

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2022

CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT, 2007 AMENDMENT: CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) REGULATIONS

The Minister of Justice and Correctional Services has, in terms of section 67, read with section 53, of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), and after consultation with the Minister of Safety and Security, Minister of Social Development, Minister of Health and the National Director of Public Prosecutions, made the regulations in the Schedule.

SCHEDULE

Definition

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R.561 of 22 May 2008.

Amendment of regulation 13 of the Regulations

2. Regulation 13 of the Regulations is hereby amended by the insertion of the following paragraphs after paragraph (c):

- "(cA) receiving and processing applications for determination whether particulars of a person have been included in the Register, or not, as contemplated in section 42(4) of the Act;
- (cB) issuing a notification which corresponds substantially with Form 9A of Annexure B of the Regulations, regarding an application made in terms of paragraph (cA);".

Amendment of regulation 17 of the Regulations

3. Regulation 17 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

- "(1) Any person who, before or after the commencement of Chapter 6 of the Act, has been convicted of or who has a previous conviction for a sexual offence and who—
 - (a) is in the employ of an employer;
 - (b) intends to apply for work that, in any manner and during the course of such employment, will place him or her in a position of authority, supervision or care of a person who is vulnerable, or who will gain access to a person who is vulnerable;

- (c) intends to apply for a licence or approval to manage or operate an entity, business concern or trade in relation to the supervision over or care of persons who are vulnerable;
 - (d) intends to apply to become a foster parent, kinship care-giver, temporary safe care-giver, adoptive parent or curator; or
 - (e) wishes to establish whether his or her own particulars appear in the Register,
- must apply to the Registrar, by means of an application form that must correspond substantially with Form 7 in Annexure B, for a certificate stating whether or not his or her own particulars appear in the Register."

Insertion of Regulation 18A in the Regulations

4. The following regulation is hereby inserted in the Regulations:

Application for determination whether particulars of a person is included in the Register

18A. An application to the Registrar to determine whether the particulars of a person have been included in the Register, or not, in terms of section 42(4) of the Act, must be in the form of a sworn affidavit, on a Form that corresponds substantially with Form 8A of Annexure B of the Regulations."

Amendment of regulation 19 of the Regulations

5. Regulation 19 of the Regulations is hereby amended by the substitution for paragraph (b) of subregulation (3) of the following paragraph:

"(b) the National Commissioner of the South African Police Service has confirmed in writing that there is not a charge relating to a sexual offence pending against the person concerned and must provide the person with a form that must correspond substantially with Form 11 in Annexure B."

Amendment of Regulation 20 of the Regulations

6. Regulation 20 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) Any person who applies for the removal of his or her particulars from the Register who falsely declares that there are no criminal proceedings, for allegedly having committed a sexual offence against a person who is vulnerable, pending against him or her, is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment."

Substitution of Form 1 of Annexure B of the Regulations

7. Form 1 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 1
[Regulation 15(1)]
**INFORMATION TO BE FORWARDED TO REGISTRAR BY NATIONAL COMMISSIONER OF
CORRECTIONAL SERVICES**

Section 50(5)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act,
2007 (Act No. 32 of 2007)(the Act)

Note:

A set of fingerprints of the prisoner or former prisoner, if available, should be attached to this form.

Date:	
Name of prison:	

OFFICIAL STAMP OF Correctional Services

1.	PARTICULARS OF PRISONER OR FORMER PRISONER
Prisoner identification number:	
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Profession or trade before imprisonment:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
2.	PARTICULARS OF CONVICTION/CONVICTIONS
Type of sexual offence prisoner was convicted of:	
Date and place of conviction:	

Date and place of sentence:	
Sentence imposed:	
Court in which trial took place and case number:	

Substitution of Form 2 of Annexure B of the Regulations

8. Form 2 of Annexure B is hereby substituted for the following Form:

"FORM 2
[Regulation 15(3)(b)]
NOTICE TO PRISONER WHOSE PARTICULARS HAVE BEEN FORWARDED TO REGISTRAR
Section 50(5)(b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Date:	
Name of prison:	



IMPLICATION OF INCLUSION OF PARTICULARS IN THE NATIONAL REGISTER FOR SEX OFFENDERS

1. National Register for Sex Offenders:

The Minister of Justice and Correctional Services has established a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence or are alleged to have committed a sexual and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.

