

NO. 8 OF 2001

CHILDREN ACT

SUBSIDIARY LEGISLATION

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**CHILDREN (PRACTICE AND PROCEDURE
PARENTAL RESPONSIBILITY) REGULATIONS, 2002**

[L.N. 74/2002.]

1. These Regulations may be cited as the Children (Practice and Procedure Parental Responsibility) Regulations, 2002.
2. In these Regulations except where the context otherwise requires—
 - “**Act**” means the Children Act, 2001;
 - “**Court**” means the Children’s Court established under the Act;
 - “**Director**” means the Director of Children’s Services appointed under section 37 of the Act;
 - “**Magistrate**” means a magistrate appointed by the Chief Justice under section 73(d) (ii) of the Act.
3. All applications under this part shall be instituted by a Plaintiff signed by a Plaintiff or his Advocate setting out concisely the nature of the claim and the grounds upon which it is based.
4. The plaint shall be served on the defendant who if he/she wishes to contest the claim shall file his answer within 14 days from the date of service on him of the claim. All interlocutory applications shall be by Chamber Summons supported by an affidavit sworn by the parties or their agents or advocates.
5. The mode of service shall, unless the Court otherwise directs, be personal and in every case an affidavit of service shall be filed as evidence of such service by a process server duly authorised to serve process under the Civil Procedure Rules.
6. Once the defendant has filed his answer as required by regulation 4 or the time prescribed for doing so has elapsed the Court shall set the case down for hearing with notice to the parties.
7. If a defendant who has been served does not file an answer to the claim, the Court may proceed and determine the claim *ex parte*.
8. At the hearing, the evidence shall be in narrative form but the Court shall be at liberty to take down questions and answers verbatim if.
9. A decision made *ex parte* under regulation 7 may, on application be set aside on such terms as may be just.
10. The provisions of the Evidence Act shall apply to the proceedings under the Act with such exceptions as the Court may deem appropriate.
11. The Court shall have a discretion to extend the time limited by these Regulations for doing any act or taking any step.
12. A claim under section 25(i)(a) of the Act shall be served on the mother and the mother shall be at liberty to file an answer.
13. A claim under section 26(2) of the Act—
 - (1) If made by the person who has parental responsibility for the child shall be served on the child.
 - (2) If made by the child, shall be served on the person who has parental responsibility.
 - (3) Where a claim under subrule (1) is made before the child’s 18th birthday—
 - (a) The Court shall appoint a *guardian ad litem* for the purposes of the proceedings in question and he shall be served with the application;

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[Subsidiary]

- (b) The *guardian ad litem* shall be such person as in the opinion of the Court is capable of protecting the interest of the child in the proceedings.

14. Where the Court makes an order under section 27(c)(ii) and (iv) of the Act, such order shall within ten (10) days be served on any known relative of the child who shall have a right within a further 10 days to make an application to set aside that order.

15. An application under section 27(2)(c) of the Act, if made by the surviving mother or father of the child, shall be served on the testamentary guardian and, if made by the relatives of the deceased mother or father of the child shall be served on the surviving mother or father of the child as the case may be.

16. An order for extension of parental responsibility under section 28(1) of the Act, may be made by the Court on its own motion or on the application by the—

- (i) Director;
- (ii) Parent or relative of the child;
- (iii) Child; or
- (iv) Any person who has parental responsibility of the child.

17. An application under regulation 16 herein, if not made by the parent or the person who has parental responsibility for the child shall—

- (i) Be served on the parent or the person who has parental responsibility.
- (ii) The application must state the reasons for the order sought and must be supported by an affidavit.
- (iii) Where it is on the Court's own motion, the Court shall cause a notice to be served on the parent or the person who has parental responsibility.
- (iv) Where the application is made by the child under regulation 16 subrule (iii), he shall be referred to in such manner as the Court may direct.
- (v) If the application under subrule (iv) above is contested by the parent or the person who has parental responsibility for the child, the child shall be afforded legal representation.
- (vi) Any expenses incurred in connection with the legal representation of the child shall be defrayed out of public funds set aside by Parliament.

18. A Parental Responsibility Agreement shall be substantially in Form 4 in the First Schedule thereto.

19. Any judgment or order given by the Court under these Regulations shall be executed and enforced in the same manner as provided under Order XXI of the Civil Procedure Rules.

20. Any person aggrieved by the decision of the Court under these Regulations shall have a right of appeal to the High Court within 30 days from the date of the decision.

21. All appeals under regulation 20 shall be governed by the provisions of the Civil Procedure Rules.

**GUARDIANSHIP OF CHILDREN (PRACTICE
AND PROCEDURE) RULES, 2002**

[L.N. 75/2002.]

1. These Rules may be cited as the Guardianship of Children (Practice and Procedure) Rules.
2. In these Rules, except where the context otherwise requires—
 - “**Director**” means the Director of Children’s Services appointed under section 37 of the Act;
 - “**Magistrate**” means a magistrate appointed by the Chief justice under section 73(d) (ii) of the Act.
 - the “**Act**” means the Children Act, 2001;
 - the “**Court**” means the Children’s Court as established under section 73 of this Act.
3. All Applications under the Act shall be instituted by originating summons in the matter of the child supported by an affidavit sworn by the applicant or a person duly authorised to do so on his behalf.
4. All interlocutory applications made to the Court shall be by Chamber Summons and supported by an affidavit.
5. A party served by either Originating Summons or Chamber Summons may file a replying affidavit, but any person who desires to be heard and appears to the Court to be a proper person to be heard, may be heard, notwithstanding the fact that he has not filed an affidavit.
6. At the hearing of the suit the evidence shall be in a narrative form but the Court shall be at liberty to take down questions and answers verbatim if it deems fit.
7. The provisions of the Evidence Act shall apply to the proceedings under the Act with such exceptions as the Court may deem appropriate.
8. The mode of service shall, unless the Court otherwise directs, be personal either on the child or his advocate on record, or the person who has parental responsibility for the child or the parent or the testamentary guardian or the person who has actual custody of the child or as otherwise provided herein and an affidavit of service shall be duly filed by any person authorised under the Civil Procedure Act to effect service.
9. Proceedings under this part may be brought by—
 - (i) the child
 - (ii) his next friend
 - (iii) the Director
 - (iv) a person who has parental responsibility for the child; or
 - (v) any person who in the opinion of the Court has a legitimate interest in the welfare of the child.
10. Where a child has a *guardian ad litem* the child should be referred to in the title to the proceedings in such manner as the Court may direct.
11. It is the duty of a *guardian ad litem* fairly and competently to conduct proceedings on behalf of a child and he must have no interest in the proceedings adverse to that of the child and all steps and decisions he takes in the proceedings must be taken for the benefit of the child.
12. Any person who wishes to become a guardian under this part shall swear and file an affidavit of fitness which shall be substantially in Form 6.
13. (1) An application under section 102(5) of the Act shall state whether the guardianship

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is in respect of the person of the child or the child's estate or both.

(2) If the guardianship is in respect of the child's estate and the child, the guardian must file an affidavit of fitness together with a verifying affidavit set out in Form 7 in the First Schedule thereto.

(3) If it is in respect of the estate of the child only the guardian shall only file a verifying affidavit.

(4) If the guardianship is in respect of the child only, the guardian must state whether it is a male or a female child and whether the guardian intends to reside with the child.

(5) The guardian shall file the affidavit of fitness and/or verifying affidavit together with an affidavit of service when he files the application.

(6) If the application under subrule (4) states that the guardian intends to reside with the child the Court shall, in exercise of its discretion, pay special regard to the relationship between the child and the guardian and in particular the sex of the child and the guardian.

14. The guardian shall serve the affidavit of fitness and/or verifying affidavit on the person having physical custody of the child.

15. An application for termination of guardianship under section 106(6) if not made by the child or the guardian whose appointment is required to be terminated—

- (i) Shall be served on the person whose appointment is required to be terminated and the child, if in the opinion of the Court he is of such age and understanding as to be able to respond to the application
- (ii) The application must state the reasons for the orders sought and must be supported by an affidavit.

16. Where any monies is payable to the child as a result of the proceedings under the Act, the money shall be deposited in an interest bearing account in the joint names of either the guardian(s) or the parent or the person who has parental responsibility for the child or *guardian ad litem* and the Court, and shall not be withdrawn except under a court order and upon such terms as the Court may direct.

17. (1) Upon attaining the age of eighteen and desiring that the guardianship be determined in accordance with the provisions of section 107(1) of the Act the child may apply to the Court by Chamber Summons for an order terminating the appointment of the *guardian ad litem* and shall state in an affidavit the grounds upon which the order is sought.

(2) The application shall be served on the *guardian ad litem* and the other parties to the proceedings who will be at liberty to file any replying affidavit.

18. Whether or not a child having reached eighteen years makes an application in accordance with the provisions of rule 17 a guardian or a *guardian ad litem* shall make an application to the Court and the Court shall discharge him as guardian or *guardian ad litem*.

19. Where the Court has granted an order terminating guardianship and it subsequently appears to the Court that the child was not served or that other matters have arisen which were not in existence at the time when the order was issued, the Court may vary, modify, or revoke such orders on application of the child or any person authorised under the Act.

20. Where the child has attained the age of eighteen, unless the Court otherwise orders or directs, he shall be entitled to take personal responsibility over any money or property lawfully due to him and, in the case of any other form of investment other than money shall be transferred in his name.

21. An application under section 104(5) of the Act if made by the surviving parent shall be served on the appointed guardian and if made by the appointed guardian shall be served on the surviving parent and the child if the Court is satisfied that he is of such age and understanding as to be able to respond to the application.

- 22.** An application under section 104(8) of the Act shall be served on the person in whose favour an existing custody order or residence order in respect of the child has been made.
- 23.** An instrument of disclaimer under section 106(5) shall be substantially in form 8 in the First Schedule thereto and shall be filed in the matter in which the person appointed a guardian was so appointed for the purposes of recording the same.
- 24.** Any judgment or order given under this part shall be executed and enforced in accordance with the provisions of the Civil Procedure Rules.
- 25.** Any person aggrieved by the decision of the Court may appeal to the High Court in accordance with the provisions of the Civil Procedure Rules governing civil appeals.
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**CHILDREN (PRACTICE AND PROCEDURE)
(CHILD OFFENDER) RULES, 2002**

[L.N. 76/2002.]

1. These Rules may be cited as the Children, (Practice and Procedure Child Offender) Rules, 2002.
 2. In these Rules, except where the context otherwise requires—
 - “**Act**” means the Children Act, 2001;
 - “**Court**” means the Children’s Court established under the Act;
 - “**Director**” means the Director of Children’s Services appointed under Section 37 of the Act;
 - “**Magistrate**” means a Magistrate appointed by the Chief Justice under section 73(d) (ii) of the Act.
 3. A Children’s Court shall have original jurisdiction to try a child for any offence under this Act or under any Act, save where the offence committed is under any other law triable only by the High Court.
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GENERAL RULES AND REGULATIONS, 2002

[L.N. 77/2002, L.N. 266/2017.]

1. All civil matters under Parts III, VIII and XIII of the Act shall be conducted in accordance with these Rules and regulations but the Court shall have power and discretion to decide all matters with due speed and dispatch without undue regard to technicalities of procedure.

2. The Court shall have power to determine the party or person to bear the costs or, out of what property and to what extent the costs shall be paid. Provided that the cost of any action, cause or other matter or issue shall follow the event unless the Court shall for good reason otherwise order.

3. The fees set out in the Second Schedule shall be payable in respect of matters and services set out therein and it shall be payable at the time when the document is filed or, when the action specified is taken, as the case may be.

4. Unless otherwise provided in the Act, the forms under the Civil Procedure Act shall substantially be applicable to the Act.

5. The following provisions of the Civil Procedure Rules shall apply to the proceedings under the Act with such exceptions, as the Court may deem appropriate.

(a)	Order 5	Issue and Service of summons
(b)	Order 8	Amendment of pleadings
(c)	Order 11, rule 3(1)(h)	Consolidation of suits
(d)	Order 14	Production, impounding and return of documents
(e)	Order 16	Summoning and attendance of witnesses
(f)	Order 17	Prosecution of suits
(g)	Order 18	Hearing of the suit and examination of witnesses
(h)	Order 19	Affidavits
(i)	Order 21	Judgement and decree
(j)	Order 22	Execution of decree and orders
(k)	Order 23	Attachment of debts
(l)	Order 40	Temporary injunctions and interlocutory orders
(m)	Order 45	Review
(n)	Order 50	Time
(o)	Order 10	Consequence of non-appearance, default of defence and failure to serve
(p)	Order 12	Hearing and consequence of non-attendance

[L.N. 266/2017, r. 2.]

6. These Rules may be amended from time to time as the Chief Justice may direct.

7. Nothing contained in these Rules and Regulations shall limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of Justice or to prevent abuse of the process of the Court.

Children

[Subsidiary]

FIRST SCHEDULE

FORM 1

REPUBLIC OF KENYA

GENERAL TITLE

IN THE CHILDREN'S COURT AT
 CHILDREN'S CASE NO. OF
 IN THE MATTER OF (A CHILD)
 "A.B" (A CHILD) SUING GUARDIAN
 OR
 THROUGH "C.D" GUARDIAN AD LITEM
 VERSUS
 "E.F" DEFENDANT

FORM 2

REPUBLIC OF KENYA

IN THE CHILDREN'S COURT AT
 IN THE MATTER OF (CHILD)

CHAMBER SUMMONS

LET ALL PARTIES concerned attend the Honourable Court on day
 of 20 at o'clock in
 the noon or so soon thereafter as an will be made by/on behalf of the Applicant
 for ORDERS—

- (a)
- (b)

WHICH APPLICATION is based on the general grounds that—

- (a)
- (b)

This Application is supported by the annexed Affidavit of the nature of the case, further grounds and evidence to be adduced at the hearing.

DATED AT THIS DAY OF 20.....

.....
Applicant/Guardian/Advocate

DRAWN & FILED BY:

APPLICANT/GUARDIAN/ADVOCATE

If any party served does not attend at the time and place above-mentioned. Such orders shall be made and proceedings taken as the Honourable Court deems just and expedient.

