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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 2399

19 August 2022

CHILD JUSTICE ACT, 2008: AMENDMENTS TO REGULATIONS

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, education and health, made the Regulations in the Schedule.

SCHEDULE**Definitions**

1. In this Schedule "the Regulations" means the Regulations published by Government Notice No. R. 251 of 31 March 2010, as amended by Government Notice No. R. 1337 of 1 December 2017.

General amendment of the Regulations

2. The regulations are hereby amended by—
- (a) the substitution for the expression "10 years" of the expression "12 years" where-ever that expression appears in the Regulations; and
 - (b) the substitution for the expression "appropriate adult" of the expression "appropriate person" where-ever that expression appears in the Regulations.

Amendment of regulation 13 of the Regulations

3. Regulation 13 of the Regulations is hereby amended by—
- (a) the substitution for subregulations (1) and (2) of the following subregulations:

"(1) An order by a child justice court in terms of section 11(3) of the Act for an evaluation of the criminal capacity of a child must correspond substantially with Form 2 of the Annexure.

(2) Form 2 must be submitted to the person who must conduct the evaluation, together with any documents handed in at the preliminary inquiry or in the child justice court, including the charge sheet and the probation officer's assessment report."; and

- (b) the addition of the following subregulation after subregulation (4):

"(5) The Director-General: Health must annually compile and keep a list of private psychiatrists and clinical, counselling and educational psychologists who are prepared to conduct the evaluation in respect of a child's criminal capacity in terms of section 11(3) of the Act and must provide the Director-General of the Department of Justice and Constitutional Development with a copy thereof for

distribution to the registrars of the High Court and all the clerks of the magistrates' courts."

Amendment of Annexure A of the Regulations

4. Annexure A of the Regulations is hereby amended—
(a) by the substitution for Form 1 of the following Form:

**"FORM 1
REFERRAL OF CHILD UNDER THE AGE OF 12 YEARS
SECTION 9(3)(a)(i), (ii) AND (iii) OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulations 5, 6 and 7]**

Ref/File no.: _____

CAS No.	
Police Station	

TO:

The Clerk of the Children's Court

AND

Particulars of the person/Centre where child is

Particulars of Probation Officer				
Full names and Surname:				
Stationed at:				
Contact numbers:	Home:		Business:	
	Cellular:		Fax:	
E-mail address:				

Particulars of child and person or Centre where child is	
Full names and surname of child:	
Full names and surname of person where child is (<i>if not at a centre</i>):	

Name of the Centre where child is <i>(if not with a person)</i> :	
Physical address of person or Centre:	

REFERRAL

Please mark appropriate referral with X:

- Referral to children's court in terms of section 9(3)(a)(i) of the Act
(Complete Part A of Referral)
- Referral of child to counselling or therapy in terms of section 9(3)(a)(ii) of the Act
(Complete Part B of Referral)
- Referral of child to an accredited programme in terms of section 9(3)(a)(iii) of the Act
(Complete Part C of referral)

PART A		REFERRAL TO CHILDREN'S COURT IN TERMS OF SECTION 9(3)(a)(i) OF THE ACT							
After having assessed the above-mentioned child, I am of the view that *he/she <i>(mark with an X)</i>									
		May be a child in need of care and protection as referred to in section 150(1) and (2) of the Children's Act, 2005.							
		Does not live at his or her parents' home or in appropriate alternative care.							
		Is alleged to have committed a minor offence/offences aimed at meeting his/her basic needs for food or warmth.							
I accordingly refer the matter to the children's court to be dealt with in terms of sections 155 and 156 of that Act.									
I attach a copy of the assessment report referred to in section 40 of the Act and other relevant documents									
Signature of Probation officer:									
Date:									
For the purposes of the section 97(6) register, the probation office is required to report to the Director-General: Social Development on the child's compliance with the decision.									
PART B		REFERRAL OF CHILD TO COUNSELLING OR THERAPY IN TERMS OF SECTION 9(3)(a)(ii) OF THE ACT							
After having assessed the above-mentioned child, I have decided to refer him or her for counselling/therapy for the reasons set out in the attached assessment report referred to in section 40 of the Act.									
The child must receive counselling /therapy:		For a period of: (Specify period)		OR		From:		Until:	
		You are requested to furnish me with reports on the child's progress and compliance with the decision (Specify how often):							
Signature of Probation officer:									
Date:									