2. Implication of inclusion of particulars in Register:

- 2.1 A person who has been convicted of the commission of a sexual offence against a person who is vulnerable may not—
- (i) be employed to work with a person who is vulnerable in any circumstances;
 - (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a person who is vulnerable, or which, in any other manner, places him or her in a position of authority, supervision or care of a person who is vulnerable, or where he or she gains access to a person who is vulnerable;
 - (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is vulnerable; or
 - (iv) become the foster parent, kinship care-giver, temporary safe care-giver, adoptive parent, or curator of a person who is vulnerable.
- 2.2
- (i) An employee in the employ of an employer must without delay disclose a conviction referred to in 2.1 above, to his or her employer.
 - (ii) An employee who applies for employment, must, if he or she has been convicted of an offence referred to in 2.1 above, disclose such conviction when applying for employment.
 - (iii) An employee who fails to comply with this obligation is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.

- 2.3 (i) A person who applies for approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is vulnerable must disclose that he or she has been convicted of a sexual offence.
- (ii) A person who contravenes the above obligation is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding seven years or to both a fine and such imprisonment.

3. Removal of particulars from Register:

Section 51 of the Act provides as follows:

- "51. (1) Subject to subsections (2), (2A) and (3), the particulars of a person—
- (a) who—
- (i) has been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of at least six months but not exceeding eighteen months, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of 20 years has lapsed after that person has been released from prison or the period of suspension has lapsed;
- (ii) has been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of six months or less, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of 14 years has lapsed after that person has been released from prison or the period of suspension has lapsed; or
- (iii) is alleged to have committed a sexual offence in respect of whom a court, whether before or after the commencement of this Chapter, has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed after such person has recovered from the mental illness or mental defect in question and is discharged in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), from any restrictions imposed on him or her; or
- (b) who has been sentenced for a conviction of a sexual offence to any other form of lesser punishment or court order may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed since the particulars of that person were included in the Register.
- (2) The particulars of a person who has—
- (a) been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period exceeding 18 months, whether the sentence was suspended or not; or
- (b) two or more convictions of a sexual,
- may not be removed from the Register.
- (2A) A person falling into the categories contemplated in subsection (1) or (2), who was a child at the time of the commission of the offence concerned and who was convicted of such offence or a person who was a child at the time of the alleged commission of the offence and in respect of whom a court has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977—
- (a) before the implementation of this Chapter, may, at any time before the expiration of the periods referred to in subsection (1), apply to a court for an order that his or her particulars must be removed from the Register by—
- (i) addressing the court on the reasons for such application and showing good cause why it is unlikely that he or she will commit another sexual offence [against a child or a person who is mentally disabled, as the case may be]; and
- (ii) submitting to the court an affidavit by him or her stating that no charge relating to a sexual offence is pending against him or her; or
- (b) after the implementation of this Chapter, may, at any time before the expiration of the periods referred to in subsection (1), apply to the court referred to in section 50(2)(c) for an order that his or her particulars must be removed from the Register by—

- (i) addressing the court on the reasons for such application and showing good cause why it is unlikely that he or she will commit another sexual offence; and
- (ii) submitting to the court an affidavit by him or her stating that no charge relating to a sexual offence is pending against him or her.

(2B) The periods applicable in subsection (1) should be reduced by half if the person was a child at the time of the commission of the offence.

(3) (a) A person falling into the categories contemplated in subsection (1) may apply, in the prescribed manner, to the Registrar to have his or her particulars removed from the Register.

(b) The Registrar must, after considering the application, remove the particulars of the person contemplated in paragraph (a) from the Register, unless the person concerned has a charge relating to a sexual offence pending against him or her and the relevant case has not yet been finalised, in which event the finalisation of the application must be postponed until the Registrar has, in the prescribed manner, received information on the outcome of the case.

