

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 1337

01 DECEMBER 2017

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

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 and health, made the Regulations in this Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

In this Schedule “the Regulations” means the Regulations published by Government Notice No. R.251 of 31 March 2010.

Amendment of regulation 21 of Regulations

1. Regulation 21 of the Regulations is hereby amended –
- (a) by the substitution for paragraph (d) of subregulation (1) of the following paragraph:

“(d) The police official who received the complaint or made the observation must, upon completion of the actions required in terms of this regulation, ensure that the following details are entered in the register referred to in section 28(3) of the Act:

- (i) The number allocated to the complaint;
- (ii) the date on which the complaint was lodged;
- (iii) the nature of the injury sustained or severe psychological trauma suffered;
- (iv) the circumstances surrounding the injury or trauma;
- (v) the signature and particulars of the complainant;
- (vi) the date on which the report was handed to the station commissioner;
- (vii) the particulars of the medical treatment which the child received, if any;

- (viii) the date on which the report referred to in subregulation (1)(a) was submitted to the **[National] Provincial** Commissioner of Police and a copy thereof to the National Commissioner;
- (ix) the nature of the instructions, if any, given by the **[National] Provincial** Commissioner of Police; and
- (x) the steps taken to comply with the instructions of the **[National] Provincial** Commissioner of Police.”;
- (b) by the substitution for subregulation (4) of the following subregulation:
 - “(4) The station commissioner must—
 - (a) after having investigated the matter and, if necessary, after ensuring that the child received medical treatment, submit the report together with the medical report, if any, to the **[National] Provincial** Commissioner of Police and a copy thereof to the National Commissioner of Police in an appropriate manner;
 - (b) ensure that the **[National] Provincial** Commissioner of Police has received the report and that the National Commissioner of Police has received a copy of the report; and
 - (c) file a copy of the report and its attachments in the docket.”;
- (c) by the substitution for subregulation (5) of the following subregulation:
 - “(5) The **[National] Provincial** Commissioner of Police may, after considering the report and recommendations made by the station commissioner, issue any instruction he or she deems fit.” ; and
- (d) by the substitution for subregulation (6) of the following subregulation:
 - “(6) (a) The station commissioner must, upon submission to the **[National] Provincial** Commissioner of Police of the documents referred to in subregulation (4), submit a copy thereof to the Independent Complaints Directorate, established by section 50(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995).
 - (b) The station commissioner may submit the documents in any manner he or she deems fit but must keep proof of the manner of submission.”.

Amendment of regulation 50 of Regulations

2. Regulation 50 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

- “(1) An official of the Department of Justice and Constitutional Development who **[has been designated to deal with]** is responsible for processing applications relating to the expungement of convictions and sentences in terms of the Act may, if the information in Form 13 is inadequate or not clear, request further information from the applicant or any organ of state.”.

Amendment of Annexure to Regulations

3. The Annexure to the Regulations is hereby amended -

- (a) 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]

At the Preliminary Inquiry / In the Child Justice Court	
Held at	
Case no/File no.	

1. Particulars of the child

Full names and surname:..... Date of birth/ID.No:.....Age:.....Sex.....
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2. Particulars of parent, appropriate adult or guardian/ Child and Youth Care Centre

(State particulars of person or centre where the child is placed)

Full names and surname of parent, appropriate adult or guardian /Name of Child and Youth Care Centre:..... Physical address of parent, appropriate adult or guardian / Child and Youth Care Centre:..... Contact details of parent, appropriate adult or guardian / Child and Youth Care Centre:.....

3. 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 hereby make the following order:-

(a) You are ordered to evaluate the following aspects of the criminal capacity of

.....;

- (i) Cognitive development
 - (ii) Moral development
 - (iii) Emotional development
 - (iv) Psychological development
 - (v) Social development
- and

(b) to provide the court with a written report on the evaluation within 30 days of this order.

.....
Signature: Presiding officer

.....
Date

Full names of Presiding officer:.....
Official Stamp

Note: 1. In terms of section 11(4) of the Act, you are required to furnish the inquiry magistrate or child justice court with a written report of the evaluation within 30 days of this order.