For the purposes of the section 97(6) register, the probation office is required to report to the Director-General: Social Development on the child's compliance with the decision.							
PART C REFERRAL OF CHILD TO AN ACCREDITED PROGRAMME IN TERMS OF SECTION 9(3)(a)(iii) OF THE ACT							
After having assessed the above-mentioned child, I have decided to refer him or her to an accredited programme for the reasons set out in the attached assessment report referred to in section 40 of the Act.							
The child must attend the programme	For a period of: (Specify period)		OR	From:		Until:	
You are requested to furnish me with reports on the child's progress and compliance with the decision (Specify how often):							
Signature: Probation officer:							
Date:							
For the purposes of the section 97(6) register, the probation office is required to report to the Director-General: Social Development on the child's compliance with the decision.							

Copy to: _____

(Appropriate persons such as parent); and

Official Stamp

(b) 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]**

Ref/File no.: _____

In the Child Justice Court:	
Held at:	
CAS No:	
Police station:	

A	PARTICULARS OF CHILD		
Full names:			
Identity number/passport number and date of birth:			
Age of child:			
Sex of child:	Male		Female
Nature of charges against child:			

B	PARTICULARS OF *PARENT/APPROPRIATE PERSON/GUARDIAN/CHILD AND YOUTH CARE CENTRE WHERE CHILD IS PLACED
Full names of parent, appropriate person or guardian:	
Name of Child and Youth Care Centre:	
Residential address:	
Business address:	
Contact numbers:	Home: <input type="text"/> Business: <input type="text"/>
	Cellular: <input type="text"/> Fax: <input type="text"/>
E-mail address:	

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

(full names of presiding officer), hereby make the following order:

1. Evaluate the following aspects of the criminal capacity of the undermentioned child:

Cognitive development	Yes	<input type="text"/>	No	<input type="text"/>
Moral development	Yes	<input type="text"/>	No	<input type="text"/>
Emotional development	Yes	<input type="text"/>	No	<input type="text"/>
Psychological development	Yes	<input type="text"/>	No	<input type="text"/>
Social development	Yes	<input type="text"/>	No	<input type="text"/>

2. You are also ordered to provide this court with a written report on the evaluation of the child within 30 days of this order in terms of section 11(4) of the Child Justice Act, 2008 (Act No. 75 of 2008). The report 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 for the finding.

Signed on the _____ day of _____ 20_____.

Official
Stamp

Presiding Officer

Attach documents in terms of Regulation 13(2), including charge sheet and probation officer's report.

**KITSISO YA PUSO
LEFAPHA LA BOSIAMISI LE TLHABOLOLO YA MOLAOTHEO**

Nmr. R.

2022

MOLAO WA BOSIAMISI WA BANA, 2008: DITLHABOLOLO TSA MELAWANATAOLO

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 ditherisano, fa go le maleba, le maloko a Kabinete a a rwalang maikarabelo a tlhabolololoago, pabalesego le tshireletso le boitekanelo, dirile Melawanataolo mo Šejuleng.

ŠEJULE

Ditlhaloso

1. Mo Šejuleng eno "Melawanataolo" e kaya Melawanataolo e e phasaladitsweng ka Kitsiso ya Puso Nmr. R. 251 ya di 31 Mopitlwe 2010, jaaka e tlhabolotswe ka Kitsiso ya Puso Nmr. R. 1337 ya di 1 Sedimonthole 2017.