(c) The Registrar may, at the request of a person whose particulars are included in the Register, remove those particulars from the Register if the Registrar is satisfied that the entry of those particulars in the Register was clearly in error.

(4) Any person who has qualified for the removal of his or her particulars from the Register before the commencement of the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021, may submit an application to the Registrar in terms of subsection (3)(a) and the Registrar must consider the application as if the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021, had not commenced."

* *Prescribe, wherever it appears in item 3 of this Form, means the Regulations as made by the Minister of Justice and Correctional services."*

Substitution of Form 3 of Annexure B of the Regulations

8. Form 3 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 3

[Regulation 15(4)]

INFORMATION TO BE FORWARDED TO REGISTRAR BY DIRECTOR-GENERAL: HEALTH

Section 50(7)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007
(Act No. 32 of 2007)(the Act)

Note:

A set of fingerprints of the person should be attached to this form.

OFFICIAL
STAMP
OF
Department of
Health

Date:	
Name of health establishment:	

1.	PARTICULARS OF PERSON
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Profession or trade before direction by court:	
Date of birth:	
Age:	

Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
2.	PARTICULARS OF SEXUAL OFFENCE
Type of sexual offence:	
Date and place of court order:	
Direction by court:	
Court in which proceedings took place and case number:	

Substitution of Form 4 of Annexure B of the Regulations

9. Form 4 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 4

[Regulation 15(6)(b)]

NOTICE TO PERSON WHOSE PARTICULARS HAVE BEEN FORWARDED TO REGISTRAR
Section 50(7)(b) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007
(Act No. 32 of 2007)(the Act)

Date:	
Name of health establishment:	

OFFICIAL STAMP OF Department of Health
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IMPLICATION OF INCLUSION OF PARTICULARS IN THE NATIONAL REGISTER FOR SEX OFFENDERS

1. National Register for Sex Offenders:

The Minister for Justice and Constitutional Development has established a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence or are alleged to have committed a sexual and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.

2. Implication of inclusion of particulars in Register:

- 2.1 A person who has been convicted of the commission of a sexual offence against a person who is vulnerable may not—
- (i) be employed to work with a person who is vulnerable in any circumstances;
 - (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a person who is vulnerable, or which, in any other manner, places him or her in a position of authority, supervision or care of a person who is vulnerable, or where he or she gains access to a person who is vulnerable, or places where persons who are vulnerable are present or congregate;
 - (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is vulnerable; or
 - (iv) become the foster parent, kinship care-giver, temporary safe care-giver, adoptive parent, or curator of a person who is vulnerable.
- 2.2 (i) An employee in the employ of an employer must without delay disclose a conviction referred to in 2.1 above, to his or her employer.
- (ii) An employee who applies for employment, must, if he or she has been convicted of an offence referred to in 2.1 above, disclose such conviction when applying for employment.
- (iii) An employee who fails to comply with this obligation is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.
- 2.3 (i) A person who applies for approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is vulnerable must disclose that he or she has been convicted of a sexual offence.
- (ii) A person who contravenes the above obligation is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding seven years or to both a fine and such imprisonment.

3. Removal of particulars from Register:

Section 51 of the Act provides as follows:

- "51. (1) Subject to subsections (2), (2A) and (3), the particulars of a person—
- (a) who—
 - (i) has been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of at least six months but not exceeding eighteen months, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of 20 years has lapsed after that person has been released from prison or the period of suspension has lapsed;
 - (ii) has been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of six months or less, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of 14 years has lapsed after that person has been released from prison or the period of suspension has lapsed; or
 - (iii) is alleged to have committed a sexual offence in respect of whom a court, whether before or after the commencement of this Chapter, has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed after such person has recovered from the mental illness or mental defect in question and is discharged in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), from any restrictions imposed on him or her; or
 - (b) who has been sentenced for a conviction of a sexual offence to any other form of lesser punishment or court order may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed since the particulars of that person were included in the Register.
- (2) The particulars of a person who has—

- (a) been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period exceeding 18 months, whether the sentence was suspended or not; or
- (b) two or more convictions of a sexual,
may not be removed from the Register.