FIRST SCHEDULE—continued

FORM 3

REPUBLIC OF KENYA

IN THE CHILDREN'S COURT AT
CHILDREN'S CASE NO OF
IN THE MATTER OF (CHILD)

AFFIDAVIT

I, Care of
(Guardian/child) makes oath and state as follows—

- 1.
2.
3.
4. THAT I swear this Affidavit in support/opposition to the Summons filed herein.
5. THAT what is stated hereinabove is true to the best of my knowledge, information and belief grounds and sources whereof are disclosed.

SWORN BY THE SAID

THIS DAY OF 20.....
BEFORE ME

Deponent

MAGISTRATE/COMMISSIONER
FOR OATHS

Read the notes overleaf carefully before entering into this agreement.

FORM 4

REPUBLIC OF KENYA

PARENTAL RESPONSIBILITY AGREEMENT

[Section 26(1).]

(To be completed in Triplicate)

Section 26(1) Children Act 2001 Date recorded at the Registry
Children's Court

This is a Parental Responsibility Agreement regarding

The Child Name
Male/Female Date of Birth Date of 18th Birthday

Between
The Mother Name
Address

FIRST SCHEDULE—continued

FORM 5

REPUBLIC OF KENYA

AFFIDAVIT OF SERVICE

I, of P.O. Box an Advocate/A Police Officer/A Process Server of the Court make oath and say as follows—

- (1) Of day of 20..... at (time), I served the Originating Summons/Chamber Summons etc. dated in the case on at (place) by tendering a copy thereof to him/her and requiring a signature on the original. He/She signed/refused to sign the Originating Summons/Chamber Summons etc. He/She was personally known to me/was identified to me by and admitted that he/she was the Defendant/Respondent.
- (2) Not being able to find the Defendant/Respondent on day of 20..... day of at (time) I served the Originating Summons/Chamber Summons etc. on) (name and adult member of the family of the Defendant who resides with him.
- (3) Not being able to find the Defendant/Respondent or any person on whose service could be made on, day of 20..... at (time), I affixed a copy of the Originating Summons/Chamber Summons to the outer door of where he/she personally works for gain/resides I was accompanied by who identified the house to me.

SWORN BY THE SAID THIS DAY OF 20.....

Deponent

BEFORE ME
MAGISTRATE/A COMMISSIONER FOR OATHS

FORM 6

REPUBLIC OF KENYA

IN THE CHILDREN'S COURT AT CHILDREN'S CASE NO. (A CHILD)

AFFIDAVIT OF FITNESS OF A GUARDIAN

I, of presently residing in in the Republic of Kenya, make oath and state as follows—

- 1. THAT I am an Adult Kenyan of sound mind (if foreigner give full particulars)
- 2. THAT I know and verily believe that I am qualified to act as a guardian to

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FIRST SCHEDULE—continued

- 3. THAT I have no interest in the matters in question in this cause adverse to that of the said
- 4. THAT I have consented to act as a guardian to
- 5. THAT I know and believe that is a child.
- 6. THAT I can fairly and competently take care of the child.
- 7. THAT I do solemnly swear under the penalties of perjury that the contents of this affidavit are true to the best of my knowledge, information and belief, the grounds and sources of such information and belief being disclosed.

SWORN at

by the said

day of.....

Deponent

BEFORE ME:

A COMMISSIONER FOR OATHS

FORM 7

REPUBLIC OF KENYA

IN THE CHILDREN'S COURT AT CHILDREN'S CASE NO. (A CHILD)

VERIFYING AFFIDAVIT OF A GUARDIAN

IN THE CHILDREN'S COURT AT CHILDREN'S CASE NO. OF IN THE MATTER OF (A CHILD)

I, of presently residing in in the Republic of Kenya, make oath and state as follows—

- 1. THAT I am an Adult Kenyan of sound mind (if foreigner give full particulars)
- 2. THAT I know and verily believe that I am qualified to act as guardian to
- 3. THAT I have no interest in the matters in question in this cause adverse to that of the said
- 4. THAT I have consented to act as a guardian in respect of the estate of
- 5. THAT I know and believe that the said is a child.
- 6. THAT I can fairly and competently administer the estate of the said
- 7. THAT I shall take all reasonable steps to safeguard the estate of the said
- 8. THAT I shall produce and avail accounts in respect of the estate of the said child to the parents or custodian or court or to such other person as the Court may direct.

FIRST SCHEDULE—continued

9. THAT should the child incur any loss and/or damage as a result of my negligence I shall indemnify the child against such loss and/or damage.

SWORN at

by the said

day of.....

Deponent

BEFORE ME
COMMISSIONER FOR OATHS/MAGISTRATE

FORM 8

REPUBLIC OF KENYA

INSTRUMENT OF DISCLAIMER

[Section 106(5).]

LET IT BE KNOWN that I, appointed as a guardian of (child) by a will or Court Order dated the day of Hereby disclaim the said guardianship from the date hereof.

FOR REASONS THAT:

- 1.
2.
3.

I hereby declare that I have/have not exercised any control over any property of the child.

I hereby declare that I have rendered a true account of the Monies/and/or Properties of the child that came into my possession by virtue of the said guardianship.

I do solemnly declare under the penalties of perjury that the contents of the foregoing document are true and complete to the best of my knowledge.

MADE AT THIS DAY OF 2002

GUARDIAN

I, Magistrate/Commissioner for oaths, hereby Certify that the above named appeared before me on the day of 20 and acknowledged the above Marks/Signature as his.

At the time of the said acknowledgement CD was known to me/identified to me by

Magistrate/Commissioner for Oaths

Children

[Subsidiary]

SECOND SCHEDULE

COURT FEES

This schedule shall be applicable to all matters under the Children Act, 2001 (No. 8 of 2001) and proceedings connected therewith.

For purposes of this Act, the GUIDE TO ASSESSMENT OF COURT FEES (REVISED EDITION 1995) shall be excluded and only this schedule shall apply.

1. On Complaint	
(a) Filing Fee	Ksh. 150.00
(b) Fees for Service	Ksh. 50.00
2. On Originating Summons	
(a) Filing Fee	Ksh. 150.00
(b) Fees for service	Ksh. 50.00
3. On Chamber Summons	
(a) Filing fee	Ksh. 100.00
(b) Fees for Service	Ksh. 50.00
4. On Filing of Affidavit	Ksh. 50.00
5. On Swearing of Affidavit	Ksh. 50.00
6. Notice (includes but not limited to)	
(a) Notice of Appointment of Advocates	Ksh. 150.00
(b) Notice of change of Advocates	Ksh. 150.00
(c) Notice of Preliminary Objection	Ksh. 100.00
(d) Notice to produce documents	Ksh. 50.00
(e) Notice of withdrawal	Ksh. 100.00
(f) Notice to cease acting as guardian or guardian <i>ad litem</i>	Ksh. 100.00
7. Purchasing Instrument of Disclaimer	Ksh. 100.00
8. Filing instrument of disclaimer	Ksh. 100.00
9. Parental Responsibility Agreement/Certificate	Ksh. 100.00
10. On Application to set aside	Ksh. 100.00
11. Applications for review of Judgment	Ksh. 100.00
12. Application for execution of Decree on notice to show cause	Ksh. 100.00
13. Application for attachment of property	Ksh. 100.00
14. Salary Attachment Order	Ksh. 50.00
15. Warrant of Arrest	Ksh. 20.00
16. Reissue of warrant of Attachment	Ksh. 50.00
17. Certification or attestation of Documents	Ksh. 50.00
18. Injunctions Order	Ksh. 50.00
19. Transfer of Decrees to another court for Execution	Ksh. 50.00
20. Substituted Service	Ksh. 150.00
21. Summary Judgment	Ksh. 50.00
22. Stay of execution	Ksh. 150.00
23. Applications for variation, revocation or Modification of orders	Ksh. 100.00

SECOND SCHEDULE—*continued*

24. For every exhibit attached to Affidavit	Ksh. 20.00
25. Filing for entering <i>ex parte</i> Judgment	Ksh. 50.00
26. Filing of consent between parties	Ksh. 50.00
27. On filing any other document where no special fee is prescribed under this schedule	Ksh. 50.00

CHILDREN (ADOPTION) REGULATIONS, 2005

ARRANGEMENT OF REGULATIONS

Preliminary

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[Subsidiary]

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CHILDREN (ADOPTION) REGULATIONS, 2005

[L.N. 43/2005.]

*Preliminary***1. Citation**

These Regulations may be cited as the Children (Adoption) Regulations, 2005.

2. Establishment of Committee

The Adoption Committee is established under section 155(1) of the Act.

3. Membership of Committee

(1) The Adoption Committee shall comprise the members set out in the Ninth Schedule to the Act.

(2) The members appointed by the Minister under paragraph (b) of the Ninth Schedule to the Act shall be appointed by *Gazette* Notice.

(3) The members appointed under paragraphs (c) to (f) of the Ninth Schedule to the Act shall be appointed by letter from the organizations referred to in those paragraphs.

4. Officials of the Committee

(1) The Adoption Committee shall appoint one of its members to serve as chairman for a period of three years, and such an appointment may be renewed for one more term.

(2) The Director shall be the secretary of the Adoption Committee.

5. Functions of the Committee

The Adoption Committee shall, in addition to the functions provided for under section 155 of the Act, perform the following functions—

- (a) regulate fees for registration of adoption societies;
- (b) consider, review and either approve or reject applications for registration for both international and local adoption societies;
- (c) manage and maintain a secretariat and offices provided by the Director;
- (d) co-ordinate international adoptions and approve foreign agencies wishing to conduct adoption in Kenya;
- (e) maintain and update from time to time a register of approved local and international adoption societies;
- (f) regulate fees charged by adoption societies for the processing of applications for adoption.

6. Meetings of the Committee

(1) The Adoption Committee shall hold at least twelve ordinary meetings in any given calendar year.

(2) The Secretary shall issue a fourteen days notice convening a meeting of the Adoption Committee and such notice shall set out in sufficient details matters to be discussed in the meeting.

(3) The Chairman shall preside at every meeting of the Adoption Committee and in his absence, the members present shall appoint one of them to preside over the particular meeting.

(4) Proceedings of the meeting of the Adoption Committee shall not be void only by reason of the absence of the Chairman from the meeting.

(5) The quorum of a meeting of the Adoption Committee shall be six members.

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(6) The Chairman may, at any time and on his own motion, or upon a written request duly signed by at least two members, convene a special meeting of the Adoption Committee.

(7) All provisions of these Regulations pertaining to ordinary meetings, save for the giving of notice, shall apply to special meetings as if they were ordinary meetings.

7. Signing authority

All letters and instruments written or made by the Adoption Committee, or on the authority of the Adoption Committee, and all decisions of the Adoption Committee, shall be signed under the hand of the Chairman and the Secretary.

Adoption Societies

8. Application for Registration of adoption society form

An application under section 177(2) of the Act, for registration of an adoption society shall be made in the form set out in the First Schedule.

9. Director to acknowledge application

The Director shall acknowledge receipt of every application for registration within fourteen days after the date of receipt.

10. Requirements for registration

(1) The Adoption Committee shall not accept an application under section 177(3)(a) of the Act unless the body seeking registration has satisfied the following conditions—

- (a) the body must be registered as a non-profit making organization, and such registration must have subsisted for a period of not less than twelve months preceding the date of application;
- (b) the body must have been involved in child-welfare activities or programmes recognised by the Director for a period of at least twelve months preceding the date of application;
- (c) the body must have the capacity and adequate resources to carry out adoption arrangements, which includes the following—
 - (i) an office and waiting room set in such a way that guarantees the privacy of the biological parents or guardians, child and the prospective adoptive parents;
 - (ii) holding facilities where a child offered for adoption can be best taken care of;
 - (iii) a fixed physical address and a fixed telephone number listed in the directory ordinarily compiled and/or issued by, or on the authority of, the telephone service provider or its agents, in the name of the body; any changes to these details shall be communicated to the Adoption Committee within thirty days from the date of change.

(2) The body seeking registration shall have a competent administrative team comprising of—

- (a) a qualified administrator with knowledge and experience in matters relating to children;
- (b) a qualified social worker with at least a bachelor's degree in social work, social sciences or a diploma in social work from a recognised institution of learning;
- (c) such support staff as may be necessary and adequate in the carrying out of the duties and functions of an adoption society.

(3) The body must have access to the services of a qualified medical practitioner duly registered as such under the Medical Practitioners and Dentists' Act (Cap. 253).

11. Certificate of Registration - form

The form set out in the Second Schedule is prescribed as the form of Certificate of Registration for the purposes of section 177(5) of the Act.

12. Renewal of registration

(1) Every registered adoption society shall apply for renewal of registration every twelve months after the date of initial registration or the date of the last renewal of registration, whichever is the case.

(2) An application for renewal of registration shall be made in the form set out in the Third Schedule.

13. Cancellation

(1) Without prejudice to the annual review of registration of an adoption society under section 177(5) of the Act, the Adoption Committee may, in any other case where it becomes reasonably expedient for the better carrying out of the objects of the Act, and shall, where there is manifest failure or refusal to comply with the provisions of the Act or these Regulations, cancel the registration of an adoption society, subject to sub-rule (2).

(2) An adoption society shall not have its registration cancelled unless it has been accorded a reasonable opportunity to make representations to the Adoption Committee regarding the intended cancellation.

(3) The Adoption Committee shall give to an adoption society a written notice of intention to cancel the registration of the society, and shall accordingly invite the society to make its representations within thirty days from the date of notice.

14. Notification of refusal or cancellation

The Director shall give to an adoption society a written notice of refusal of registration under section 177(3)(b), or cancellation of registration under regulation 12 above, within fourteen days after the date of such refusal or cancellation.

15. Appeal against refusal or cancellation of registration

(1) An appeal against a decision of the Adoption Committee to refuse or cancel the registration of an adoption society shall be made in the form set out in the Fourth Schedule.

(2) The appeal shall be delivered to the Minister within thirty days after the appellant is notified of the decision to refuse or cancel the registration.

16. Case committee

(1) Upon registration, an adoption society shall set up a committee (called a case committee), which shall comprise of not less than three and not more than five persons, one of whom shall be a trained social worker, and a list of members proposed for appointment to the case committee shall be submitted to the Adoption Committee for prior approval.

(2) Employees of the adoption society shall not be eligible to be appointed as members of the case committee.

