikela izingane;

(iii) izinsiza ezihlinzekwa ngosonhlalakahle abatholwa yizingane; futhi

(iv) izinsiza zokuvikela izingane eziqokiwe.

(5) UMqondisi-Jikelele noma inhloko yesifundazwe yentuthuko yezehlalakahle ingayalela ingubo yokuqinisekisa ikhwalithi nganoma yisiphi isikhathi uma kunesizathu sokukholelwa ukuthi inhlango evikela izingane noma abahlinzeki bezinsizakalo abahambisani nanoma yiziphi izinhlinzeko zoMthetho noma iZiqondiso. .

(6) UMqondisi-Jikelele noma inhloko yesifundazwe yentuthuko yezehlalakahle kufanele acabangele imibiko efanele evela ethimbeni eliqinisekisa izinga futhi enze izincomo noma asebenzise noma yiziphi izinyathelo zokuthuthukisa ezidingekayo.

Ukufakwa kwemithetho 56A, 56B kanye no-56C kokuthi Imithetho Ejwayelekile Mayelana Nezingane, 2010

3. Ngakho-ke le mithethonqubo elandelayo ifakwa ngemva koMthethonqubo 56 weMithethonqubo Ejwayelekile Mayelana Nezingane:

"56A Indlela nenqubo yokubeka ingane edinga ukunakekelwa nokuvikelwa

- (1) Usonhlalakahle oqokiwe kufanele kuncike kwiziqondiso nemiyalelo yenkantolo yezingane futhi njengoba kuhlangozwe ezinhlinzekweni zezigaba 155, 156, 157, 158, 159 kanye nese-186 zoMthetho, abeke ingane ngendlela efanele.
- (2) Usonhlalakahle oqokiwe kufanele, zingakapheli izinsuku eziyi-15 zomyalelo noma umyalelo okhishwe yinkantolo yezingane, aqinisekise ukubekwa kwengane njengoba kuhlangozwe kwisigatshana somthethonqubo (1) ngokugcwalisa ifomu elifana neFomu 38A.

56B Ukuqapha nokuqondisa izinsizakalo ezinganeni

Ingane ebekwe ngokuhambisana nezinhlinzeko zomthethonqubo 56A kumele:

- (a) ziqashwe futhi zigadwe njengoba kuhlangozwe eMthethweni;
- (b) ahlinzekwe ngezinsizakalo zokuvikela izingane eziqokiwe njengoba kuhlangozwe eMthethweni; banikezwe ithuba lokubamba iqhaza ezinhlelweni ezifanele ezizuzisa ingane.

56C Ingubo yokugunyazwa kwengane ekunakekelweni kwenye indawo ukuba ihambe eRiphabhulikhi

(1) Inhloko yesifundazwe yentuthuko yezenhlalakahle ecelwe ukuthi ivume ukuthi ingane ekunye indawo yokunakekelwa kufanele iphume eRiphabhulikhi:

(a) angagunyaza lokho hambo kuphela ngemva kokucubungula umbiko kasonhlalakahle oqokiwe mayelana namalungiselelo ohambo kanye nokubuyiselwa kwengane;

(b) kufanele, ngaphambi kokugunyaza isicelo sohambo, athole imininingwane kanye nohambo lohambo oluhleliwe lwengane okuhlanganisa -

i. umuntu ophelezela ingane;

ii. ukuphepha kwengane; futhi

iii. izinyathelo zokunakekela kanye nokuvikela ingane ezweni ekuyiwe kulo; futhi

(c) angacela ulwazi olwengeziwe ukuthi ahlinzekwe ngumuntu ofuna uhambo lwengane ngaphambi kokunikeza imvume eceliwe.

(2) Inhloko yesifundazwe yentuthuko yezenhlalakahle ingabeka imigomo nemibandela yokunikeza imvume yokuhamba kwengane ekunye ukunakekelwa ngaphandle kweRiphabhulikhi.

(3) Imigomo nemibandela okukhulunywe ngayo esigatshaneni somthethonqubo (2) ingabandakanya –

(a) lapho uhambo olushiwo ludinga i-visa noma ezinye izincwadi zokuhamba, ukuthi amakhophi alezo zincwadi zokuhamba anikezwe inhloko yomnyango okungenani isonto ngaphambi kohambo;

(b) isikhathi lapho ingane kudingeke ukuthi ibuyiselwe eRiphabhulikhi;

(c) umzali wokutholwa noma umuntu obhekene nohambo lwengane kuyodingeka ukuthi ethule ikhasi elifanele lepasi eliqinisekisa ukuthi ingane ibuyisiwe;

(d) umzali wokutholwa noma umuntu obhekele ukuhamba kwengane kuyodingeka ukuthi ethule umbiko obhaliwe mayelana nanoma yiziphi izigameko eziphathelene nokuphepha, impilo kanye nokunakekelwa kwengane kusonhlalakahle oqokiwe; futhi

(e) lapho kunesidingo, wethule ingane mathupha emahhovisi kasonhlalakahle oqokiwe.”

Isilinganiso senguquko

4. “Yonke imiyalelo yokunakekela izingane ekungeyona eyakho ingase iphelelwe yisikhathi ngemva komhla ziyi-11 kuLwezi wezi-2023 kodwa ngaphambi komhla zingama-30 kuNhlangulana wezi-2024 ngenxa yokunganwetshwa ngokwesigaba 159 soMthetho Wezingane, 2005 njengoba uchtshiyelwe, iyothathwa njengesebenza kuze kube umhla zingama-30 kuNhlangulana wezi-2024 noma kuze kube zinwetshwa yinkantolo yezingane, noma yikuphi okwenzeka kugala.”

Isihloko Esifushane

5. Le mithetho ibizwa ngokuthi i-Amendment General Regulations Mayelana Nezingane, 2023.

IFOMU 38A

UKUBEKWA KWENGANE**(Umthethonqubo 56A)**

Omunye umnakekeli/umnakekeli

Inombolo yami yesithenjwa:

Inombolo yakho yesithenjwa:

Imibuzo: Nks/Nkk/Mnu: _____

Inombolo yocingo: _____

Ikheli le-imeyili: _____

Mnumzane/Nkosikazi othandekayo

NgokweSigaba 156/158(3) lapha kwenziwa isicelo sokubekwa kwalaba bantwana abalandelayo ngaphansi kokunakekela kwakho:

- 1.
- 2.
- 3.
- 4.
- 5.

Ingxoxo yesigungu yabanjwa ngo-_____ (usuku); ngemva kokuxoxisana ngokucophelela kwaphetha ngokuthi ngokwezidingo zale ngane(abantwana) izinhlelo ozinikezayo zizoyifanelekela kangcono ingane(abantwana) abathintekayo.

Okunamathiselwe sicela uthole umbiko wengxoxo yephaneli.

USONHLALA KAHLE

USUKU LOKUSEBENZA KOMHLALA

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