(2A) A person falling into the categories contemplated in subsection (1) or (2), who was a child at the time of the commission of the offence concerned and who was convicted of such offence or a person who was a child at the time of the alleged commission of the offence and in respect of whom a court has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977—

- (a) before the implementation of this Chapter, may, at any time before the expiration of the periods referred to in subsection (1), apply to a court for an order that his or her particulars must be removed from the Register by—
- (i) addressing the court on the reasons for such application and showing good cause why it is unlikely that he or she will commit another sexual offence [against a child or a person who is mentally disabled, as the case may be]; and
 - (ii) submitting to the court an affidavit by him or her stating that no charge relating to a sexual offence is pending against him or her; or
- (b) after the implementation of this Chapter, may, at any time before the expiration of the periods referred to in subsection (1), apply to the court referred to in section 50(2)(c) for an order that his or her particulars must be removed from the Register by—
- (i) addressing the court on the reasons for such application and showing good cause why it is unlikely that he or she will commit another sexual offence; and
 - (ii) submitting to the court an affidavit by him or her stating that no charge relating to a sexual offence is pending against him or her.

(2B) The periods applicable in subsection (1) should be reduced by half if the person was a child at the time of the commission of the offence.

(3)(a) A person falling into the categories contemplated in subsection (1) may apply, in the prescribed manner, to the Registrar to have his or her particulars removed from the Register.

(b) The Registrar must, after considering the application, remove the particulars of the person contemplated in paragraph (a) from the Register, unless the person concerned has a charge relating to a sexual offence pending against him or her and the relevant case has not yet been finalised, in which event the finalisation of the application must be postponed until the Registrar has, in the prescribed manner, received information on the outcome of the case.

(c) The Registrar may, at the request of a person whose particulars are included in the Register, remove those particulars from the Register if the Registrar is satisfied that the entry of those particulars in the Register was clearly in error.

(4) Any person who has qualified for the removal of his or her particulars from the Register before the commencement of the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021, may submit an application to the Registrar in terms of subsection (3)(a) and the Registrar must consider the application as if the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021, had not commenced."

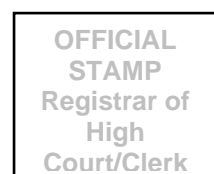
* *Prescribe, wherever it appears in item 3 of this Form, means the Regulations as made by the Minister of Justice and Correctional services."*

Substitution of Form 5 of Annexure B of the Regulations

10. Form 5 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 5
[Regulation 16(1)]
COURT ORDER FOR INCLUSION OF PARTICULARS IN REGISTER
Section 50(2)(a) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007
(Act No. 32 of 2007)(the Act)

A set of fingerprints must be submitted together with this form to the Registrar of the National Register for sex offenders.



CASE NUMBER:	
DATE:	

*IN THE REGIONAL/MAGISTRATE'S COURT _____ FOR THE DISTRICT OF _____ HELD AT _____

OR

*IN THE HIGH COURT OF _____ HELD AT _____

INFORMATION TO BE FORWARDED BY THE *CLERK OF THE COURT/THE REGISTRAR OF THE HIGH COURT TO THE REGISTRAR OF THE NATIONAL REGISTER FOR SEX OFFENDERS	
1.	PERSONAL INFORMATION
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Any known profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
2.	PARTICULARS OF SEXUAL OFFENCE
Type of sexual offence:	
Date and place of conviction:	
Sentence:	
Sentence imposed:	
3.	DIRECTION
Type of sexual offence allegedly committed:	

*Date and place of direction in terms of section 77(6) of the Criminal Procedure Act, 1977:	
*Date and place of direction in terms of section 78(6) of the Criminal Procedure Act, 1977:	
Name of medical institution to which person will be referred (if available):	

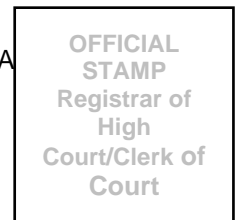
 *Magistrate/Judge

*Delete whichever is not applicable".