(3) The adoption society shall provide a secretariat for the case committee.

17. Giving up child to an adoption society

Where the parent or guardian offers to place a child at the disposal of a registered society with a view to the child being adopted, the society—

- (a) shall furnish the parent or guardian with an explanatory memorandum in the form set out in the Fifth Schedule; and
- (b) shall not accept the child unless the parent or guardian has signed and delivered to the society a certificate of acknowledgement, which the society shall retain, in the form set out in the Fifth Schedule that he has read and understood the memorandum.

[Subsidiary]

18. Social inquiry and medical reports

(1) In the case of a child offered to be delivered by or on behalf of a registered adoption society into the care and possession of an adopter, the society shall—

- (a) make enquiries and obtain a social worker's report on the matters set out in the Sixth Schedule; and
- (b) obtain a medical report on the health of both the child and the adopter in the form set out in the Eighth Schedule.

(2) The reports obtained under this regulation shall be retained by the adoption society until the child attains the age of majority.

19. Placing a child with adopter

No child shall be delivered into the care and possession of an adopter by or on behalf of an adoption society until—

- (a) the case committee has considered the reports required under regulation 18;
- (b) the adopter has been approved by the case committee;
- (c) the adoptive parent has read and understood the explanatory memorandum for adopters set out in the Seventh Schedule, and has duly signed the certificate of acknowledgement attached to the memorandum;
- (d) the adopters, in the case of joint applicants, have been married for at least three years prior to the date of commencement of adoption arrangements.

20. Report and accounts of the adoption society

(1) Every adoption society shall, within twelve months after the date of its registration and thereafter at least once in every period of twelve months, furnish to the Director—

- (a) duly audited accounts and a balance sheet; and
- (b) an annual report in the form set out in the Ninth Schedule to these Regulations.

(2) For the purposes of subparagraph (a) of paragraph (1), the auditor shall be an independent person who is the holder of a practising certificate issued pursuant to section 21 of the Accountants Act (Cap. 531).

21. Care and supervision of children

(1) Every adoption society shall make adequate arrangements for the care and supervision of children who have been placed by their parents or guardians in the care of the society.

(2) Every child who is available for adoption and is not living under the direct control of the society shall, unless and until such child has been adopted, or the Director otherwise directs, be visited in the first month and at least once in every three months thereafter by a representative of the society, who shall report upon the case to the case committee, who may recommend appropriate action to be taken in the event that the child is not being taken care of properly.

International Adoptions

22. Interpretation

In this Part, unless the context otherwise requires—

“**foreign adoption society**” means a society other than a local adoption society, and which has been approved by the government of the receiving country;

“**Hague Convention**” means the Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption of 29th May, 1993;

“**local adoption society**” means a society approved under section 177 of the Act;

“receiving country” means the country where the adopted child will ordinarily reside and gain citizenship, and which are signatories to the Hague Convention.

23. Approval of foreign adoption society

(1) A foreign adoption society shall not initiate adoption arrangements in Kenya unless it has been approved by the Adoption Committee.

(2) An application for approval shall be made to the Adoption Committee and shall be accompanied by—

- (a) a certificate of approval by a competent authority of the receiving country; and
- (b) an undertaking to respect the applicable law of Kenya.

24. Application for international adoption

(1) An application for adoption by a foreign adoption society shall be made through a local adoption society and shall be accompanied by the documents set out in the Tenth Schedule.

(2) All documents submitted by a foreign adoption society shall be notarised or authenticated by the Ministry responsible for foreign affairs in the receiving country.

(3) Upon receipt of an application for adoption from a foreign adoption society, a local adoption society shall forward the same to the Adoption Committee within thirty days from the date of receipt.

25. Approval or rejection of application

(1) The Adoption Committee shall consider an application for international adoption and shall either approve or reject the same; a decision of the Adoption Committee shall be communicated to the local adoption committee within thirty days from the date such a decision is made.

(2) Where an approval is granted, a local adoption society shall communicate the same to the foreign adoption society within sixty days from the date of receipt of such approval, and such a communication shall be accompanied by—

- (a) a brief report on the children, if any, available for adoption at the time, who are matching the adopter's preferences;
- (b) information about the approximate length of time the adoption process may take, court filing fees, advocate's fees, administrative and accommodation charges, and any other relevant information; and
- (c) a copy of the undertaking in the Twelfth Schedule to these Regulations to be signed by the foreign adoption society before conclusion of the adoption process.

(3) Where an application for adoption is rejected, a local adoption society shall communicate the rejection to the foreign adoption society within sixty days from the date of receipt of such rejection, detailing the reasons for the same.

(4) Where an application for adoption has been rejected by the Adoption Committee, a foreign adoption society may submit another application for adoption within six months from the date of rejection of the previous application.

26. International adoptions - procedure and undertaking

(1) Where an application for international adoption is approved, the foreign adoption society shall arrange for the prospective adopter to travel to Kenya within three months from the date the foreign adoption society received the notification of approval.

(2) The local adoption society shall, when the prospective adopter arrives in Kenya, introduce the adopter to the children available for adoption who match the adopter's preference, and the adopter shall, where the adopter is willing to proceed with the adoption process, sign the undertaking set out in the Eleventh Schedule before commencement of adoption arrangements.

[Subsidiary]

(3) The child intended for adoption shall be placed in the care of the adopter in Kenya for three continuous months, and the local adoption society shall accordingly supervise the placement.

(4) Where an adopter completes the placement period to the satisfaction of the local adoption society, the local adoption society may assist the adopter in making an application to the High Court for an adoption order, and the approval of the Adoption Committee to the adoption arrangements shall form part of the bundle to be submitted in court:

Provided that an application to the High Court for an adoption order shall be made by the adopter or his advocate.

(5) Where the local adoption society is not satisfied with the conduct of the adopter during the placement period, it shall inform the Adoption Committee, which shall carry out investigations as to the suitability of the adopter (including making inquiries with the foreign adoption society) and shall communicate the result of such investigations to both the local and foreign adoption societies.

(6) If, upon conclusion of investigations conducted under paragraph (5) of this regulation the Adoption Committee decides to stop the adoption arrangements, it shall inform both the local and foreign adoption societies of the decision within a reasonable period.

27. Consequences of the grant of an adoption order

(1) Where the High Court grants an adoption order following an application by the adopter, the local adoption society shall notify the foreign adoption society accordingly within seven days from the date of the making of the order, and may assist the adopter to obtain the necessary travel documents for the child to facilitate departure from Kenya.

(2) A foreign adoption society shall send to the local adoption society reports on the progress being made by the adopted child in the receiving country (hereinafter referred to as "the progress report") once every three months during the first two years from the date of making of an adoption order, and annually thereafter, and shall continue sending such reports until the third annual progress report has been given or the child attains the age of majority, whichever comes earlier.

(3) Upon the grant of an adoption order, the file in respect of the case in which the order is made shall be closed and retained by the local adoption society upon receipt of the third annual progress report from the foreign adoption society on the adopted child.

28. Stoppage of adoption, arrangements and transfer of files

(1) The Adoption Committee shall stop ongoing adoption arrangements of any stage where a foreign adoption society breaches any of the provisions of the undertaking in the Twelfth Schedule, and shall bar the foreign adoption society from engaging in other adoption arrangements in Kenya for such period as the Adoption Committee may deem appropriate.

(2) Where a foreign adoption society is stopped or barred from engaging in adoption arrangements, it shall transfer all files relating to ongoing adoption arrangements in Kenya to another approved foreign adoption society and shall notify the local adoption society of such transfer within a reasonable time.

(3) Where there is no other approved foreign adoption society to which adoption files of a foreign adoption society that has been stopped or barred from engaging in adoption arrangements can be transferred, all ongoing adoption arrangements being undertaken by the deregistered society shall lapse and shall accordingly be stopped.

29. Registration of local adoption society for international adoption

(1) A local adoption society may apply to the Director for registration to undertake international adoptions.

(2) Form 1 of the Tenth Schedule is prescribed as the form of application for registration to undertake international adoptions.

(3) A local adoption society registered to carry out international adoptions shall submit an application for international adoption as if it is an application for local adoption but all provisions of these Regulations pertaining to suitability of adopters, travel arrangements for adopters, placement of children with adopters, the signing of undertakings, applying for and making of adoption orders and furnishing of progress reports (save that its progress reports shall be furnished to the Adoption Committee), which applies to adoption arrangements by a foreign adoption society, shall apply to such local adoption society as if it was a foreign adoption society.

Miscellaneous

30. Notification of placement of child

Every prospective adopter shall, forthwith upon a child being placed with him by any party other than an adoption society, notify the Director of such placement and of the date thereof.

31. Visits to a child delivered for adoption

(1) Where a child has been delivered into the care and possession of a prospective adopter, visits shall be made to the child at least once in every month—

- (a) in the case of a child so delivered by an adoption society, by a representative of that society; or
- (b) in any other case, by the Director or his authorized representative and for that purpose the prospective adopter shall allow access by such person to the child at any reasonable time.

(2) The representative of the adoption society or the Director shall report on such visits to the *guardian ad litem*, unless he is himself the *guardian ad litem* of the child.

(3) The provisions of this regulation are additional to and not in substitution for the provisions of regulation 21.

32. Visits upon a conditional adoption order

Where the court makes an adoption order conditional on the adopter accepting supervision and advice from an adoption society, a representative of such society shall visit the child at least once in every month during the continuance in force of the condition and for that purpose the adopter shall allow access by such person to the child at any reasonable time.

33. Stoppage of adoption arrangements general

Without prejudice to the powers of the Adoption Committee under regulations 13 and 28, the Adoption Committee shall stop ongoing adoption arrangements at any stage where there is a breach of the provisions of the Act, regulations made thereunder or any other law pertaining to adoption, and such arrangements shall only be commenced with again only where there is full compliance with the relevant statutory provisions, and only at the discretion of the Adoption Committee.

34. Transition

(1) Every adoption society that had been registered under the Adoption Act (Cap. 143) (now repealed) and that was deemed to continue as an adoption society by the Seventh Schedule to the Act shall be required to comply with these Regulations before renewal of its registration under regulation 12.

(2) The Adoption Committee established by the Children (Adoption) Regulations, 2004 (L.N. 16/2004) (now repealed) shall be deemed to continue as if it was established under these Regulations.

35. Offences

A contravention or failure to comply with any of the matters provided in these Regulations shall constitute an offence.

[Subsidiary]

36. Penalties

Any person convicted of an offence under these Regulations shall be liable to imprisonment for a term not exceeding ten months, or to a fine not exceeding fifty thousand shillings, or to both such imprisonment and such fine.

37. Fees

The fees payable under subsection (3) of section 169 of the Act shall be as set out in the Thirteenth Schedule.

38. Repeal

The Children (Adoption) Regulations, 2004 (L.N. 16/2004) are repealed.

FIRST SCHEDULE

[Rule 8.]

FORM OF APPLICATION FOR REGISTRATION OF AN ADOPTION SOCIETY

To: The Director of Children’s Services

I/We the undersigned being (a person) (persons) duly authorized on behalf of a society called hereby apply to have the said society registered as an adoption society under section 177 of the Act.

The following are particulars of the society—

- 1. Date of establishment
- 2. Full physical and postal address of the society’s administrative centre
- 3. (a) For what object(s) does the society exist?
- (b) Does it exist only for the above object(s)?
- (c) Does it apply the whole of its income in promoting the above objects?

[A copy of the instrument governing the society’s activities should be attached]

- *4. Full names, addresses and occupations or descriptions of all members of the committee controlling the activities of the society
- *5. Full names, addresses, occupations or descriptions and qualifications of members of the proposed case committee
- 6. Has any person taking part in the management or control of the society or any member of the society been convicted of an offence under the Children Act, or of a breach of any regulations made thereunder? (If so, give particulars.)
- *7. Full names, addresses and qualifications of all persons employed by the society, whether voluntary or paid, for the purpose of making any arrangement for the adoption of children
- 8. Copies should be attached of the society’s latest annual report and audited statement of accounts.

FIRST SCHEDULE—continued

I/We hereby declare that the above particulars are correct in every respect.

Signature:

Office held under the society:

Address:

Date:

SECOND SCHEDULE

[Rule 11.]

MINISTRY OF HOME AFFAIRS
CERTIFICATE OF REGISTRATION FOR AN ADOPTION SOCIETY

This is to certify that of P.O Box
..... situated in has been granted registration

*Attach separate list if necessary.

As an adoption society under section 177(5) of the Children Act, No. 8 of 2001, for the period
..... to

Issued on the day of 20.....

Registration number

Chairman, Director,
Adoption Committee Children's Services

THIRD SCHEDULE

[Rule 12.]

FORM OF RENEWAL FOR REGISTRATION OF AN ADOPTION SOCIETY

To: The Director, Children's Services

I/We the undersigned being (a person) (persons)
duly authorized on behalf of a society called

..... hereby apply to have the said society's registration renewed
under the Adoption Regulations.

The following are particulars of the society/body

1. Date of registration Registration number

2. Full physical and postal address of the society's administrative centre

3. (a) For what object(s) does the society exist?

(b) Does it exist only for the above object(s)?

(c) Does it apply the whole of its income in promoting the above object(s)?

[A copy of the instrument governing the society's activities should be attached]

*4. Full names, addresses and occupations or descriptions of all members of the committee
controlling the activities of the society

*5. Full names, addresses, occupations or descriptions and qualifications of members of the case
committee

Children

[Subsidiary]

THIRD SCHEDULE—continued

- *6. Has any person taking part in the management or control of the society or any member of the society been convicted of an offence under the Children Act, or of a breach of any regulations made thereunder? (If so, give particulars.)
- *7. Full names, addresses and qualifications of all persons employed by the society, whether voluntary or paid, for the purpose of making any arrangement for the adoption of children
- 8. Cases dealt with by the society during the year ended+

 - (a) Number of applications from persons wishing to adopt a child
 - (b) Number of children offered to the society with a view to adoption
 - (c) Number of children taken into children's homes under the direct control of the society pending adoption
 - (d) Number of children placed by the society pending adoption in foster homes or children's homes not under the direct control of the society
 - (e) Number of children placed with a view to adoption
 - (f) Number of adoption orders made in respect of children placed by the society
 - (g) Number of children dying from the time they have been identified to be suitable for adoption

- 9. (a) Number of children placed for adoption by the society and awaiting adoption orders at the end of the year.