2. The written report referred to in paragraph (b) above 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.”;

(b) by the substitution for Form 7 of the following Form:

“Form 7

**CERTIFICATE OF ACCREDITATION OF DIVERSION SERVICE PROVIDER
SECTION 56 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE**

[Regulation 31]

This is to certify that:

(Name and physical address)

Reg No:-----

Accreditation Certificate No: -----

is an accredited diversion service provider to provide diversion programmes, provided that the service provider continues to comply with the minimum standards referred to in section 55 of the Act.

This certificate of accreditation is valid for a period of **[four]** years, commencing on and expiring on

[Minister] Member of the Executive Council: Social Development

Date:

Official Stamp”; and

(c) by the substitution for Form 8 of the following Form:

“Form 8

**CERTIFICATE OF ACCREDITATION OF DIVERSION PROGRAMME
SECTION 56 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 31]**

This is to certify that:

-----,

an accredited service provider,

Accreditation Certificate No.-----

is accredited to provide the following diversion programme-

-----,

provided that the diversion programme/s continue to comply with the minimum standards referred to in section 55 of the Act.

This certificate of accreditation is valid for a period of **[four]** years, commencing onand expiring on

[Minister] Member of the Executive Council: Social Development

Date:

Official Stamp”.

KITSISO YA PUSO**LEFAPHA LA BOSIAMISI LE TLHABOLOLO YA MOLAO THEO****NMR. R****2017****MOLAO WA BOSIAMISI WA NGWANA, 2008:****DITLHABOLOLO TSA MELAWANATAOLO E E AMANANG LE MOLAO WA BOSIAMISI WA NGWANA**

Tona ya Bosiamisi le Ditirelo tsa Kgopololo o, ka fa tlase ga karolo 97 ya Molao wa Bosiamisi wa Ngwana, 2008 (Molao 75 wa 2008) le morago ga therisano, fa go tlhokega, le maloko a Kabinete a a rwalang maikarabelo a tlhabolololoago, pabalesego le tshireletsego le boitekanelo, dirile Melawanataolo mo Šejuleng eno.

ŠEJULE**NTLHATLHALOSO YA KAKARETSO:**

[] Mafoko a a kwetsweng ka bontsho mo masakaneng a sekwere a bontsha tseo di tlogetsweng go tswa mo go dirweng ga melao e e leng teng.

_____ Mafoko a a thaletsweng ka mola o o kitlaneng a bontsha tseo di tsentsweng mo go dirweng ga melao e e leng teng.

Mo Šejuleng eno “Melawanataolo” e kaya Melawanataolo e e phasaladitsweng ka Kitsiso ya Puso Nmr. R.251 ya 31 Mopitlwe 2010.

Tlhabololo ya Molawanataolo 21 wa Melawanataolo

1. Molawanataolo 21 wa Melawanataolo o tlhabololwa jaana –
(a) ka kemisetso ya temana (d) ya molawanataolotlaleletso (1) ka temana e e latelang:

“(d) Motlhankedi wa sepodisi yo o amogetseng ngongorego kgotsa yo o beileng leitlho o tshwanetse, fa a fetsa go konosetsa dikgato tse di tshwanetseng go tsewa go latela molawanataolo ono, go netefatsa gore dintlha tse di latelang di tsenngwa mo rejisetareng e e kailweng mo karolong 28(3) ya Molao:

- (xi) Nomoro e e filweng mongongoregi;
- (xii) letlha le ngongorego e dirilweng ka lona;
- (xiii) mofuta wa kgobalo e e bonweng kgotsa kgobalo e e tseneletseng ya monagano e e bonweng;
- (xiv) mabaka a kgobalo kgotsa letshogo le ikaegileng ka ona;
- (xv) tshaeno le dintlha tsa mongongoregi;
- (xvi) letlha le pegelo e neetsweng mokhomišenara wa seteišene ka lona;
- (xvii) dintlha tsa kalafo ya bongaka e ngwana a e abetsweng, fa e le teng;