Substitution of Form 6 of Annexure B of the Regulations

11. Form 6 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 6
 [Regulation 16(1)]
NOTIFICATION TO EMPLOYER OF COURT ORDER
 Section 50(3) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007)(the Act)



CASE NUMBER:	
DATE:	

*IN THE REGIONAL/MAGISTRATE'S COURT _____ FOR THE DISTRICT OF _____ HELD AT _____

OR

*IN THE HIGH COURT OF _____ HELD AT _____

In terms of the order of the court you are hereby notified that the particulars of the undermentioned person have been forwarded to the registrar of the national register for sex offenders for such particulars to be included in the register.

INFORMATION TO BE FORWARDED BY THE *CLERK OF THE COURT/THE REGISTRAR OF THE HIGH COURT TO THE REGISTRAR OF THE NATIONAL REGISTER FOR SEX OFFENDERS	
1.	PERSONAL INFORMATION
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	

Any known profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
2.	PARTICULARS OF SEXUAL OFFENCE
Type of sexual offence:	
Date and place of conviction:	
Sentence:	
Sentence imposed:	
3.	DIRECTION
Type of sexual offence allegedly committed:	
*Date and place of direction in terms of section 77(6) of the Criminal Procedure Act, 1977:	
*Date and place of direction in terms of section 78(6) of the Criminal Procedure Act, 1977:	
Name of medical institution to which person will be referred (if available):	

*Clerk of the court/Registrar of the High Court

*Delete whichever is not applicable

ADDENDUM TO THIS NOTIFICATION

1. National Register for Sex Offenders:

The Minister for Justice and Constitutional Development has established a National Register for Sex Offenders containing particulars of persons convicted of any sexual offence or are alleged to have committed a sexual and who have been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977.

2. Implication of inclusion of particulars in Register:

- 2.1 A person who has been convicted of the commission of a sexual offence against a person who is vulnerable may not—
- (i) be employed to work with a person who is vulnerable in any circumstances;
 - (ii) hold any position, related to his or her employment, or for any commercial benefit which in any manner places him or her in any position of authority, supervision or care of a person who is vulnerable, or which, in any other manner, places him or her in a position of authority, supervision or care of a person who is vulnerable, or where he or she gains access to a person who is vulnerable, or places where persons who are vulnerable are present or congregate;
 - (iii) be granted a licence or be given approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is vulnerable; or
 - (iv) become the foster parent, kinship care-giver, temporary safe care-giver, adoptive parent, or curator of a person who is vulnerable.
- 2.2 (i) An employee in the employ of an employer must without delay disclose a conviction referred to in 2.1 above, to his or her employer.
- (ii) An employee who applies for employment, must, if he or she has been convicted of an offence referred to in 2.1 above, disclose such conviction when applying for employment.
- (iii) An employee who fails to comply with this obligation is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.
- 2.3 (i) A person who applies for approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of a person who is vulnerable must disclose that he or she has been convicted of a sexual offence.
- (ii) A person who contravenes the above obligation is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding seven years or to both a fine and such imprisonment.

3. Removal of particulars from Register:

Section 51 of the Act provides as follows:

- "51. (1) Subject to subsections (2), (2A) and (3), the particulars of a person—
- (a) who—
 - (i) has been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of at least six months but not exceeding eighteen months, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of 20 years has lapsed after that person has been released from prison or the period of suspension has lapsed;
 - (ii) has been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period of six months or less, whether the sentence was suspended or not, may, on application as contemplated in subsection (3), be removed from the Register after a period of 14 years has lapsed after that person has been released from prison or the period of suspension has lapsed; or
 - (iii) is alleged to have committed a sexual offence in respect of whom a court, whether before or after the commencement of this Chapter, has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed after such person has recovered from the mental illness or mental defect in question and is discharged in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002), from any restrictions imposed on him or her; or
 - (b) who has been sentenced for a conviction of a sexual offence to any other form of lesser punishment or court order may, on application as contemplated in subsection (3), be removed from the Register after a period of ten years has lapsed since the particulars of that person were included in the Register.