 - (b) Number of children in children's homes under the direct control of the society at the end of the year.
 - (c) Number of children at the end of the year in foster homes or in children's homes in which they had been placed by the society but which are not under society's direct control.

- 10. Copies should be attached of the society's latest annual report and audited statement of accounts.

I/We hereby declare that the above particulars are correct in every respect.

Signature:

Office held under the society

Address:

Signature:

Office held under the society:

Address:

*Attach separate list if necessary.

+ Insert date on which last financial year ended.

FOURTH SCHEDULE

[Rule15.]

FORM OF APPEAL AGAINST REJECTION OF APPLICATION FOR REGISTRATION AS AN ADOPTION SOCIETY

To: The Minister for Home Affairs, Nairobi.

I/We the undersigned, on behalf of a society called, wish to appeal against the decision of the Adoption Committee rejecting our application for registration as an adoption society (attach copy of application) communicated to us by their letter attached herein dated on the following grounds:

(State grounds for appeal)

FOURTH SCHEDULE—continued

Name:

Signature:

Office held under the society: Address:

..... Name:

Signature:

Office held under the society: Address:

Date:

FIFTH SCHEDULE

[Rule 17.]

ADOPTION OF CHILDREN - EXPLANATORY
MEMORANDUM FOR BIOLOGICAL PARENT/GUARDIAN

1. If the court makes an adoption order, all your rights and duties with regard to the child will be transferred permanently to the adopters and in law the child will no longer be yours.
2. The court cannot make an adoption order without the consent of each parent or guardian of the child, unless that parent or guardian has abandoned, persistently failed to maintain or persistently ill-treated or neglected the child, or is incapable of giving consent (for instance, by reason of being insane), or is unreasonably withholding consent or cannot be found (written evidence should be given by an authorized officer that parents can not be traced or are unreasonably withholding consent.) Therefore, unless one of these things applies to you, an order cannot be made without your consent.
3. The court cannot make an adoption order without the consent of a child who has attained the age of 14 years.
4. Your consent shall be given in writing and signed in the presence of a witness and cannot be given until the child is six weeks old.
5. You may either consent to adoption by specific applicants, or to adoption by any persons whom the adoption society finds to be suitable either locally or internationally.
6. You may if you wish stipulate that your consent is given on condition that the child is brought up in a particular religious persuasion.
7. Where specific applicants have applied to adopt, either their names must appear on the form or, if they have stated that they do not want you to know who they are (as they are entitled to do), the form must refer to them by a number identifying them in the records of the adoption society or the Director of Children's Services, as the case may be.
8. Where the applicants are referred to by a number you are not allowed to be told who they are, but you are entitled to be given information as to what sort of people they are.
9. If you have given your consent but change your mind and want to get the child back, you will have to apply to the court for leave to remove the child from the care of the would be adopters; but you are not allowed to change your mind and withdraw your consent merely on the ground that you do not know the identity of the would be adopters.

[Subsidiary]

FIFTH SCHEDULE-continued

- 10. You are not allowed to change your mind and withdraw your consent once the court has made a final adoption order.
- 11. You are not allowed to receive or pay any money for the adoption unless the court agrees. This does not apply to a weekly payment to an adoption society for the maintenance of your child before the child goes to the adopters. An official receipt should be issued to you for any payment made.
- 12. If you have taken out an insurance policy for your child, the insurer will be able to tell you whether after the adoption order is made, the policy can be transferred to the adopters should they wish to continue it.

FORM OF CERTIFICATE OF ACKNOWLEDGEMENT

To: (insert name and address of adoption society.)

I/WE HEREBY CERTIFY that I/We have received from you a memorandum headed "Adoption of Children-Explanatory Memorandum for Biological Parent/guardian", from which I/we have detached this certificate of acknowledgement; and I/we further certify that I/we have read the memorandum and understood it as explained to me/us.

Name

ID No

Address

Telephone

Email

Signature

Date

In the presence of mother/guardian in the case of a minor parent:

Name

ID No

Signature

Date

SIXTH SCHEDULE

[Rule 18.]

FORM FOR SOCIAL INQUIRY

Particulars of the child

Full Names:

Date of Birth: Place of birth:

Name of hospital

If other specify:

Nationality: Race

Religion: Level of education: Class:

Name of school:

SIXTH SCHEDULE—continued

Any rights or interest in property: Yes/No If yes, give particulars
Any insurance effected in respect of the child:
Yes/No If yes give particulars

Particulars of the parents/guardian:

MOTHER

Full Names
Date of birth Place of birth
ID/Passport No.
Marital status (Indicate if married to the child's father)
Nationality Race
Religion
Address Telephone
Email
Residence
Level of education Occupation
Home District Division
Location Sub-location
Village Nearest landmark
Next of kin Relationship
Contact Address

Details of other children, (if any):

	Full Names	Age	Sex	Occupation
1.
2.
3.

Any history of hereditary or other diseases in the family? Yes/No.

If yes state:

Why is the child being offered for adoption?

Do you consent to the adoption? Yes/No. If no why

Signature Date

FATHER

Full Names
Date of Birth Place of birth
ID/Passport No.
Marital Status
Do you consent to the adoption?

If no, give reasons

Nationality Race
Religion
Address Telephone
Email Residence

Children

[Subsidiary]

SIXTH SCHEDULE—continued

Level of education Occupation

Home district Division

Location Sub-location

Village Nearest landmark

Details of other children (if any)—

	Full Names	Age	Sex	Occupation
1.
2.
3.

Any history of hereditary or other disease in your family? Yes/No If yes state:

Why is the child being offered for adoption ?

If you are married to the mother or if you have acquired parental responsibility under the provisions of section 25(1) of the Children Act, do you consent to the adoption?

If you don't consent, give reasons

.....

Father's Signature *Date*

GUARDIAN

Full Names

Date of Birth Place of Birth

ID/Passport No.

Marital Status

Nationality Race

Religion

Address Telephone

Email Residence

Education level Occupation

Home district Division

Location Sub-location

Village Nearest landmark

By whom were you appointed guardian?

How were you appointed guardian?

Do you consent to adoption? Yes/No

If you don't consent give reasons:.....

Why is the child being offered for adoption?

RELATIVES

Are there any relatives who have offered to provide a home for the child? Yes/No

If yes give details—

	Full Names	Relationship	Contact address
1.
2.
3.

Have they been informed of the proposed adoption? Yes/No

If no, give reasons

.....

SIXTH SCHEDULE—continued

OTHER PERSONS

Other persons liable to contribute to the support of the child—

Full Names Relationship Contact address

	Full Names	Relationship	Contact address
1.
2.
3.
Do they agree to adoption? Yes/No			
If no, give reasons			
.....			
.....			

Guardian's signature

Date

SEVENTH SCHEDULE

[Rule 19.]

EXPLANATORY MEMORANDUM FOR ADOPTERS

1. Once the court makes an adoption order in, your favour, you shall acquire all rights, duties, obligations and liabilities of a parent over the child, permanently, as if the child were a child born to you.
2. All such rights, duties, obligations and liabilities of the natural parent shall be extinguished permanently.
3. The adoption order is absolute and is irreversible.
4. For purposes of the jurisdiction of any court to make orders as to the legal custody, maintenance of, and the right of contact with the child, both you and your spouse shall stand to each other and to the child in the same relation as the lawful father and mother of the child, and the child shall stand to you in the same relation as to a lawful mother and father respectively.
5. An adopted child has all the inheritance rights as if he or she was born to you.
6. For purposes of any written law relating to marriage for the time being in Kenya, you, your children (if any) and the adopted child shall be deemed to be within the prohibited degree of consanguinity and therefore cannot enter into a marriage relationship.
7. Often the child may have been through traumatic experiences and will need you to provide a caring and secure family environment.
8. The child has a right to know that he is adopted, and has a right to know about his origin as soon as the child is able to understand.
9. You may also be asked to provide other forms such as medical forms, marriage and divorce certificate, citizenship certificate, police record authorization and previous assessment for placement of children, birth certificate and other information. You shall be required to furnish the adoption society with a full size photograph taken three months prior to the making of the application. For joint applicants, a photograph of the couple shall be required.
10. An application to the adoption society does not guarantee placement.
11. The child placed with you pending adoption order may be withdrawn from you.

Children

[Subsidiary]

12. Periodic home visits and supervision will be carried out by a representative of the adoption society while the child is placed with you pending an adoption order, and that you shall inform the adoption society in case of change of address, serious illness, or death of the child within 24 hours of the occurrence of the event.

13. You shall inform the adoption society in the event of death of a spouse, or change of marital status in case of joint application.

14. In the case of a joint application, the applicants must be married and such marriage must have subsisted for at least four years preceding the date of application.

FORM 1

FORM OF CERTIFICATE OF ACKNOWLEDGEMENT

To:- (insert name and address of adoption society.)

I/We HEREBY CERTIFY that I/we have received from you a memorandum headed "Explanatory Memorandum for Adopters" from which I/we have detached this certificate of acknowledgement; and I/we further certify that I/we have read the memorandum and understood it.

Signature Date
Address
Telephone Email

FORM 2

FORM FOR ENQUIRY ON PROSPECTIVE ADOPTER(S)

PARTICULARS OF FEMALE PROSPECTIVE ADOPTER

Full names
Physical Address (attach map)
Email address Telephone No
Postal address Nearest landmark
Date of birth Place of birth
ID/Passport No. Occupation
Marital status
Type of marriage (Christian, Islamic customary or other specify)
Form of marriage (polygamous, monogamous)
Date of marriage Place of marriage
If married, do you intend to make a joint application for an adoption order?
If no, give reasons

SEVENTH SCHEDULE—continued

Country of domicile
 Nationality Race
 Religion Immigration status
 Length of previous residence in Kenya
 Intended length of future residence in Kenya
 Income per month/other sources of income
 How far is the earning of the children living in the home included in this income?

PARTICULARS OF MALE PROSPECTIVE ADOPTOR

Full names
 Physical Address (attach map)
 Email address Telephone No
 Postal address Nearest landmark
 Date of birth Place of birth
 ID/Passport No.
 Occupation Marital status
 Type of marriage (Christian, Islamic customary or other specify)

 Form of marriage (polygamous, monogamous)
 Date of marriage Place of marriage
 If married, do you intend to make a joint application for an adoption order?
 If no, give reasons
 Country of domicile Nationality
 Race Religion
 Immigration status
 Length of previous residence in Kenya
 Intended length of future residence in Kenya
 Income per month/other sources of income
 How far is the earning of the children living in the home included in the income?

OTHER CHILDREN IN THE PROSPECTIVE ADOPTIVE FAMILY

	Full Names	Date of birth	Sex	Occupation
1.
2.
3.

How many of the children are living at home?

What is the opinion of the children on the proposed adoption?

Have you adopted a child(ren) before? Yes..... No

If yes, give details—

	Full Names	Date of birth	Sex	Occupation
1.
2.
3.

Children

[Subsidiary]

SEVENTH SCHEDULE—continued

Details of their health status
Name and address of the adoption society that arranged the adoption
Has any previous application for adoption been rejected. Yes/No
If yes give reasons

ACCOMMODATION AND CONDITION OF THE HOME

Description of the home
Number of bedrooms Source of water
Type of toilet/bathroom
Type of house (permanent/semi-permanent/traditional)
Owner occupier/rented
Assets/property
Liabilities (loan, mortgage etc)

Details of other people living in the home—

Table with 5 columns: Full Names, Age, Sex, Relationship, Occupation. Rows 1, 2, 3.

Are the people living in the home in apparent good health?
What child do you wish to adopt? Age Sex Race
Other (specify)
Would you welcome periodical visits by a representative of an adoption society for a limited period after the adoption order is made? Yes/No.
If no, give reasons Give names of

Table with 4 columns: Names, Title/occupation, Address, Telephone/email. Rows 1, 2, 3.

I certify that the information given above is true to the best of my knowledge
Name Signature Date

FORM 3

REFEREE INFORMATION ON PROSPECTIVE ADOPTERS

CONFIDENTIAL

Dear (name of referee)
RE: , (name of applicant)

The above named person(s) has/have applied to adopt a child under the care of this society and have given your name(s) as a referee. Any information you care to give will be treated with strictest confidentiality. Kindly answer the questions below and return the form to us either personally or by post at your earliest convenience.

Yours faithfully, (Name & Signature)
Director, Adoption Society.

SEVENTH SCHEDULE—continued

1. How long have you known the applicant(s)?
 2. Are you in any way related to them?
If yes, specify
 3. Do you consider the applicant(s) suitable to undertake the care of a child not their own? If no give reasons
 4. Is the relationship within the home happy (harmonious) as far as you are able to judge?
If no give details
 5. Do you know the religious persuasion of the applicant(s)?
If yes, specify
 6. Have the applicant(s) been convicted of any criminal offence?
If yes, give details
 7. Do you know whether the applicant(s) have a history of abusing children?
If yes give details
 8. You consider that a child placed in this home will be brought up against the background of stability and affection?
 9. In your opinion, do you think there's adequate income in this household to bring up a child? Give details
 10. Are the members of the household of good character?
If no, give details
 11. Are the adopters and members of the household in apparent good health?
 12. Any other remarks that would be relevant to considering this application
- Name
- Occupation

Signature Date

VERIFICATION OF APPLICATION

1. (a) Have the particulars given under the Sixth Schedule above been verified so far as possible?
(b) Have the particulars of the birth of the child, and of the death, marriage or separation of the parents, and of the marriage of theadopter(s) been confirmed by inspection of certificate of birth, death or marriage or the separation order?
2. Has the social worker of the adoption society interviewed the adopter(s)?
3. Has the home of the adopter(s) been inspected by the social worker?
4. Are the adopters and the members of their household of good character, have their references been taken?
5. (a) Are the adopters and the members of the household in good health?
(b) In case of the adopters is this supported by medical evidence as set out in Eighth Schedule?
6. (a) Has the child been seen by the adopters?
(b) Has the child been accepted by the adopter(s) with a view to adoption?
7. Has the desirability of maintaining contact with an adoption society and seeking its guidance been fully explained to the adopters?

[Subsidiary]

EIGHTH SCHEDULE

[Rule 18.]