Tlhabololo ya Melawanataolo

2. Melawanataolo e tlhabololwa fano ka—
- (a) kemisetso ya tlhagiso "dingwaga di le 10" ka tlhagiso "dingwaga di le 12" gongwe le gongwe fa tlhagiso eo e tlhagelelang gona mo Melawanataolong; le
 - (b) kemisetso ya tlhagiso "mogolo yo o tshwanetseng" ka tlhagiso "motho yo o tshwanetseng" gongwe le gongwe fa tlhagiso eo e tlhagelelang gona mo Melawanataolong.

Tlhabololo ya molawanataolo 13 wa Melawanataolo

3. Molawanataolo 13 wa Melawanataolo o tlhabololwa ka—
- (a) kemisetso ya melawanataolotlaleletso (1) le (2) ka melawanataolotlaleletso e e latelang:

“(1) Taelo ka kgotlatshekelo ya bosiamisi ya bana go ya ka karolo 11(3) ya Molao mabapi le tshkatsheko ya kitso ya bosenyi ya ngwana e tshwanetse go tsamaelana ka gotlhe le Foromo 2 ya Mametlelelo.

(2) Foromo 2 e tshwanetse go romelwa motho yo o tshwanetseng go dira tshkatsheko, mmogo le dikwalo dife tse di rometsweng kwa patlisisong e e dirwang pele ga tsheko kgotsa kwa kgotlatshekelong ya bosiamisi jo bo mabapi le ngwana, go akaretsa le ditlankana tsa tatofatso le pegelo ya tshkatsheko e e dirilweng ke modiredi wa tsamaiso e e sa letleng motlolamolao go ya kwa kgolegolong.”; le

- (b) go tsenngwa ga molawanataolotlaleletso o o latelang morago ga molawanataolotlaleletso
(4):

“(5) Mokaedikakaretso: Boitekanelo o tshwanetse gore ngwaga le ngwaga a baakanye le go tshola lenane la dingaka tsa malwetse a tlhaloganyo le baithutatlhaloganyo ba ba ikemiseditseng go dira tshekatsheko mabapi le kitso ya bosenyi ya ngwana go ya ka karolo 11(3) ya Molao e bile o tshwanetse go tlamela Mokaedikakaretso wa Lefapha la Bosiamisi le Tlhabololo ya Molaotheo ka khopi ya lona mabapi le go phatlhalatswa kwa bakwadising ba Kgotlatshekelokgolo le ditlhereke tsotlhe tsa dikgotlatshekelo tsa bomagiseterata.”.

Tlhabololo ya Mametlelelo A ya Melawanataolo

4. Mametlelelo A ya Melawanataolo e tlhabololwa fano—
(a) ka kemisetso ya Foromo 1 ka Foromo e e latelang:

"FOROMO 1

**THOMELO YA NGWANA YO O KA FA TLASE GA DINGWAGA TSE 12
KAROLO 9(3)(a)(i), (ii) LE (iii) YA MOLAO WA BOSIAMISI WA BANA, 2008 (MOLAO 75 WA 2008)
MELAWANATAOLO E E AMANANG LE BOSIAMISI JO BO MABAPI LE BANA**
[Melawanataolo 5, 6 le 7]

Nmr. ya Kaelo/Faele: _____

Nmr. ya KGETSE	
Seteishene sa Mapodisi	

GO:

Tlhereke ya Kgotlatshekelo ya Bana

LE

Dintlha tsa motho/Lefelo le ngwana a leng kwa go lona

Dintlha tsa Modiredi wa Tsamaiso e e sa Letleleleng Motlolamolao go ya kwa Kgolegolong			
Maina ka botlalo le Sefane:			
Yo o leng kwa:			
Dintlha tsa kgolagano:	Gae:		Tiro:
	Selefounu:		Fekese:
Aterese ya Imeile:			

Dintlha tsa ngwana le motho kgotsa Lefelo le ngwana a leng kwa go lona

Maina ka botlalo le Sefane sa ngwana:	
Maina ka botlalo le sefane sa motho (<i>fa a se kwa lefelong</i>):	
Leina la Lefelo (<i>fa a sena le motho</i>):	
Aterese ya bonno ya motho kgotsa Lefelo:	

THOMELO

Ka kopo tshwaya thomelo e e maleba ka X o be o tlatse:

Thomelo kwa kgotlatshekelong ya bana go ya ka karolo 9(3)(a)(i) ya Molao
(*Tlatsa Karolo A ya Thomelo*)

Thomelo ya ngwana kwa kgakolong kgotsa kalafing ya bothata jwa monagano go ya ka karolo 9(3)(a)(ii) ya Molao
(*Tlatsa Karolo B ya Thomelo*)

Thomelo ya ngwana kwa porogerameng e e letleletsweng semmuso go ya ka karolo 9(3)(a)(iii) ya Molao
(*Tlatsa Karolo C ya Thomelo*)

KAROLO A	THOMELO KWA KGOTLATSHEKELONG YA BANA GO YA KA KAROLO 9(3)(a)(i) YA MOLAO
	Morago ga go sekaseka ngwana yo o umakilweng fa godimo, ke akanya gore (<i>tlhopha lebaka le le maleba ka X</i>)
	Ke ngwana yo o ka tlhokang tlhokomelo le tshireletso jaaka go kailwe mo karolong 150(1) le (2) ya Children's Act, 2005;
	Ga a nne kwa legaeng la batsadi ba gagwe kgotsa kwa lefelong le lengwe le le siameng la tlhokomelo;
	O belaelwa gore o dirile tlolomolao/ditlolomolao tse di potlana tse maikaelelo a tsona e neng e le go fitlhelela ditlhoko tsa gagwe tsa motheo tsa dijo kgotsa mofuthu.
	Ke romela ka nepagalo morero kwa kgotlatshekelong ya bana gore o sekasekwe go ya ka dikarolo 155 le 156 tsa Molao oo.
	Ke mametlelela khopi ya pegelo ya tshekatsheko e e kailweng mo karolong 40 ya Molao le dikwalo tse dingwe tse di maleba.
Mosaeno Modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegolong:	
Letlha:	

Mabapi le maitlthomo a rejisetara ya karolo 97(6), modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegelong o tlhokega gore a begele Mokaedikakaretso: Tlhabololo ya Loago ka ga kobamelo ya ngwana ya tshwetso.							
KAROLO B	THOMELO YA NGWANA KWA KGAKOLOLONG KGOTSA KALAFING YA BOTHATA JWA MONAGANO GO YA KA KAROLO 9(3)(a)(ii) YA MOLAO						
Morago ga go sekaseka ngwana yo o umakilweng fa godimo, ke tsere tshwetso ya go mo romela kwa kgakolong kgotsa kalafing ya bothata jwa monagano ka ntlha ya mabaka a a tlhagisitsweng mo pegelong ya tshekatsheko e e mametleletsweng e e kailweng mo karolong 40 ya Molao.							
Ngwana o tshwanetse go amogela kgakololo/kalafi ya bothata jwa monagano	Sa paka ya: (Totobatsa paka)		KGOTSA	Go simolola:		Go fitlha:	
Mabapi le maitlthomo a rejisetara ya karolo 97(6), modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegelong o tlhokega gore a begele Mokaedikakaretso: (Tlhabololo ya Loago ka ga kobamelo ya ngwana ya tshwetso).							
Mosaeno Modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegelong:							
Letlha:							
Mabapi le maitlthomo a rejisetara ya karolo 97(6), modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegelong o tlhokega gore a begele Mokaedikakaretso: Tlhabololo ya Loago ka ga kobamelo ya ngwana ya tshwetso.							
KAROLO C	THOMELO YA NGWANA KWA POROGERAMENG E E LETLELETSWENG SEMMUSO GO YA KA KAROLO 9(3)(a)(iii) YA MOLAO						
Morago ga go sekaseka ngwana yo o umakilweng fa godimo, ke tsere tshwetso ya go mo romela kwa porogerameng e e letleletsweng semmuso ka ntlha ya mabaka a a tlhagisitsweng mo pegelong ya tshekatsheko e e mametleletsweng e e kailweng mo karolong 40 ya Molao.							
Ngwana o tshwanetse go tsenela porogerama sebaka	Sa paka ya: (Totobatsa paka)		KGOTSA	Go simolola:		Go fitlha:	
O kopiwa go ntlamela ka dipegelo tse di mabapi le tswelolepele ya ngwana le kobamelo ya tshwetso: (Totobatsa gore ga kae):							
Mosaeno Modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegelong:							
Letlha:							
Mabapi le maitlthomo a rejisetara ya karolo 97(6), modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegelong o tlhokega gore a begele Mokaedikakaretso: Tlhabololo ya Loago ka ga kobamelo ya ngwana ya tshwetso.							