- (2) The particulars of a person who has—
- (a) been sentenced for a conviction of a sexual offence to a term of imprisonment, periodical imprisonment, correctional supervision or to imprisonment as contemplated in section 276(1)(i) of the Criminal Procedure Act, 1977, without the option of a fine for a period exceeding 18 months, whether the sentence was suspended or not; or
- (b) two or more convictions of a sexual,
- may not be removed from the Register.

(2A) A person falling into the categories contemplated in subsection (1) or (2), who was a child at the time of the commission of the offence concerned and who was convicted of such offence or a person who was a child at the time of the alleged commission of the offence and in respect of whom a court has made a finding and given a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977—

- (a) before the implementation of this Chapter, may, at any time before the expiration of the periods referred to in subsection (1), apply to a court for an order that his or her particulars must be removed from the Register by—
- (i) addressing the court on the reasons for such application and showing good cause why it is unlikely that he or she will commit another sexual offence [against a child or a person who is mentally disabled, as the case may be]; and
- (ii) submitting to the court an affidavit by him or her stating that no charge relating to a sexual offence is pending against him or her; or
- (b) after the implementation of this Chapter, may, at any time before the expiration of the periods referred to in subsection (1), apply to the court referred to in section 50(2)(c) for an order that his or her particulars must be removed from the Register by—
- (i) addressing the court on the reasons for such application and showing good cause why it is unlikely that he or she will commit another sexual offence; and
- (ii) submitting to the court an affidavit by him or her stating that no charge relating to a sexual offence is pending against him or her.

(2B) The periods applicable in subsection (1) should be reduced by half if the person was a child at the time of the commission of the offence.

(3)(a) A person falling into the categories contemplated in subsection (1) may apply, in the prescribed manner, to the Registrar to have his or her particulars removed from the Register.

(b) The Registrar must, after considering the application, remove the particulars of the person contemplated in paragraph (a) from the Register, unless the person concerned has a charge relating to a sexual offence pending against him or her and the relevant case has not yet been finalised, in which event the finalisation of the application must be postponed until the Registrar has, in the prescribed manner, received information on the outcome of the case.

(c) The Registrar may, at the request of a person whose particulars are included in the Register, remove those particulars from the Register if the Registrar is satisfied that the entry of those particulars in the Register was clearly in error.

(4) Any person who has qualified for the removal of his or her particulars from the Register before the commencement of the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021, may submit an application to the Registrar in terms of subsection (3)(a) and the Registrar must consider the application as if the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021, had not commenced."

* *Prescribe, wherever it appears in item 3 of this Form, means the Regulations as made by the Minister of Justice and Correctional services."*

Substitution of Form 7 of Annexure B the Regulations

12. Form 7 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 7
[Regulation 17(1)]
APPLICATION FOR CERTIFICATE BY PERSON IN RESPECT OF OWN PARTICULARS
Section 44 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Note:

A set of fingerprints of applicant must be attached to this form (a set of fingerprints can be taken at any police station).

1.	PERSONAL INFORMATION OF APPLICANT
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
E-mail address:	
Telephone number:	
Cell number:	
Type of sexual offence:	
Date and place of conviction:	
Sentence:	
Sentence imposed:	
Reason for applying for certificate:	

Signed at _____ on this _____ day of _____ 20____.

Applicant".

Substitution of Form 8 of Annexure B of the Regulations

13. Form 8 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 8
[Regulation 17(2)]
APPLICATION FOR CERTIFICATE BY PERSON/ LICENCING AUTHORITY/RELEVANT AUTHORITY

Section 44 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Note:

A set of fingerprints of the person referred to in paragraph 2 hereunder, must be attached to this form (a set of fingerprints can be taken at any police station).