PART A - MEDICAL PARTICULARS OF CHILD

(The medical report must be signed by a medical practitioner)

1. (a) Date of birth.
- (b) Has the child suffered from neonatal jaundice?
- (c) Weight at birth (state if premature).
- (d) Present weight.
- (e) Was the mother's confinement normal or instrumental?
2. State of nutrition (good, fair, poor).
3. (a) When did the child begin to walk?
- (b) When did the child begin to talk?
4. Has the child any infection of bones, muscles or joints?
5. Are there any evidences of paralysis?
6. What is the HIV status of the child and any other diseases such as hepatitis B and tuberculosis?
7. Has the child had fits? If so, state nature.
8. Is there, or has there been, any infection of the skin?
9. Is there, or has there been any infection of the eyes? Is the sight normal?
10. Has the child had any discharge from the ears, or any serious ear trouble, and can it hear well?
11. Are the nose and throat in healthy condition?
12. Is there any evidence of disease of heart, lungs, kidneys or liver?
13. Has the child normal control of bowels and bladder for its age?
14. Has the child had measles, chicken pox, whooping cough, mumps or poliomyelitis?
15. Has the child received the following immunizations—
 - B.C.G (against tuberculosis)
 - Pentavelant vaccination (against whooping cough, diphtheria and tetanus)
 - Tetanus toxoid
 - Measles
 - Other (state which)
16. Is the child's mental and physical development normal for its age?
17. Are behaviour, speech and articulation normal for its age?
18. If the child has been neglected or improperly fed, do you consider its constitution such that good nursing and proper care would make it suitable for adoption?
19. Give particulars of any condition not mentioned above about which you consider an adopter should be informed.

PART B - MEDICAL PARTICULARS OF PROSPECTIVE ADOPTER

(The medical report must be signed by a medical practitioner)

1. (a) Name of prospective adopter;
- (b) Date of birth;
- (c) Sex;
- (d) Address.
2. What is the HIV status of the prospective adopter?
3. Is the prospective adopter able to have natural children of his/her own and if not is the reason why he/she is unable to have such children known?
4. If any fertility tests have been made to the prospective adopter what were the results of such?

EIGHTH SCHEDULE—*continued*

- 5. Has the prospective adopter suffered/suffering from any of the following?—
 - (a) tuberculosis;
 - (b) chronic bronchitis or recurrent chest illness;
 - (c) cardiovascular disease;
 - (d) any form of rheumatism;
 - (e) any form of neurosis or mental disorder;
 - (f) epilepsy;
 - (g) genito-urinary disease;
 - (h) diabetes;
 - (i) any neurological disorder;
 - (j) leprosy;
 - (k) any illness which might shorten the expectation of life or cause recurrent disability.
- 6. Has the prospective adopter undergone any major surgical procedure?
- 7. Is there any relevant family history of mental or physical disease?
- 8. Is there any relevant abnormality in the following?
 - (a) cardiovascular system (blood pressure should be stated);
 - (b) respiratory system (if a chest x-ray is taken state date and result of such);
 - (c) urogenital system (state quantity of albumin and sugar in urine);
 - (d) abdomen and alimentary system;
 - (e) central nervous system;
 - (f) eyes and vision;
 - (g) ears and hearing;
 - (h) skin.
- 9. Is there normal use of limbs?
- 10. Does the prospective adopter appear mentally balanced and emotionally secure?
- 11. Are there any other facts, medical or otherwise, about the prospective adopter which should be known?

NINTH SCHEDULE

[Rule 20.]

FORM OF ANNUAL REPORT

Report to the Director, Children's Services,

From the adoption society called

for the financial year ended *

- 1. Full postal address of the society's administrative centre.
- 2. Has there been any change in the objects for which the society exists? Does it still apply the whole of its income in promoting those objects?
- +3. Full names, addresses and occupations or descriptions of all members of the committee controlling the activities of the society.
- +4. Full names, addresses, occupations or descriptions and qualifications of members of the case committee.
- 5. Has any person taking part in the management or control of the society or any member of the society been convicted of an offence under the Children Act, or of a breach of any regulations made thereunder? (If so, give particulars.)

Children

[Subsidiary]

NINTH SCHEDULE—continued

- +6. Full names, addresses and qualifications of all persons employed by the society whether voluntary or paid, for the purpose of making any arrangements for the adoption of children.
- 7. Cases dealt with by the society during the year ended *.....
 - (a) Number of applications from persons wishing to adopt a child.
 - (b) Number of children offered to the society with a view to adoption.
 - (c) Number of children taken into hostels under the direct control of the society or in a charitable children's institution pending adoption.
 - (d) Number of children placed by the society pending adoption in foster homes or hostels not under the direct control of the society.
 - (e) Number of children placed with a view to adoption.
 - (f) Number of adoption orders made in respect of children placed by the society.
- 8. (a) Number of children placed for adoption by the society and awaiting adoption orders at the end of the year.
 - (b) Number of children in hostels under the direct control of the society or in a charitable children's institution at the end of the year.
 - (c) Number of children at the end of the year in foster homes or in hostels in which they had been placed by the society but which are not under the society's direct control
- 9. A copy of the society's latest annual report is attached.

We hereby declare that the above particulars are correct in every respect.

Signature:

Office held under the society:

Address:

Signature:

Office held under the society:

Address:

Date:

* Insert date on which last financial year ended.

+ Attach separate list if necessary.

TENTH SCHEDULE

[Rule 24.]

REQUIREMENTS FOR FOREIGN ADOPTION

An application for adoption by a foreign adoption society should be accompanied by the following information on prospective adopter(s) and certified copies of his/their documents—

1. Passports.
2. Full size colour photographs.
3. Full size colour photographs of his/their children (if any).
4. Religion.
5. Occupation(s).

TENTH SCHEDULE—continued

- 6. Birth certificate(s).
- 7. Birth certificates of their children (if any).
- 8. Marriage certificate (if any).
- 10. Medical certificates (including information on the fertility of adopter(s).)
- 11. Social enquiry report from an official agency detailing preferences of the child to be adopted.
- 12. Two (2) references from responsible persons preferably the local religious leader, Commissioner for Oaths, Notary Public or relevant government department.
- 13. Affidavit from a reliable person(s) to take charge of the child in case of accident or death of the adoptive parents.
- 14. A report on financial means supported by official documents.
- 15. A report on fixed assets.
- 16. Record of convictions (if any).
- 17. Certificate of good conduct.
- 18. Consent from competent court or government authority permitting adopter(s) to adopt a foreign child.
- 19. Undertaking by a foreign adopter in the manner prescribed in the Eleventh Schedule.
- 20. Undertaking by foreign adoption society in the manner prescribed in the Twelfth Schedule

FORM 1

FORM OF APPLICATION BY LOCAL ADOPTION SOCIETY FOR REGISTRATION TO UNDERTAKE FOREIGN ADOPTIONS

To: The Director of Children’s Services,
Nairobi.

I/We the undersigned, being (a person) (persons) duly authorized on behalf of the adoption society named hereby apply to have the said society licensed to undertake international adoptions.

The following are the particulars of the society—

- 1. Serial number and date of registration.
- 2. Number of adoptions processed annually.
- 3. Names, addresses and qualifications of persons who will arrange for international adoptions in the society.
- 4. Reasons for intending to engage in international adoption.

1. Name:

Signature:

Office held under the society:

Address:

2. Name:

Signature:

Office held under the society:

Address:

Date:

Children

[Subsidiary]

ELEVENTH SCHEDULE

[Rule 26.]

UNDERTAKING BY ADOPTERS - FOREIGN ADOPTION

1. If the Kenyan court makes an adoption order, all the parental rights and duties of the biological parents in respect of the adopted child shall be transferred to us permanently.
2. We shall be required to treat the adopted child(ren) as if they were born to us in our marriage.
3. An adoption order is final and is binding during the lifetime of the child(ren) we shall adopt.
4. The adopted child(ren) shall have the right to inherit our property.
5. An adoption order cannot be recanted and we cannot thereafter give up the child(ren) owing to subsequent unforeseen behavioral or other changes in the child(ren).
6. The adoption society in our country (foreign adoption society) will provide annual follow up reports on the progress of the child to the adoption society in Kenya (local adoption society) for a period of three years from the date of arrival in the receiving country.
7. In order to accomplish the task in (6) above, we shall allow the representatives of the foreign adoption society to access the child(ren) at our home at any reasonable time.

WE HEREBY CERTIFY that we have read and understood the above undertaking and affix our signatures hereunder.

1. Full names.
 Address

Signature
Date
2. Full names.
 Address.

Signature
Date

TWELFTH SCHEDULE

[Rule 25.]

UNDERTAKING BY FOREIGN ADOPTION SOCIETY

We (insert name of society) undertake to do the following—

1. Carry out all activities pertaining to this adoption to its conclusion.
2. Explain the requirements and legal implications of adoption of a child.
3. Investigate the prospective adopters and prepare a Social Enquiry Report.
4. Collect and collate all the requisite information for transmission to the local adoption society.
5. Prepare the prospective adopter by sharing all the materials that shall have been sent by the local adoption society on the process of adoption in Kenya together with the details of what will be required of the adopters during their stay in Kenya.
6. Confirm that the Kenyan adoption order will be respected and recognized in the receiving country and that the adopted child will gain resident status.
7. Conduct visits to the adopter's family and to furnish the local adoption society with annual progress reports on the child for a period of three years from the date of arrival in the receiving country.

TWELFTH SCHEDULE—continued

9. In the event of death or a breakdown of the adopter's marriage, to ensure that the child enters into the care and possession of the named guardian or appointed fit person or authority.

Name of authorized official
Designation

Signed

In the presence of:
NOTARY PUBLIC

THIRTEENTH SCHEDULE

[Rule 35.]

FEES

	<i>Sh.</i>
(a) To search the index of the Adopted Children Register	200.00
(b) For a certified copy of an entry in that register	200.00

FOURTEENTH SCHEDULE

[L.N. 27/2011, Rule 27.]

CERTIFICATE OF CONFORMITY

This is to certify that the application for the adoption of the child whose particulars are stated below was made in accordance with the Hague Convention and the final adoption order was subsequently granted by a Judge of the High Court of Kenya sitting at
Kenya on the date indicated:

1. Full Names of child
Sex: Male [] Female []
Date of birth: day month year
Place of birth:
Habitual residence:
2. Date of approval or agreement by Central Authority of the receiving State or State of origin that the adoption may proceed:
3. Date of approval or agreement by Adoption Committee, Kenya that the adoption may proceed:
4. (a) Full Names of the adoptive father:
Date of birth: day month year
Place of birth:
Habitual residence:
(b) Full names of the adoptive mother:
Date of birth: day month year
Place of birth:
Habitual residence:

Children

[Subsidiary]

FOURTEENTH SCHEDULE—*continued*

- 5. Date of adoption order granted by Court:
- 6. This adoption has the effect of terminating the pre-existing legal parent-child relationship.
- 7. Certificate of Conformity No.
 Issued at this day of 20.....

Chairman, Adoption Committee: Secretary, Adoption Committee:
 Name Name

Signature *Signature*

Note.—This Certificate is not valid without the Official Seal of the Director of Children Services.

CHILDREN (CHARITABLE CHILDREN'S INSTITUTIONS) REGULATIONS, 2005

ARRANGEMENT OF REGULATIONS

Preliminary

Regulation

1. Citation.
2. Interpretation.

Registration

3. Registration of institutions.
- 3A. Duration and renewal of registration.
- 3B. Cancellation of registration.
4. Implementation of child welfare programmes.

Mission and Policy Statement and Children's Guide

5. Mission and policy statement.
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Welfare of Children

7. Promotion of welfare.
8. Child placement plan.
9. Food provided to the children.
10. Provision of clothing and personal necessities.
11. Contact and access to information.
12. Education, leisure activity and employment.
13. Religious observance.
14. Health needs of children.
15. Hazard and safety.
16. Complaints and representation.
17. Behaviour management policy.

Staffing

18. Appointment of person in charge.
19. Staffing of institutions.
20. Fitness of workers.
21. Employment of staff.

Records

22. Children's case records.
23. Other records.
24. Notable events.

Premises

25. Fitness of premises.
26. Fire outbreak precautions.

Management of Institutions

27. Visits by authorised persons.
28. Inspection by Area Advisory Council, inspection committee, etc.
29. Review of quality of care.
30. Regulations and guidance.

Children

[Subsidiary]

31. Financial position.

Miscellaneous

32. Notice of absence.

33. Notice of changes.

34. Offences.

35. Penalties.

SCHEDULES

FIRST SCHEDULE —	FORM OF APPLICATION FOR REGISTRATION OF A CHARITABLE CHILDREN'S INSTITUTION
SECOND SCHEDULE —	ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION
THIRD SCHEDULE —	CRITERIA FOR APPROVAL OF CHARITABLE CHILDREN'S INSTITUTIONS
FOURTH SCHEDULE —	FORM OF APPEAL AGAINST REJECTION OF APPLICATION FOR REGISTRATION AS A CHARITABLE CHILDREN'S INSTITUTION
FIFTH SCHEDULE —	CERTIFICATE OF REGISTRATION OF A CHARITABLE CHILDREN'S INSTITUTION
SIXTH SCHEDULE —	FORM FOR NOTIFICATION OF ESTABLISHMENT OF A CHILD WELFARE PROGRAMME
SEVENTH SCHEDULE —	CRITERIA FOR ESTABLISHMENT OF CHILD WELFARE PROGRAMMES
EIGHTH SCHEDULE —	CERTIFICATE OF APPROVAL OF CHILD WELFARE PROGRAMME
NINTH SCHEDULE —	MATTERS FOR INCLUSION IN THE MISSION AND POLICY STATEMENT
TENTH SCHEDULE —	INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING TO CARRY ON, MANAGE OR WORK AT AN INSTITUTION
ELEVENTH SCHEDULE —	INFORMATION TO BE INCLUDED IN THE CASE RECORDS OF CHILDREN ACCOMMODATED IN INSTITUTIONS
TWELFTH SCHEDULE —	OTHER RECORDS WITH RESPECT TO INSTITUTIONS
THIRTEENTH SCHEDULE —	EVENTS AND NOTIFICATION
FOURTEENTH SCHEDULE —	MATTERS TO BE MONITORED BY ADMINISTERING AUTHORITY

CHILDREN (CHARITABLE CHILDREN'S INSTITUTIONS) REGULATIONS, 2005

[L.N. 145/2005, L.N. 27/2007.]

