

THE CHILDREN (CHARITABLE
CHILDREN'S INSTITUTIONS)
REGULATIONS, 2005

(Legislative Supplement No. 53)

LEGAL NOTICE NO. 145

THE CHILDREN ACT, 2001
(NO. 8 OF 2001)

IN EXERCISE of the powers conferred by section 72 of the Children Act, 2001, the Vice President and Minister for Home Affairs, in consultation with the National Council for Children's Services, makes the following Regulations –

1. 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. (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 authorized 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 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 interest of children.

Registration of
Institutions –

Form (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 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 requirements 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 –

(i) make recommendations for improvement to the administering authority from 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 paragraph (ii), the administering authority may within thirty days from the date of closure appeal to the Minister.

(5) The appeal of 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 purpose of paragraph (6).

(8) No organization 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 (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.

4. (1) For purpose 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 party of the programme if it does not comply with the requirements set fourth in the Seventh Schedule.

Mission and Policy Statement and Children's Guide

Mission and Policy
Statement

5 (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 nay child accommodated in the institution;
- (d) the placing authority of any child accommodated in the institution;
- (e) any other person who may be authorized 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 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 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 revision within 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. (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 respect 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 accommodate there

Children

placement plan (8) (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 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 it 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. (1) The administering authority shall ensure that the children accommodated in the institution are provided with -

- (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 culture background is met.

10. (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 nay other special needs.

11 (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 persons authorized by law.

(2) The administering authority shall ensure that children accommodated at an institution are provided at all reasonable time 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 restriction, 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. (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, interest and potential;
- (b) the routine of the institution is organized 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) encourage 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.

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

Religious
Observance

- (a) attend the services of;
- (b) receive instructions 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. (1) The administering authority shall promote and protect the health of the children accommodated in an institution.

Health needs of
Children

(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 provide with such individuals 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.

Hazard and

Safety, 15. 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.

Complaints and Representation

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

- (i) children accommodated in the institutions;
- (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. (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

Behaviour
Management
Policy

(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 authorized to use the measures;
- (d) events, occasions, acts or omission that would invite the use of such measures;
- (e) the procedure 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 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) 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 authorized to make the record.

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

- (a) any form of corporal punishment;
- (b) any punishment relating to the consumption or deprivation of food or drink;
- (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 person authorized 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) the withholding of any aids or equipment needed by a disabled child;
- (k) any measures 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 behaviour of an individual child;

any measures which are degrading, dehumanizing or cruel.

Staffing

Appointment of Person in Charge

18. (1) The administering authority shall appoint a person (to be know as “the person in charge”) to manage an institution.

(2) A persona 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 accommodation there –
 - (i) he has the qualification, 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 in available in relation to him on matters specified in the Tenth Schedule.

Staffing of

Institutions. 19. (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 accommodation there;
- (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 experience 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 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 form receiving such continuity of care as is reasonable to meet their needs.

20 (i) The administration 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 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 paragraph(I), 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 purpose of 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 paragraph (2)(d) being complied with relation to that person; and

(b) unless paragraph(4) applies, no person starts work at an institution until such time that paragraph(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(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 inquiries in relation to any of the matters listed in paragraph(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) paragraph(I) of the Tenth Schedule;

- (ii) expect where paragraph (4) above applies, paragraph(2)of the Tenth Schedule;
- (iii) where paragraph (4) above applies, paragraph(7) of the Tenth Schedule;
- (iv) (c)the administering authority considers that the circumstances are exceptional;
- (v) (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.(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-

(a)provide for the suspensionof employee where necessary in the interest of the safety or welfare of children accommodated in the situation; and

(b)provide that failure on the part of an employee to report an incident of abuse, or suspended 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 obtain further qualifications appropriate to the work they perform.

Records

22 (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 upto date; and

(c) be signed and dated by the author of each written record.

(2)The record mentioned in paragraph(1) shall not be disclosed to any person except in accordance with-

(a)any provision of, or by virtue of,any law authorizing such access;or

(b)any court order authorizing access to such records.

(3)The record mentioned in paragraph(1) shall be-

(a)kept secured in the institution so long as the child to whom it relates is accommodated there; and

(b) thereafter retained in a secure place.

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

24(1)If, in relation to an institution, any of the events listed in column of the table in the Thirteen 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.(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-

(2) well lit, ventilated and adequately heated or cooled if necessary;

(b) Secure from unauthorized 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:

Provide 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, 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-

(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 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 home.
- 26(1) The administering authority shall-
- (a) take adequate precautions against the risk of fire outbreaks, including the provision of suitable fire fighting equipment.
 - (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
 - (iii) 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 in the institution and, so far as practicable, children accommodated there, are aware of procedure to be followed in the case of a fire outbreak.
- (2) To achieve the requirements in paragraph (1), the person in charge shall, where possible, consult with the relevant fire fighting authorities.

Management of Institutions

- 27.(1) When the administering authority is not itself carrying on visits., 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 authorized person who shall satisfy himself that the institution is managed in the best interests of the children accommodated there.
- (2) The person authorized 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. 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 authorized 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 (1) The administering authority shall establish and maintain a system for-
- (a) Monitoring the matters set out in the Fourteenth schedule at appropriate intervals
 - (b) improving on the quality of care provided in the institution