1.	PERSONAL INFORMATION OF APPLICANT <i>(In the case of a natural person)</i>
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
E-mail address:	
Telephone number:	
Cell number:	
2.	INFORMATION OF APPLICANT <i>(In the case of a licensing authority or relevant authority as defined in the Act)</i>
Registered name of *licensing authority/relevant authority:	
Title and full names and surname of person making this application on behalf of *licensing authority/relevant authority:	
Business address of *licensing authority/relevant authority:	
Postal address of *licensing authority/relevant authority:	

E-mail address of person making this application on behalf of *licensing authority/relevant authority:	
Telephone number person making this application on behalf of *licensing authority/relevant authority:	
Cell number person making this application on behalf of *licensing authority/relevant authority:	
3. INFORMATION OF PERSON IN RESPECT OF WHOM THE APPLICATION IS MADE	
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Any known profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
REASON FOR APPLICATION	

Signed at _____ on this _____ day of _____ 20____.

Applicant

*Delete whichever is not applicable".

Insertion of Form 8A in Annexure B of the Regulations

13. The following form is hereby inserted in Annexure B of the Regulations after Form 8 of Annexure B:

"FORM 8A

[Regulation 18A]

APPLICATION TO DETERMINE WHETHER PARTICULARS OF A PERSON HAVE BEEN INCLUDED IN THE NATIONAL REGISTER FOR SEX OFFENDERS

Section 42(4) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Note:

1. *This application is in the form of a sworn affidavit that—*
 - (a) *the information contained in the form is to the best knowledge of the applicant true and correct;*
 - (b) *the application is not frivolous or vexatious;*
 - (c) *the person who has submitted the application has an interest in the disclosure of the information; and*
 - (d) *disclosure of the information is in the interest of an identifiable vulnerable person.*
2. *Except in so far as it may be necessary for the purposes of Chapter 6 of the Act, any person who wilfully discloses or publishes any information to any other person which he or she has acquired as a result of this application, or in any other manner, is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding three years or to both a fine and such imprisonment.*

1.	PERSONAL INFORMATION OF APPLICANT <i>(In the case of a natural person)</i>		
Title:			
Full names and surname:			
Date of birth:			
Age:			
Identity number/ passport number:			
Driver's licence number:			
Home address:			
Any other contact details (including postal address):			
E-mail address:			
Telephone number:	Home:		Business:
Cell number:			
2.	INFORMATION OF VULNERABLE PERSON		

Full names and surname:	
Indicate any known alias or nickname:	
Date of birth:	
Age:	
Identity number/ passport number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
E-mail address:	
Telephone number:	
Cell number:	
3.	REASON FOR VULNERABILITY (Mark with "x")

The person is:

- A child or a person with a mental disability;
- A female under the age of 25 years who—
 - receives tuition at a higher education college, higher education institution or university college
 - receives vocational training at any training institute, other than the institutions referred to above, or as part of their employment
 - lives in a building, structure or facility used primarily as a residence for any of the persons receiving tuition or vocational training as mentioned above
- A person who is being cared for or sheltered in a facility that provides services to victims of crime
- A person with a physical, intellectual or sensory disability and who—
 - receives community-based care and support services, other than from a family member for persons with physical, intellectual or sensory disabilities
 - lives in a building, structure or facility used primarily as a residence for persons with physical, intellectual or sensory disabilities
 - is cared for in a facility providing 24-hour care to persons with physical, intellectual or sensory disabilities,
- A person who is 60 years of age or older and who—
 - receives community-based care and support services, other than from a family member
 - lives in a building, structure or facility used primarily as a residence for such persons
 - is cared for in a facility providing 24-hour care to such persons

3.	INFORMATION OF PERSON IN RESPECT OF WHOM THE APPLICATION IS MADE
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Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Any known profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
REASON FOR APPLICATION	
REASONS WHY DISCLOSURE OF THE INFORMATION IS IN THE INTEREST OF THE VULNERABLE PERSON	

I, _____ (*full names of applicant*), hereby declare that the information given above, are to my best knowledge and intent true and correct

Signed at _____ on this _____ day of _____ 20____.