*Preliminary***1. Citation**

These Regulations may be cited as the Children (Charitable Children's Institutions) Regulations, 2005 and shall come into force on such date as the Minister may, by notice in the *Gazette*, appoint.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

“**administering authority**” means a person or body of persons registered to run an institution;

“**institution**” means a charitable children's institution as defined in sections 58 and 59 of the Act;

“**placing authority**” means a Children's Court or the Department of Children's Services, and includes authorised officers as defined in the Act.

(2) Institutions shall be run in a way consistent with the guiding and overriding rights contained in the Convention on the Rights of the Child, 1989, and the African Charter for the Rights and Welfare of the Child, to ensure maximum survival and development of children, non-discrimination of children, respecting of children's right to air opinions and securing of the best interests of children.

*Registration***3. Registration of institutions**

(1) Any person or body of persons that intends to operate an institution shall apply for registration of the institution to the Council through the Area Advisory Council operating in their area in the form set out in the First Schedule, and where such a person or body of persons wish to operate more than one institution, it shall present separate applications for each institution.

(2) An application for registration shall be accompanied by the following—

- (a) in the case of an unincorporated body of persons, a list of trustees of that body;
- (b) in the case of a body corporate or any other body which is by law required to be registered, a certificate of registration;
- (c) copy of the proposed mission or policy statement of the institution, which shall comprise of matters set out in the Ninth Schedule.

(3) The Area Advisory Council shall acknowledge receipt of every application for registration in the form set out in the Second Schedule, within thirty days after the date of receipt, and shall indicate the date (which shall not be later than thirty days from the date of receipt) when the Area Advisory Council shall inspect the premises of the institution to ascertain whether it meets the requirement set out in the Third Schedule.

(4) The Area Advisory Council shall—

- (a) if it finds that the requirements of the Third Schedule have been complied with after inspection, place the application for registration before the Director, together with its recommendations, within fourteen days from the date of inspection;
- (b) if after inspection it finds that the requirements of the Third Schedule have not been complied with, undertake the following—

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- (i) make recommendations for improvement to the administering authority, for implementation before the next inspection, if the continued operation of the institution does not pose a danger to the welfare of the children; or
- (ii) recommend to the Director for the immediate closure of the institution and make arrangements for placing the children accommodated in the institution in other institutions:

Provided that if a decision is made under subparagraph (ii), the administering authority may within thirty days from the date of closure, appeal to the Minister.

(5) The appeal to the Minister shall be made in the form set out in the Fourth Schedule.

(6) The Director shall, when all the requirements for registration have been complied with and after consultation with the Council recommend to the Minister to issue a Certificate of Registration to the successful applicant.

(7) The form set out in the Fifth Schedule is prescribed as the form of Certificate of Registration for the purposes of subregulation (6).

(8) No organisation shall operate as an institution unless it has been registered under these Regulations.

(9) Without prejudice to the generality of the foregoing, every institution that had been registered under the Children and Young Persons Act (Cap. 141) (now repealed) shall be deemed to continue as if it had been registered under these Regulations but shall be required to comply with the Regulations and renew its registration accordingly within one year of coming into force of the Regulations.

3A. Duration and renewal of registration

(1) Without prejudice to the provisions of regulation 3B, the registration of an institution under regulation 3 shall be for a period of three years.

(2) Every institution registered under these Regulations shall apply for renewal of registration in a prescribed manner upon expiry of three years from the date of initial registration, or the date of the last renewal of registration, whichever is the case.

[L.N. 27/2007, r. 2.]

3B. Cancellation of registration

(1) The Minister may, upon recommendation of the Council, cancel the registration of an institution—

- (a) if a programme undertaken by such institution is cancelled in accordance with section 71 of the Act;
- (b) when there is manifest failure or refusal to comply with the provisions of the Act or these Regulations;
- (c) in any other case where it becomes reasonably expedient for the better carrying out of the objects of the Act and Regulations made thereunder.

(2) An institution shall not have its registration cancelled under subregulation (1)(b) or (c) unless it has been accorded a reasonable opportunity to make representations to the Council on the intended cancellation of registration.

(3) The Council shall give to an institution a written notice of its intention to have the registration of such an institution cancelled, and shall accordingly invite the institution to make its representations within thirty days from the date of such notice.

(4) The Director shall give to an institution a written notice of cancellation of registration within fourteen days from the date of cancellation.

(5) An institution whose registration has been cancelled under this regulation may make a fresh application for registration in accordance with regulation 3.

[L.N. 27/2007, r. 2.]

4. Implementation of child welfare programmes

(1) For purposes of section 69 of the Act, any registered institution that wishes to implement a child welfare programme shall notify the Area Advisory Council in the form prescribed in the Sixth Schedule.

(2) The Area Advisory Council shall acknowledge receipt of such notification in writing indicating to the institution the time of inspection by the Area Advisory Council, if necessary, within fourteen days from the date of notification.

(3) The Area Advisory Council shall submit to the Director details (with recommendations) of the proposed child welfare programme within fourteen days of the date of notification, and the Director shall then place the same before the Council.

(4) The Council shall either—

- (a) approve the whole or part of the programme if it complies with the requirements set out in the Seventh Schedule, and shall issue the institution with a Certificate of Approval prescribed in the Eighth Schedule; or
- (b) disapprove the whole or part of the programme if it does not comply with the requirements set forth in the Seventh Schedule.

Mission and Policy Statement and Children's Guide

5. Mission and policy statement

(1) The administering authority shall compile in relation to an institution a written statement (hereinafter referred to as "the mission and policy statement") which shall comprise of matters set out in the Ninth Schedule.

(2) The administering authority shall provide a copy of the mission and policy statement to the Area Advisory Council and shall make a copy of it available upon request for inspection by—

- (a) any person who works at the institution;
- (b) any child accommodated in the institution;
- (c) the parent of any child accommodated in the institution;
- (d) the placing authority of any child accommodated in the institution;
- (e) any other person who may be authorised by law.

In this regulation, references to a child who is being accommodated in the institution include a child who is being considered for accommodation in the institution.

(3) The administering authority shall produce a guide to the institution (hereinafter referred to as "the children's guide") which shall include—

- (a) a summary of the institution's mission and policy statement;
- (b) a summary of the complaints procedure; and
- (c) postal and physical addresses of the Area Advisory Council, the area's District Children's Officer and any other agency that offer services to children.

(4) The children's guide shall be produced in a form appropriate to the age, understanding and common needs of the children to be accommodated at the institution.

(5) The administering authority shall provide a copy of the children's guide to the Area Advisory Council and to each child accommodated in the institution upon admission.

(6) The administering authority shall ensure that the institution is at all times run in a manner consistent with its mission and policy statement.

6. Review of mission and policy statement and children's guide

(1) The administering authority shall keep the children's guide and mission and policy statement under review from time to time and where appropriate, make such revisions as it deems necessary.

(2) Where revisions are made to the children's guide and mission and policy statement, the administering authority shall notify the Area Advisory Council of such revisions within

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thirty days of making the revisions, and shall accordingly furnish the Area Advisory Council with a copy of the revised children's guide and mission and policy statement.

(3) Where the children's guide is revised, the administering authority shall provide a copy of the revised copy to each child accommodated in the institution.

Welfare of Children

7. Promotion of welfare

(1) The administering authority shall make suitable arrangements to ensure that an institution is operated so as to—

- (a) promote and make proper provision for the welfare of children accommodated there; and
- (b) make proper provision for the holistic care, education, supervision and treatment of children hosted there.

(2) The administering authority shall make suitable arrangements to ensure that an institution is managed—

- (a) in a manner which respects the privacy and dignity of children accommodated there; and
- (b) with due regard to gender, religious beliefs, racial origin, tribal, cultural and other background, and any special needs including disability of children accommodated there.

8. Child placement plan

(1) The administering authority shall, before providing accommodation to a child in an institution, or if that is not possible, as soon as possible thereafter, prepare, after conducting a needs assessment of the child, a written plan (hereinafter referred to as "the placement plan") for the child, setting out in particular—

- (a) how, on a day to day basis, he will be cared for, and his welfare safeguarded and promoted by the institution;
- (b) the arrangement for his healthcare and education;
- (c) any arrangements made for contact with his parents, relatives and friends; and
- (d) arrangements for the child's care after the child leaves the institution, which shall include his home environment adjustment plan.

(2) The administering authority shall review the placement plan annually, and where appropriate revise it as it deems necessary.

(3) In preparing or reviewing the placement plan, the administering authority shall so far as practicable, having regard to the child's age and understanding, seek and take account of the child's views.

(4) The administering authority shall so far as is practicable—

- (a) ensure that the placement plan is consistent with any plan for the care of the child prepared by his placing authority; and
- (b) comply with requests made by the child's placing authority to—
 - (i) provide it with information concerning the child; and
 - (ii) provide a suitable representative to attend any meetings it may hold concerning the child.

(5) The administering authority shall at all times ensure that all children accommodated at the institution have the requisite court orders.

9. Food provided to the children

(1) The administering authority shall ensure that children accommodated in the institution are provided with—

- (a) food which—

- (i) is served in adequate quantities and at appropriate intervals;
 - (ii) is properly prepared, wholesome, balanced and nutritious;
 - (iii) is suitable for their needs; and
 - (iv) is sufficiently varied;
- (b) access to fresh, clean, drinking water at all times.

(2) The administering authority shall ensure that any special dietary needs of a child accommodated in the institution, which is due to health, religion, race, tribe or cultural background is met.

10. Provision of clothing and personal necessities

(1) The administering authority shall ensure that children accommodated in the institution are appropriately and adequately clothed and shall ensure the clothing meets their needs.

(2) The administering authority shall provide all necessary facilities and resources to ensure that the personal necessities of each child accommodated in the institution are met paying due regard to the child's age, gender and any other special needs.

11. Contact and access to information

(1) The administering authority shall—

- (a) promote the contact of each child with his parents, relatives and friends in accordance with the arrangements set out in his placement plan; and
- (b) ensure that suitable facilities are provided within the institution for any child accommodated there to meet privately at any reasonable time, giving due regard to the institution's programme of activities, with his parents, relatives, or any person authorised by law.

(2) The administering authority shall ensure that children accommodated at an institution are provided at all reasonable times and as far as practicable, with access to relevant facilities for their communication with the outside world.

(3) Subject to regulation 17(6)(c), the administering authority may impose such restrictions, prohibitions or conditions upon a child's contact and communication if it is satisfied it is necessary for the purpose of safeguarding or promoting the welfare of the child in question, and where this is done the reasons thereof shall be recorded in the child's case records.

12. Education, leisure activity and employment

(1) The administering authority shall promote the educational attainment of children accommodated in an institution, in particular by ensuring that—

- (a) the children make use of educational facilities appropriate to their age, aptitude, needs, interests and potential;
- (b) the routine of the institution is organised so as to further children's participation in education, including private study; and
- (c) effective links are maintained with any schools attended by children accommodated in the institution.

(2) The administering authority shall promote extra-curricular activities and ensure that children accommodated in the institution are—

- (a) encouraged to develop and pursue appropriate leisure activities; and
- (b) provided with appropriate play, recreational, and leisure facilities.

(3) Where any child in an institution has attained the age where he is no longer required to receive compulsory full-time education, the administering authority shall assist with the making of, and giving effect to, the arrangements made for his education, training and employment with due regard to the child's views.

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13. Religious observance

The administering authority shall ensure that each child accommodated in an institution, so far as practicable—

- (a) attend the services of;
- (b) receive instruction in; and
- (c) observe any requirement (whether as to dress, diet or otherwise) of, the religious persuasion to which he belongs:

Provided that no child shall be forced to observe or participate in religious activities which are not of the child's persuasion.

14. Health needs of children

(1) The administering authority shall promote and protect the health of the children accommodated in an institution.

(2) In particular the administering authority shall ensure that—

- (a) each child has access to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services as he may require;
- (b) each child is provided with such individual support, aids and equipment as the child may require as a result of any particular health or special needs he may have;
- (c) each child is provided with such individual support and advice on health and personal care issues appropriate to his needs and wishes, and that female children are provided with appropriate and adequate sanitary facilities;
- (d) at all times and depending on the number of children, at least one person on duty at the children's institution has a suitable first aid qualification;
- (e) any person appointed to the position of nurse at the institution is a registered nurse.

15. Hazard and safety

The administering authority shall ensure that—

- (a) all parts of the institution to which children have access are free from hazards to their safety;
- (b) activities in which children participate are so far as reasonably practicable free from avoidable risks;
- (c) unnecessary risks to the health or safety of children accommodated in the home are eliminated,

and shall make suitable arrangements for all children, and persons working at the institution to be trained in first aid and disaster preparedness and management.

16. Complaints and representation

(1) The administering authority shall establish a written procedure for considering complaints made by or on behalf of children accommodated in the institution.

(2) The procedure shall, in particular, provide—

- (a) for an opportunity for informal resolution of the complaint at an early stage;
- (b) that no person who is a subject of a complaint takes any part in its consideration other than, if the administering authority considers it appropriate, at the informal resolution stage only;
- (c) for dealing with complaints about the person in charge and/or persons in authority;
- (d) for complaints made by person acting on behalf of a child;
- (e) for arrangements for the procedure to be known and copies be availed to—

- (i) children accommodated in the institution;
- (ii) their parents;
- (iii) placing authority; and
- (iv) persons working in the institution.

(3) The administering authority shall ensure that a written record is made of any complaint, the action taken in response, and the outcome of investigation (if any).

(4) The administering authority shall ensure that—

- (a) children accommodated in the institution are enabled to make a complaint or representation; and
- (b) no child is subject to any reprisal for making a complaint or representation.

17. Behaviour management policy

(1) The administering authority shall develop a policy (hereinafter referred to as “the behaviour management policy”) for the maintenance of good behaviour of children accommodated in the institution.

(2) The behaviour management policy shall outline—

- (a) measures of control, restraint and discipline;
- (b) reward measures for the children’s good behaviour;
- (c) persons other than the person in charge authorised to use the measures;
- (d) events, occasions, acts or omission that would invite the use of such measures;
- (e) the procedures to be undertaken, giving a child a chance to be heard, before the measures are undertaken.