- (xviii) letlha le pegelo e e kailweng mo molwananataolong (1)(a) e rometsweng go Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi le kgatiso ya yona kwa go Mokhomishenara wa Bosetšhaba;
- (xix) mofuta wa ditaello, fa di le teng, tse di neetsweng ke Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi le
- (xx) dikgato tse di tserweng go obamela ditaello tsa Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi.”;
- (b) ka kemisetso ya molwananataolotlaleletso (4) ka molwananataolotlaleletso o o latelang:
- “(4) Mokhomishenara wa seteišene o tshwanetse—
- (a) morago ga go batlisisa morero le, fa go tlhokega, morago ga go netefatsa gore ngwana o amogetse kalafo ya bongaka, go romela pegelo mmogo le pegelo ya bongaka, fa e le teng, kwa go Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi le kgatiso ya yona go Mokhomishenara wa Bosetšhaba wa Mapodisi ka mokgwa o o maleba;
- (b) go netefatsa gore Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi o amogetse pegelo le gore Mokhomishenara wa Bosetšhaba wa Mapodisi o amogetse kgatiso ya yona; le
- (c) go faela kgatiso ya pegelo le dimamettlelelo tsa yona mo toketeng.”;
- (c) ka kemisetso ya molwananataolotlaleletso (5) ka molwananataolotlaleletso o o latelang:
- “(5) Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi o ka, morago ga go sekaseka pegelo le dikatlanegiso tse di dirilweng ke mokhomishenara wa seteišene, rebola taelo nngwe le nngwe e a e bonang e le matshwanedi.” ; le
- (d) ka kemisetso ya molwananataolotlaleletso (6) ka molwananataolotlaleletso o o latelang:
- “(6) (a) Mokhomishenara wa seteišene o tshwanetse, fa a romela dikwalo tse di kailweng mo molwananataolotlaleletsong (4) kwa go Mokhomishenara wa **[Bosetšhaba] Porofense** wa Mapodisi, go romela kgatiso ya tsona kwa Bokaeding jo bo Ikemetseng jwa Dingongorego (Independent Complaints Directorate), jo bo thomilweng ka karolo 50(1) ya *South African Police Service Act, 1995* (Molao 68 wa 1995).
- (b) Mokhomishenara wa seteišene o ka romela dikwalo ka mokgwa o a bonang o le matshwanedi e bile o tshwanetse go tshola bosupi jwa mokgwa wa thomelo.”.

Tlhabololo ya molwananataolo 50 wa Melawanataolo

2. Molwananataolo 50 o tlhabololwa ka kemisetso ya molwananataolotlaleletso (1) ka molwananataolotlaleletso o o latelang:

“(1) Motlankedi wa Lefapha la Bosiamisi le Tlhabololo ya Molaotheo yo o **[thapetsweng go samagana le]** o rwala maikarabelo mabapi le tiragatso ya dikopo tse di amanang le phimolo ya diponomolato le dikatholo go ya ka Molao o ka, fa tshedimosetso e e mo Foromong 13 e sa lekana kgotsa e

sa tihapa, kopa tshedimosetso e nngwe go tswa mo modirakopong kgotsa mo setheong sengwe le sengwe sa puso.”.

Tlhabololo ya Mametlelelo ya Melawanataolo

3. Mametlelelo ya Melawanataolo e tlhabololwa jaana-
(a) ka kemisetso ya Foromo 2 ka Foromo e e latelang:

“Foromo 2

**TAELO MABAPI LE TSHEKATSHEKO YA KITSO YA BOSENYI YA NGWANA
KAROLO 11 YA MOLAO WA BOSIAMISI WA NGWANA, 2008 (MOLAO 75 WA 2008)
MELAWANATAOLO E E AMANANG LE BOSIAMISI JWA NGWANA**

[Molawanataolo 13]

Kwa Ntlhapatlisong ya Pele / Kwa Kgotlatshekelong ya Bosiamisi jwa Ngwana	
E e tshwaretsweng kwa	
Nomoro ya kgetse/nomoro ya faele	

1. Dintlha tsa ngwana

Maina ka botlalo le
sefane:.....

Letlha la matsalo/Nomoro ya
Lokwaloitshupo:..... Dingwaga:..... Bong.....
.....

2. Dintlha tsa motsadi, mogolo yo o matshwanedi kgotsa motlhokomedi/ Senthara ya Tlhokomelo ya Bana le Bašwa

(Neela dintlha tsa motho kgotsa senthara e ngwana a beilweng kwa go yona)

Maina ka botlalo le sefane sa motsadi, mogolo yo o matshwanedi kgotsa motlhokomedi /
Leina la Ngwana le Senthara ya Tlhokomelo ya Bana le
Bašwa:.....
.....
Aterese ya bonno ya motsadi, mogolo yo o tshwanetseng kgotsa motlhokomedi /

Sentlha ya Tlhokomelo ya Bana le

Bašwa.....