Applicant

CERTIFICATION

I hereby certify that before administering the *oath/taking the affirmation I asked the Applicant the following questions and noted *his/her answers in *his/her presence as indicated below:

(a) Do you know and understand the contents of the above declaration?

Answer _____.

(b) Do you have any objection to taking the prescribed oath?

Answer _____.

(c) Do you consider the prescribed oath to be binding on your conscience?

Answer _____.

I hereby certify that the Applicant has acknowledged that *he/she knows and understands the contents of this declaration which was *sworn to/affirmed before me, and the Applicant's signature was placed thereon in my presence.

Signed at _____ on this _____ day of _____ 20____.

**Justice of the Peace/Commissioner of Oaths*

Full names:	
Designation:	
Area for which appointed:	
Business address:	

**Delete whichever is not applicable".*

Substitution of Form 9 of Annexure B of the Regulations

15. Form 9 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 9

[Regulation 18]

CERTIFICATE IN RESPECT OF PARTICULARS

Section 44 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

PARTICULARS OF PERSON IN RESPECT OF WHOM APPLICATION WAS LODGED	
Title:	
Full names and surname:	
Identity number/ passport number:	

IT IS HEREBY CERTIFIED THAT—

The particulars of the person referred to above have been included in the National Register for Sex Offender on _____ 20____.

OR

The particulars of the person referred to above have not been included in the National Register for Sex Offender as at _____ 20____.

Signed at _____ on this _____ day of _____ 20____.



Signature of Registrar".

Insertion of Form 9A in Annexure B of the Regulations

16. The following form is hereby inserted in Annexure B of the Regulations after Form 9 of Annexure B:

"FORM 9A
[Regulation 13(cB)
DETERMINATION IN RESPECT OF PARTICULARS
Section 42(4) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

PARTICULARS OF PERSON IN RESPECT OF WHOM APPLICATION WAS LODGED	
Title:	
Full names and surname:	
Identity number/ passport number:	

IT IS HEREBY INFORMED THAT—

The particulars of the person referred to above have been included in the National Register for Sex Offender on _____ 20_____.

OR

The particulars of the person referred to above have not been included in the National Register for Sex Offender as at _____ 20_____.

Signed at _____ on this _____ day of _____ 20_____.

Signature of Registrar".

OFFICIAL STAMP Registrar of National Register for Sex Offenders
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Substitution of Form 10 of Annexure B of the Regulations

17. Form 10 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 10
[Regulation 19]
APPLICATION FOR REMOVAL OF PARTICULARS FROM REGISTER
Section 51 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

Note:

A set of fingerprints of applicant must be attached to this form (a set of fingerprints can be taken at any police station)

1.	PARTICULARS OF APPLICANT
Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Any known profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	
REASON FOR APPLICATION	

I hereby declare that there are no criminal proceedings, for allegedly having committed a sexual offence, pending against me.

Signed at _____ on this _____ day of _____ 20_____.

Applicant".

Substitution of Form 11 of Annexure B of the Regulations

18. Form 11 of Annexure B of the Regulations is hereby substituted for the following Form:

"FORM 11
 [Regulation 19(3)]

CERTIFICATE CONFIRMING REMOVAL OF PARTICULARS FROM REGISTER
 Section 51 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)(the Act)

IT IS HEREBY CERTIFIED THAT THE PARTICULARS OF—

Title:	
Full names and surname:	
Indicate any other surnames:	
Indicate any known alias or nickname:	
Any known profession or trade:	
Date of birth:	
Age:	
Identity number/ passport number:	
Driver's licence number:	
Home address/ Last known physical address:	
Any other contact details (including postal address):	
Telephone number:	
Cell number:	

HAVE BEEN REMOVED FROM THE NATIONAL REGISTER FOR SEX OFFENDERS WITH EFFECT FROM _____ 20____.

OR

HAVE NOT BEEN REMOVED FROM THE NATIONAL REGISTER FOR SEX OFFENDERS

Signed at _____ on this _____ day of _____ 20____.

 Registrar".

<p>OFFICIAL STAMP Registrar of National Register for Sex Offenders</p>
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