(3) The administering authority shall provide a copy of the behaviour management policy to—

- (a) the child upon admission to the institution;
- (b) the parents or guardians of the child; and
- (c) the Area Advisory Council.

(4) The administering authority shall—

- (a) keep the behaviour management policy under review, and where appropriate revise it as it deems necessary; and
- (b) notify the Council of any such revisions within twenty-eight days from the date of revision.

(5) The administering authority shall ensure that within twenty-four hours of the use of any measure of control, restraint or discipline in an institution, a written record is made in a volume kept for the purpose which shall include—

- (a) the name of the child concerned;
- (b) details of the child’s behaviour leading to the use of the measure;
- (c) a description of the measure used;
- (d) the date, time and location of the use of the measure, and in the case of any form of restraint, the duration of the restraint;
- (e) the name of the person using the restraint;
- (f) the effectiveness and any consequences of the use of the measure; and
- (g) the signature of the person authorised to make the record.

(6) The following shall not be used as a disciplinary measure on children accommodated in an institution—

- (a) any form of corporal punishment;
- (b) any punishment relating to the consumption or deprivation of food or drink;

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- (c) any restriction, other than one imposed by a court or in accordance with regulation 11(3) on—
 - (i) a child's contact with his parents, relatives or friends;
 - (ii) visits to him by his parents, relatives or friends;
 - (iii) a child's communication with any persons authorised by law to contact the child in accordance with regulation 11(1)(b);
- (d) any requirement that a child wear any distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment;
- (f) the intentional deprivation of sleep;
- (g) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
- (h) any intimate physical examination of the child;
- (i) the withholding of any aids or equipment needed by a disabled child;
- (j) any measure which involves—
 - (i) any child in the imposition of any measure against any other child; or
 - (ii) the punishment of a group of children for the behaviour of an individual child;
- (k) any measures which are degrading, dehumanising or cruel.

*Staffing***18. Appointment of person in charge**

(1) The administering authority shall appoint a person (to be known as "the person in charge") to manage an institution.

(2) A person shall not manage an institution unless he is fit to do so and shall be deemed as such if—

- (a) he is of integrity and good character;
- (b) having regard to the size of the institution, its mission and policy statement, and the number and needs (including any needs from any disability) of the children accommodated there—
 - (i) he has the qualifications, skills and experience necessary for managing the institution; and
 - (ii) he is physically and mentally fit to manage the institution;
- (c) full and satisfactory information is available in relation to him on matters specified in the Tenth Schedule.

19. Staffing of institutions

(1) The administering authority shall ensure that there is at all times, having regard to—

- (a) the size of an institution, the mission and policy statement, the number and the needs (including any needs arising from disability) of the children accommodated there; and
- (b) the need to safeguard and promote the health and welfare of the children accommodated in the institution,

a sufficient number of suitably qualified, competent and experienced persons working at an institution and shall at all times ensure the following persons are employed—

- (i) qualified social worker(s)
- (ii) person in charge of preparation of food as per regulation 9
- (iii) person in charge of the health of children accommodated in the institution.

(2) The administering authority shall ensure that the employment of any person on

voluntary or temporary basis at the institution will not prevent children from receiving such continuity of care as is reasonable to meet their needs.

20. Fitness of workers

- (1) The administering authority shall not—
 - (a) employ a person to work at an institution unless the person is fit to work at an institution; or
 - (b) allow a person who is employed by another person (other than the administering authority of the institution) working at the institution in close and regular contact with the children accommodated there, to work in the institution if he is not fit to do so.
- (2) For the purposes of subregulation (1), a person is not fit to work at an institution unless—
 - (a) he is of integrity and good character;
 - (b) he has the qualifications, skills and experience necessary for the work he is to perform;
 - (c) he is physically and mentally fit for the purposes of the work he is to perform; and
 - (d) full and satisfactory information is available in relation to him in respect of matters outlined in the Tenth Schedule.
- (3) The administering authority shall ensure that—
 - (a) any offer of employment to a person is subject to subregulation (2)(d) being complied with in relation to that person; and
 - (b) unless subregulation (4) applies, no person starts work at an institution until such time that subregulation (2)(d) has been complied with in relation to him.
- (4) Where the following conditions apply, the administering authority may permit a person to start work at an institution notwithstanding subregulation (3)(b)—
 - (a) the administering authority has taken all reasonable steps to obtain full information in respect of all the matters listed in the Tenth Schedule in respect of that person, but the inquiries in relation to any of the matters listed in subregulations (3) to (6) of the Tenth Schedule are incomplete;
 - (b) full and satisfactory information in respect of that person has been obtained in relation to the following—
 - (i) subregulation (1) of the Tenth Schedule;
 - (ii) except where subregulation (4) above applies, subregulation (2) of the Tenth Schedule;
 - (iii) where subregulation (4) above applies, subregulation (7) of the Tenth Schedule;
 - (c) the administering authority considers that the circumstances are exceptional;
 - (d) pending receipt of, and satisfying himself with regard to, any outstanding information, the administering authority ensures that the person is appropriately supervised while carrying out his duties.

21. Employment of staff

- (1) The administering authority shall employ staff in accordance with the prevailing labour regulations and shall—
 - (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
 - (b) provide all employees with a job description outlining their responsibilities.
- (2) The administering authority shall operate a disciplinary procedure which shall, in particular—

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- (a) provide for the suspension of an employee where necessary in the interest of the safety or welfare of children accommodated in the institution; and
 - (b) provide that failure on the part of an employee to report an incident of abuse, or suspected abuse, of a child accommodated in the institution is a ground on which disciplinary proceedings may be instituted.
- (3) The administering authority shall ensure that all persons employed by it—
- (a) receive appropriate training, supervision and appraisal; and
 - (b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

*Records***22. Children's case records**

- (1) The administering authority shall maintain in respect of each child who is accommodated in an institution a record in permanent form which shall—
- (a) include the information, documents and records specified in the Eleventh Schedule relating to that child;
 - (b) be kept up to date; and
 - (c) be signed and dated by the author of each written record.
- (2) The record mentioned in subregulation (1) shall not be disclosed to any person except in accordance with—
- (a) any provision of, or under, or by virtue of, any law authorising such access; or
 - (b) any court order authorising access to such records.
- (3) The record mentioned in subregulation (1) shall be—
- (a) kept securely in the institution so long as the child to whom it relates is accommodated there; and
 - (b) thereafter retained in a secure place.

23. Other records

The administering authority shall maintain in an institution such records as are specified in the Twelfth Schedule and shall ensure that they are kept up to date at all times.

24. Notable events

- (1) If, in relation to an institution, any of the events listed in column 1 of the table in the Thirteenth Schedule takes place, the person in charge shall without delay notify the persons indicated in respect of the event in column 2 of the table.
- (2) The administering authority shall, without delay, notify the parent of any child accommodated in an institution of any incident affecting the child's welfare, unless to do so is not reasonably practicable or would place the child's welfare at risk.
- (3) Any notification made orally in accordance with this regulation shall be confirmed in writing within a reasonable period.

*Premises***25. Fitness of premises**

- (1) The administering authority shall not use premises for purposes of an institution unless they are in a location, and of physical design and layout, which are suitable for the purpose of achieving the aims and objectives set out in the institution's mission and policy statement.
- (2) The administering authority shall ensure that all parts of the institution used by children are—
- (a) well lit, ventilated and adequately heated or cooled if necessary;
 - (b) secure from unauthorised access;

- (c) suitably furnished and equipped;
- (d) kept clean and decorated in a child-friendly manner and reasonably maintained;
- (e) of good construction and kept in good structural repair externally and internally as per laid down standards of building and construction; and
- (f) equipped with what is reasonably necessary, and adapted as necessary, in order to meet the needs arising from the disability of any child with disability accommodated in the institution so as to enable him to live as normal a life as possible.

(3) The administering authority shall ensure the environment around the institution is clean and shall make suitable arrangements for the disposal of general and clinical waste:

Provided that children shall not be used in the disposal of clinical waste or in any manner that exploits them.

(4) The administering authority shall ensure that there are, within the institution for use by children accommodated there in conditions of appropriate privacy—

- (a) a sufficient number of wash basins, showers or baths with a constant supply of clean water; and
- (b) a sufficient number of toilets or ablutions,

for the number, age and gender of children accommodated there.

(5) The administering authority shall provide for the number and needs of children accommodated in the institution—

- (a) sufficient and suitable kitchen, kitchen equipment and utensils;
- (b) adequate facilities for preparation and storage of food.

(6) The administering authority shall as far as is practicable ensure that there are, within an institution, adequate facilities for laundering linen and clothing, and, for children wishing to do so, to wash, dry and iron their own clothes.

(7) The administering authority shall ensure that there is provided within an institution—

- (a) adequate communal space for sitting, playing, recreation and dining; and
- (b) such facilities for private study as are appropriate to the age and educational needs of the children accommodated.

(8) The administering authority shall ensure that each child is provided with sleeping accommodation which is—

- (a) suitable to his needs, including his need for privacy; and
- (b) equipped with furniture, storage facilities, lighting, bedding and other furnishings including windows suitable to his needs.

(9) The administering authority shall ensure that no child shares a bedroom or sleeping quarters with an adult, nor a child who is of the opposite gender or of a significantly different age to him.

(10) The administering authority shall provide persons working at the institution with—

- (a) suitable facilities and accommodation, other than sleeping accommodation, including—
 - (i) facilities for the purposes of changing clothes;
 - (ii) storage facilities;
- (b) sleeping accommodation where the provision of such accommodation is needed in connection with their work at the home.

26. Fire outbreak precautions

(1) The administering authority shall—

- (a) take adequate precautions against the risk of fire outbreaks, including the provision of suitable fire fighting equipment;

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- (b) provide adequate means of escape in the event of a fire outbreak;
- (c) make adequate arrangements for—
 - (i) detecting, containing and extinguishing fire outbreaks;
 - (ii) for giving warnings of a fire outbreak;
 - (iii) for evacuation in the event of a fire outbreak;
 - (iv) for the maintenance of all fire fighting equipment; and
 - (v) for reviewing fire outbreak precautions, and testing fire fighting equipment at suitable intervals;
- (d) make arrangements for persons working at the institution to receive suitable training in fire outbreak prevention;
- (e) ensure, by means of fire drills and practices at suitable intervals, that persons working at the institution and, so far as practicable, children accommodated there, are aware of the procedure to be followed in the case of a fire outbreak.

(2) To achieve the requirements in subregulation (1), the person in charge shall, where possible, consult with the relevant fire fighting authorities.

*Management of Institutions***27. Visits by authorised persons**

(1) Where the administering authority is not itself carrying on the day to day running of the institution, it shall make arrangements for the institution to be visited at least once every month by an authorised person who shall satisfy himself that the institution is managed in the best interests of the children accommodated there.

(2) The person authorised to make a visit to an institution shall furnish a report to the administering authority after every visit he makes, and the administering authority shall forward the report to the Area Advisory Council.

28. Inspection by Area Advisory Council, inspection committee, etc.

For purposes of sections 67 and 68 of the Act, the administering authority shall ensure at all times that inspection of an institution by an Area Advisory Council, inspection committee or an authorised officer is carried out smoothly, and shall provide all the relevant information required and ensure that all areas are accessible, and that all persons required for interviewing purposes are available.

29. Review of quality of care

- (1) The administering authority shall establish and maintain a system for—
 - (a) monitoring the matters set out in the Fourteenth Schedule at appropriate intervals; and
 - (b) improving on the quality of care provided in the institution.

(2) The administering authority shall provide the Area Advisory Council with a report in respect of any review conducted by it for the purposes of subregulation (1) and make a copy of the report available on request to children accommodated in the institution, their parents and placing authority.

(3) The system referred to in subregulation (1) shall provide for consultation with children accommodated in the home, their parents and placing authority.

30. Regulations and guidance

The administering authority shall ensure that a copy of these Regulations (and of any amendments thereof) are kept in the institution and made available on request to—

- (a) any person working in the institution;
- (b) any child accommodated in the institution; and
- (c) the parent or guardian of any child accommodated in the institution.

31. Financial position

(1) The administering authority shall run an institution in such manner as is likely to ensure that the institution will be financially viable for the purpose of achieving the aims and objectives set out in its mission and policy statement:

Provided that the administering authority shall notify the Area Advisory Council of any intention of winding up the institution or any foreseeable circumstances that may lead to the winding up of the institution.

(2) It shall be an offence for the administering authority to use children accommodated at an institution in any exploitative way in the name of raising funds for the institution.

(3) The administering authority shall—

- (a) ensure that adequate accounts are maintained and kept up to date in respect of an institution;
- (b) provide a copy of the audited accounts to the Council at its request.

(4) The administering authority shall provide the Area Advisory Council with such information as it may require for the purpose of considering the financial viability of the institution, including—

- (a) the annual audited accounts of the institution certified by a person who is a holder of a practising certificate issued pursuant to section 21 of the Accountants Act (Cap. 531);
- (b) information as to the financing and financial resources of the institution;
- (c) a statement from the bank expressing an opinion as to the institution's financial standing.

Miscellaneous

32. Notice of absence

(1) Where the person in charge or any other person involved in the day to day running of an institution proposes to be absent from the institution for a period of twenty-eight days or more, the administering authority shall give notice in writing to the Area Advisory Council through the District Children's Officer of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in subregulation (1) shall be given not later than thirty days before the proposed absence commences, or within such shorter period as may be agreed with the Area Advisory Council, and the notice shall specify with respect to the proposed absence—

- (a) its length or expected length;
- (b) the reason for it;
- (c) the arrangements which have been made for running the institution; and
- (d) the name, address and qualifications of the person who will be responsible for the home during the absence.

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within seven days from the date of such absence specifying the matters mentioned in subregulation (2)(a) to (d).

(4) Where the person in charge has been absent from an institution for a continuous period of twenty eight days or more, and the Area Advisory Council has not been informed of such absence, the administering authority shall without delay give notice in writing to the Area Advisory Council specifying the matter mentioned in subregulation (2)(a) to (d).

(5) Upon return to duty, the person in charge shall notify the Area Advisory Council of his return to duty not later than seven days from the date of return.