Dintlha tsa kgokagano tsa motsadi mogolo yo o tshwanetseng kgotsa motlhokomedi /

Sentlha ya Tlhokomelo ya Bana le

Bašwa:.....

3. Taelo ka motlhankedimokaedi

Go:.....

....
(Dintlha tsa motho / setheo se se tla dirang tshekatsheko)

Ka kelotlhoko go ntlha ya gore go na le ketsaetsego ya kitso ya bosenyi ya ngwana yo o kailweng fa godimo, **ke dira taelo e e latelang:-**

(a) O laelwa go sekaseka dintlha tse di latelang ka kitso ya bosenyi ya ga

-;
- (vi) Nonofo ya thaloganyo
 - (vii) Nonofo ya maitsholo
 - (viii) Nonofo ya maikutlo
 - (ix) Nonofo ya bosaekholoji
 - (x) Nonofo ya loago
- le

(b) go tlamela kgotlatshekelo ka pegelo e e kwetseng ka ga tshekatsheko mo matsatsing a le 30 a taelo eno.

.....
Tshaeno: Motlhankedimokaedi

.....
Letlha

Maina ka botlalo a

Motlhankedimokaedi:.....

Setempe sa Semmuso

Ela tlhoko: 1. Go ya ka karolo 11(4) ya Molao, o tshwanetse go tlamela magiseterata wa ntlhapatlisiso kgotsa kgotlatshekelo ya bosiamisi jwa ngwana ka pegelo e e kwetsweng ya tshekatsheko mo matsatsing a le 30 a taelo eno.

2. Pegelo e e kwetsweng e e kailweng mo temaneng (b) fa godimo e tshwanetse go tsenyeletsa tlhaloso e khutshwane ya ka moo tshekatsheko ya nonofo ya tlhaloganyo, maitsholo, maikutlo, bosaekholoji le loago e dirilweng ka teng, le go akaretsa diphitlhelelo le mabaka a tshegetso.”;

(b) ka kemisetso ya Foromo 7 ka Foromo e e latelang:

“Foromo 7

SETIFIKEITI SA KAMOGELOSEMUSO YA MOTLAMELADITIRELO TSA PHAPOSO

KAROLO 56 YA MOLAO WA BOSIAMISI WA NGWANA, 2008 (MOLAO 75 WA 2008)

MELAWANATAOLO E E AMANANG LE BOSIAMISI JWA NGWANA

[Molawanataolo 31]

Seno ke go netefatsa gore:

(Leina le aterese ya lefelo)

Nomorokwadiso:-----

Nomoro ya Setifikeiti sa Kamogelosemmuso: -----

Ke motlamedi yo o amogetsweng semmuso wa ditirelo tsa phaposo go tlamela ka mananeo a phaposo, fa fela motlamedi wa ditirelo a tswelela go obamela ditekanyetso tsa maemo a boleng tse di kailweng mo karolong 55 ya Molao.

Setifikeiti seno sa kamogelosemmuso se amogelesega sebaka sa paka ya dingwaga tse [nne], go simologa ka le go ya bokhutlong ka

[Tona] Mokhuduthamaga: Tlhabolololoago

Letha:

Setempe sa Semmuso”; le

(c) ka kemisetso ya Foromo 8 ka Foromo e e latelang:

“Foromo 8

**SETIFIKEITI SA KAMOGELOSEMMUSO YA POROGRAMA YA PHAPOSO
KAROLO 56 YA MOLAO WA BOSIAMISI WA NGWANA, 2008 (MOLAO 75 WA 2008)
MELAWANATAOLO E E AMANANG LE BOSIAMISI JWA NGWANA**

[Molawanataolo 31]

Seno ke go netefatsa gore:

-----,

Motlamedi yo o amogetsweng semmuso wa ditirelo,

Nomoro ya Kamogelosemmuso ya Setifikeiti.-----

O amogetswe semmuso go tlamela ka porograma ya phaposo e e latelang-

-----,

fa fela di/porograma di tswelela go obamela ditekanyetso tsa maemo a boleng tse di kailweng mo karolong 55 ya Molao.

Setifikeiti seno sa kamogelosemmuso se amogelesega sebaka sa paka ya dingwaga tse [nne], go simologa kale go ya bokhutlong ka

[Tona] Mokhuduthamaga: Tlhabolololoago

Letha:

Setempe sa Semmuso”.