Khophi go: _____

(Motho yo o tshwanetseng jaaka motsadi); le

Setempe sa
 Semmuso

(b) 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 BANA, 2008 (MOLAO 75 WA 2008)
MELAWANATAOLO E E AMANANG LE BOSIAMISI JO BO MABAPI LE NGWANA
[Molawanataolo 13]**

Nmr. ya Kaelo/Faele: _____

Kwa Kgotsatshekelong ya Bosiamisi jo bo Mabapi le Ngwana:	
E e tshwaretsweng kwa:	
Nmr. ya KGETSE:	
Setešene sa Mapodisi:	

A	DINTLHA TSA NGWANA			
Maina ka botlalo:				
Nmr. ya Boitshupo /nomoro ya lokwalo la mosepele le letlha la matsalo				
Dingwaga tsa ngwana:				
Bong jwa ngwana:	Monna		Mosadi	
Mofuta wa (di)tatofatso kgatlhanong le ngwana:				

B	DINTLHA TSA MOTSADI, MOTHO YO O TSHWANETSENG/ MOTLHOKOMEDISEMOLAO/LEFELO LA TLHOKOMELO YA BANA LE BAŠWA KWA NGWANA A ISITSWENG TENG			
Maina ka botlalo le sefane sa motsadi, motho yo o tshwanetseng kgotsa motlhokomedisemolao:				
Lefelo la Tlhokomelo ya Bana le Bašwa:				
Aterese ya bonno:				
Aterese ya tiro:				
Dinomoro tsa kgoлагano:	Gae:		Tiro:	
	Selefounu:		Fekese:	

E-mail address:	
-----------------	--

TAELO KA MOTLHANKEDIMOKAEDI

GO: _____

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

Ka ntlha ya fa go na le ketsaetsego mabapi le kitso ya bosenyi ya ngwana yo o umakilweng fa godimo, ke

(maina ka botlalo a motlhankedimokaedi), dira fano taelo e e latelang:

1. Sekaseka dintlha tse di latelang tsa kitso ya bosenyi ya ngwana yo o umakilweng fa tlase:

Nonofa ya kakanyo	Ee		Nnyaa	
Nonofa ya maitsholo	Ee		Nnyaa	
Nonofa ya maikutlo	Ee		Nnyaa	
Nonofa ya monagano	Ee		Nnyaa	
Nonofa ya loago	Ee		Nnyaa	

2. O laelwa gape go tlamela kgotlatshekelo eno ka pegelo e e kwetsweng e e ka ga tshekatsheko ya ngwana mo matsatsing a le 30 a taelo eno go ya ka karolo 11(4) ya Molao wa Bosiamisi wa Ngwana, 2008 (Molao 75 wa 2008). Pegelo e tshwanetse go akaretsa tihaloso ka boripana ya ka moo tshekatsheko ya nonofa ya kakanyo, maitsholo, maikutlo, monagano le loago ya ngwana e dirilweng ka teng, le go akaretsa diphithlelelo le mabaka a a tshegetsang diphithlelelo.

E saenilwe ka letsatsi la _____ la kgwedi ya _____ 20 _____.

Setempe sa
Semmuso

Motlhankedimokaedi

*Mametlelela makwalo otlhe go ya ka Molawanataolo 13(2), go akaretsa le papetlana ya tatofatso le pegelo ya modiredi wa tsamaiso e e sa letleleleng motlolamolao go ya kwa kgolegolong.".

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