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33. Notice of changes

The administering authority shall give notice in writing to the Area Advisory Council as soon as it is practicable to do so if any of the following events take place or are proposed to take place—

- (a) change of management of the institution;
- (b) where the administering authority is an organisation (non-governmental or religious), if—
 - (i) the name of the organisation is changed;
 - (ii) there is any change of director, manager or other similar office in the organisation;
 - (iii) there is to be any change in the identity of any individual;
- (c) where the administering authority is an individual, if a trustee in bankruptcy is appointed, or he makes a composition or arrangement with his creditors;
- (d) the premises of the institution are significantly changed or extended, or additional changes are made.

34. Offences

A contravention or failure to comply with any of the matters provided in these Regulations shall constitute an offence.

35. Penalties

Any person convicted of an offence under these Regulations shall be liable to imprisonment for a term not exceeding twelve months, or to a fine not exceeding fifty thousand shillings, or to both such imprisonment and such fine.

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SCHEDULES

FIRST SCHEDULE

[Regulation 3.]

FORM OF APPLICATION FOR REGISTRATION OF A CHARITABLE CHILDREN'S INSTITUTION

Type of organisation (NGO, religious, etc.):

Year of inception:

Name of institution:

Physical address:

Postal address: Telephone No.:

E-mail:

Name of Chairman (or person of similar office):

Postal address: Telephone No.:

E-mail:

Name of person in charge:

Postal address: Telephone No.

E-mail:

Does the institution already host children? Yes No

If yes, what is the present capacity? (List total number of children): Boys

Girls

If no, what is the intended capacity? (List total number of children): Boys

Girls

I/We hereby make application for registration as a charitable children's institution. I/We have attached all relevant documents and information hereto.

Name: Designation:

Signature: Date:

FOR OFFICIAL USE ONLY

Received by: Date:

.....

(Name, designation, signature)

Application approved: Yes No

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SECOND SCHEDULE

[Regulation 3.]

ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION

Date

This is to acknowledge and notify (name of organisation) of P.O. Box that we are in receipt of your application for registration as a children’s charitable institution and we will be inspecting the institution on

Thank you
Yours faithfully.

.....
District Children’s Officer

THIRD SCHEDULE

[Regulation 3.]

CRITERIA FOR APPROVAL OF CHARITABLE CHILDREN’S INSTITUTIONS

1. Show proof of financial stability and sustainability.
2. Must have a mission and policy statement.
3. Adequate premises to meet objectives set out in the mission and policy statement.
4. Adequate staffing to meet needs and objectives of the institution.
5. If it is a non-governmental or religious organisation, it must show proof of registration.
6. If it is an individual or body unincorporated, it must show a list of trustees.
7. Must accommodate or have capacity to accommodate at least twenty children.

FOURTH SCHEDULE

[Regulation 3.]

FORM OF APPEAL AGAINST REJECTION OF APPLICATION FOR REGISTRATION AS A CHARITABLE CHILDREN’S INSTITUTION

To: The Minister for Home Affairs,
Nairobi.

I/We the undersigned, on behalf of (name of organisation), wish to appeal against the decision of the Director rejecting our application for registration as a charitable children’s institution (attach copy of application) communicated to me/us by a letter attached herein dated on the following grounds:
(State grounds for appeal)

FOURTH SCHEDULE—continued

Name of Chairman (or person of similar office)

Signature

Address

Name of person in charge

Signature

Address

Date

FIFTH SCHEDULE

[Regulation 3, L.N. 27/2007.]

CERTIFICATE OF REGISTRATION OF A CHARITABLE CHILDREN'S INSTITUTION

This is to certify that

(name of organization)

of P.O. Box

situated in

(registered office or location)

has been granted registration as a charitable children's institution under regulation 3 (1) of the Children (Charitable Children's Institutions) Regulations, 2005 for a period of three years from to

Issued on the day of 20

Registration No.

Minister for Home Affairs

SIXTH SCHEDULE

FORM FOR NOTIFICATION OF ESTABLISHMENT OF A CHILD WELFARE PROGRAMME

M/s of P.O. Box duly registered as a charitable children's institution do hereby notify the Area Advisory Council of our intention to implement a child welfare programme whose details are given hereunder.

Name/title of intended programme(s):

Objectives

Main objective:

Specific objectives:

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SIXTH SCHEDULE—continued

Mode of Operation

Area(s) of operations:

Target group(s):

Intended period of operation:

Name of Chairman (or person of similar office):

Signature: Date:

Name of person in charge:

Signature: Date:

SEVENTH SCHEDULE

[Regulation 4.]

CRITERIA FOR ESTABLISHMENT OF CHILD WELFARE PROGRAMMES

1. Must be established by a registered charitable children’s institution.
2. Must show proof of resources, financial, human and otherwise, for running the programme.
3. The programme must be relevant to the institution’s mission and policy objectives, and must satisfy specific needs and be in the best interest of children accommodated in the institution.

EIGHTH SCHEDULE

[Regulation 4.]

CERTIFICATE OF APPROVAL OF CHILD WELFARE PROGRAMME

National Council for Children’s Services

P.O. Box.....

Nairobi

This is to certify that (name of organisation)

has been approved to implement whole/part(s) of child welfare programme as indicated hereunder, in accordance with section 69(1) of the Children Act (No. 8 of 2001).

Part(s) of Child Welfare Programme approved:

.....
.....
.....

.....

Chairperson of Council

Date

NINTH SCHEDULE

[Regulation 5.]

MATTERS FOR INCLUSION IN THE MISSION AND POLICY STATEMENT

1. A statement of the overall aims of the institution, and the objectives to be attained with regard to children accommodated in the institution.

2. A statement of the facilities and services to be provided to children accommodated in the institution.
 3. The name and address of the person in charge.
 4. The relevant qualifications and experience of the person in charge.
 5. The number, relevant qualifications and experience of persons working in the institution, and if the workers are of the same gender, a description of the means whereby the home will promote appropriate role models of both genders.
 6. The arrangements for the supervision, training and development of employees.
 7. The organisational structure of the institution.
 8. The following details—
 - (a) the age-range, gender and number of children for whom it is intended that accommodation should be provided;
 - (b) whether it is intended to accommodate children who are disabled, have special needs or any other special characteristics; and
 - (c) the range of needs (other than those mentioned in subparagraph (b)).
 9. Any criteria used for admission to the institution, including the institution's policy and procedures for emergency admissions, if the institution provides for emergency admissions.
 10. If the institution provides or is intended to provide accommodation for more than twenty children, a description of positive outcomes intended for children in an institution of such size, and of the institution's strategy for counteracting any adverse effects arising from its size on the children accommodated there.
 11. The arrangements made to protect and promote the health of the children accommodated in the institution.
 12. The arrangements for the promotion of the education of the children accommodated in the institution, including facilities for private study.
 13. The arrangements to promote children's participation in recreational, sporting and cultural activities.
 14. The arrangements made, for the consultation with the children accommodated, about the operation of the institution.
 15. The arrangements for the prevention and protection of children against abuse.
 16. The fire precautions and any other emergency procedures in the institution.
 17. The arrangements for the children's religious instructions and observance.
 18. The arrangements for contact between a child and his parents, relatives and friends.
 19. The arrangements for dealing with complaints.
 20. The arrangements for dealing with reviews of placement plans.
 21. The type of accommodation, including the sleeping accommodation, provided, and, where applicable, how children are to be grouped, and in what circumstances they are to share bedrooms.
 22. A description of the institution's policy in relation to anti-discriminatory practice as respects children and their rights.
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Children

[Subsidiary]

TENTH SCHEDULE

[Regulation 18.]

INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING
TO CARRY ON, MANAGE OR WORK AT AN INSTITUTION

1. Proof of identity including a recent photo.
2. A certificate of good conduct from the police and details of any criminal offences a person may have been charged with in a court of law, particularly those outlined in the Third Schedule to the Act.
3. Three written references, including a reference from the person's most recent employer, if applicable.
4. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended.
5. Documentary evidence of any qualifications.
6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

ELEVENTH SCHEDULE

[Regulation 22.]

INFORMATION TO BE INCLUDED IN THE CASE RECORDS
OF CHILDREN ACCOMMODATED IN INSTITUTIONS

1. The child's name and any name by which the child has previously been known, other than a name used by the child prior to adoption.
2. The child's date of birth and gender.
3. The child's religious persuasion, if any.
4. The child's background information and home particulars immediately before entering the institution.
5. The statutory provisions under which he is provided with accommodation.
6. The date and circumstances of all absences of the child from the institution, including whether the absence was authorised and any information relating to the child's whereabouts during the period of absence.
7. The date of, and reason for, any visit to the child whilst in the institution and reasons for the prohibition, control, restrictions or conditions placed upon a child's contact with parents, friends or any other person authorised by law.
8. A copy of any statement of special educational needs maintained in relation to the child.
9. The date and circumstances of any measure of control, restraint or discipline used on the child.
10. Any special dietary or health need of the child.
11. The name, address and telephone number of any school or learning institution attended by the child.
12. Every school or learning institution's report received in respect of the child while accommodated in the institution.
13. Arrangements for, including any restrictions on, contact between the child, his parents and any other person.

14. A copy of any plan for the care of the child prepared by his placing authority, and of the placement plan.
15. The date and result of any review of the placing authority's plan for the care of the child, or of his placement plan.
16. Details of any accident or serious illness involving the child while accommodated in the institution.
17. Details of any immunisation, allergy, or medical examination of the child and of any medical or dental need or treatment of the child.
18. Details of any health examination or development test conducted with respect to the child or in connection with his school.
19. Details of any medicines kept for the child in the institution, including any medicines which the child is permitted to take himself, and details of the administration of any medicine to the child.
20. The dates on which any money or valuables are deposited by or on behalf of a child for safekeeping, and the dates on which any money is withdrawn, and any other valuables are returned.
21. The address, and the type of any establishment or accommodation, to which the child goes when he ceases to be accommodated in the institution.

TWELFTH SCHEDULE

[Regulation 23.]

OTHER RECORDS WITH RESPECT TO INSTITUTIONS

1. A record in the form of a register showing in respect of each child accommodated in an institution—
 - (a) date of his admission to the institution;
 - (b) date on which he ceased to be accommodated there;
 - (c) address prior to being accommodated in the institution;
 - (d) address on leaving the institution;
 - (e) his placing authority;
 - (f) the statutory provision under which he is accommodated.
2. A record showing in respect of each person working at the institution—
 - (a) full name;
 - (b) gender;
 - (c) date of birth;
 - (d) home address;
 - (e) qualifications relevant to, and experience of, work involving children;
 - (f) whether he works at the home full-time or part-time (whether paid or not), and if part-time, the average number of hours worked per week; and
 - (g) whether he resides at the institution.
3. A record of any persons who reside or work at any time at the institution, who are not mentioned in the records kept in accordance with paragraph 1 or 2.
4. A record of all deaths and requisite documents, and accidents occurring in the institution, or to children whilst accommodated at the institution.
5. A record of the receipt, disposal and administration of any medicine to any child.
6. A record of every fire drill or fire alarm test conducted, with details of any deficiency noted.

Children

[Subsidiary]

7. A record of all money deposited by a child for safekeeping, together with date on which that money was withdrawn, or the date of its return.
8. A record of all valuables deposited by a child and the date of their return.
9. A record of all accounts kept in the institution.
10. A record of menus served.
11. A copy of the staff duty roster for persons working at the institution and a record of the actual rosters worked.
12. A daily programme of events occurring in the institution.
13. A record of all visitors to the institution and to the children accommodated in the institution, including the names of visitors and reasons for the visit.

THIRTEENTH SCHEDULE

[Regulation 24.]

EVENTS AND NOTIFICATION

Column 1 <i>Event:</i>	Column 2 <i>To be notified to:</i>				
	<i>Director/District Children's Officer</i>	<i>Placing Authority</i>	<i>Police</i>	<i>Health Authority</i>	<i>Parent</i>
Death of a child accommodated in the institution.	yes	yes	yes	yes	yes
Serious injury or accident sustained by a child in the institution.	yes	yes			yes
Outbreak of any infectious disease which in the opinion of the medical practitioner attending to the children at the institution is serious enough to be notifiable.	yes	yes		yes	yes
Allegation that a child has committed a serious offence.		yes	yes		
Serious incident necessitating calling the police.	yes	yes			
Absconding/escape by a child.	yes	yes			
Any serious complaint about the home or persons working there.	yes	yes			
Investigation and outcome of any child protection enquiry of a child.	yes	yes			

FOURTEENTH SCHEDULE

[Regulation 29.]

MATTERS TO BE MONITORED BY ADMINISTERING AUTHORITY

1. In respect of each child accommodated in the institution, compliance with the placing authority's plan for the care of the child (where applicable) and the placement plan.
 2. The deposit and issue of money and other valuables handed in for safekeeping.
 3. All accidents and injuries sustained in the institution or by children accommodated there.
 4. All illnesses of children accommodated in the institution.
 5. All allegations or suspicions of abuse in respect of children accommodated in the institution and the outcome of any investigation.
 6. Staff recruitment records and conduct of required checks for new workers in the institution.
 7. Visitors to the institution and to children in the institution.
 8. Notifications to the events in the Thirteenth Schedule.
 9. Any unauthorised absence from the institution of a child accommodated there.
 10. The use of measures of control, restraint and discipline in respect of children accommodated in the institution.
 11. Risk assessment for health and safety purposes and subsequent action taken.
 12. Medicines, medical treatment and first aid administered to any child accommodated in the institution.
 13. In the case of qualifying school, the standards of educational provisions.
 14. Duty rosters of persons working at the institution, and the rosters actually worked.
 15. The institution's daily programme of events.
 16. Fire drills and tests of fire equipment.
 17. Records of appraisal of employees.
 18. Minutes of staff meetings.
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CHILDREN (EXEMPTION) ORDER, 2013

[L.N. 206/2013.]

1. This Order may be cited as the Children (Exemption) Order, 2013.
2. The provisions of sections 177(1), (2), (3), (4), (5), (9), (10), (11) and (12) of the Act shall not apply to the organization specified in the Schedule with effect from the date of commencement of the Act.

SCHEDULE

The Child Welfare Society of Kenya
