

**CHILD CARE ACT**  
**NO. 74 OF 1983**

[ASSENTED TO 15 JUNE, 1983]  
[DATE OF COMMENCEMENT: 1 FEBRUARY, 1987]

*(English text signed by the State President)*

**as amended by**

Special Courts for Blacks Abolition Act, No. 34 of 1986  
[with effect from 1 August, 1986]

Child Care Amendment Act, No. 86 of 1991

Abolition of Restrictions on the Jurisdiction of Courts Act, No. 88 of 1996  
[with effect from 22 November, 1996]

Child Care Amendment Act, No. 96 of 1996

Welfare Laws Amendment Act, No. 106 of 1997  
[with effect from 1 April, 1998]

Adoption Matters Amendment Act, No. 56 of 1998

Child Care Amendment Act, No. 13 of 1999

**ACT**

**To provide for the establishment of children's courts and the appointment of commissioners of child welfare; for the protection and welfare of certain children; for the adoption of children; for the establishment of certain institutions for the reception of children and for the treatment of children after such reception; and for contribution by certain persons towards the maintenance of certain children; and to provide for incidental matters.**

CHAPTER 5  
PLACES OF SAFETY, CHILDREN'S HOMES AND PLACES OF CARE

**28. Places of safety—**

- (1) The Minister may, with the concurrence of the Minister of Finance, out of moneys appropriated by Parliament for the purpose establish and maintain places of safety for the reception, custody, observation, examination and treatment of children under this Act, and the detention of children awaiting trial or sentence.
- (2) Any place of safety or place of detention established under section 38 of the Children's Act, 1960 (Act No. 33 of 1960), and which is in existence at the commencement of this section, shall as from that commencement be deemed to be a place of safety established under this section of this Act.

**28A. Secure care facilities**

The Minister may, with the concurrence of the Minister of Finance, out of monies appropriated by Parliament for that purpose, establish and maintain secure care facilities for the reception and secure care of children awaiting trial or sentence.

**30. Registration and classification of children's homes and places of care.—**

- (1) No child may be received in any children's home (other than a children's home maintained and controlled by the State) unless that children's home is managed by an association of persons consisting of not fewer than seven members and has been registered under this section, or otherwise than in accordance with the conditions on which that children's home has been so registered.
- (2) No child may be received in any place of care (other than a place of care maintained and controlled by the State) unless that place of care has been registered under this section, or otherwise than in accordance with the conditions on which that place of care has been so registered.
- (2A) No child may, save as prescribed, be received in any shelter unless that shelter has been registered under this section, or otherwise than in accordance with the conditions on which that shelter has been so registered.
- (3) Application for the registration of a children's home, a place of care or a shelter shall be made to the Director-General in the prescribed manner, and the Director-General may—
  - (a) before considering any such application, require that he or she be furnished with any information in connection with the application concerned or the proposed children's home, place of care or shelter which he or she may desire to obtain;

- (b) reject any such application or, if he or she is satisfied that the children's home, place of care or shelter complies with the prescribed requirements and that it will be so managed and conducted that it will be suitable for the reception, care and bringing-up or for the reception, care and custody of children, grant the application either unconditionally or on such prescribed and other conditions as he or she may deem fit, and issue to the applicant a certificate of registration in the prescribed form.
- (4) The Director-General may, at the time of registration of any children's home, place of care or shelter or at any time thereafter, classify any such children's home, place of care or shelter or may after due notice to the person in whose name the relevant certificate of registration was issued, amend any earlier classification, and any such classification may differ according to the sex or age or to the physical, mental or spiritual needs of the children in respect of whom the children's home, place of care or shelter is being maintained and according to whether it is children who were dealt with under this Act or under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (5) Any children's home or place of care which immediately before the commencement of this section was registered and classified under section 42 of the Children's Act, 1960 (Act No. 33 of 1960), shall as from that commencement be deemed to be registered under this section of this Act as a children's home or place of care, as the case may be, and to be so classified under this section of this Act.
- (6) Any person who contravenes or fails to comply with any provision of this section shall be guilty of an offence.

### **31. Inspection of children's homes and places of care.**

- (1) A social worker, a nurse or any other person, authorized thereto by the Director-General, or any commissioner, may enter any children's home, place of care, shelter or place of safety in order to—
  - (a) inspect that children's home, place of care, shelter or place of safety and the books and documents appertaining thereto;
  - (b) observe and interview any child therein, or cause such child to be examined by a medical officer, psychologist or psychiatrist.
- (2) Any social worker, nurse or other person so authorized shall be furnished with a certificate to that effect, signed by the Director-General, which he or she, when acting in terms of subsection (1), shall produce at the request of any manager or staff member of the children's home, place of care, shelter or place of safety concerned.
- (3) Any person who obstructs or hinders any social worker, nurse or other person so authorized or any commissioner in the performance of any function mentioned in subsection (1), or who fails to produce any child, book or document whose production a social worker, nurse or other person

so authorized or any commissioner has demanded, shall be guilty of an offence.

- (4) The social worker, nurse or other person so authorized, or the commissioner, shall submit a report to the Director-General after the performance of a function referred to in subsection (1).
- (5) The powers of the Director-General on receipt of a report referred to in subsection (4) shall be as prescribed.

### **32. Cancellation or surrender of certificate of registration.**

- (1) (a) A certificate of registration issued under section 30 (3) may at any time be cancelled by the Minister or may at any time be surrendered to the Minister, but no such certificate shall be so cancelled except after not less than one month's written notice of the intention to cancel that certificate has been given to the person in whose name it was issued, and after consideration by the Minister of any representations which may be submitted in pursuance of such notice.  
  
(b) Written notice shall be given of any cancellation or surrender of a certificate of registration.
- (2) (a) The cancellation or surrender of a certificate of registration shall take effect on the date specified in the document whereby notice is given of the cancellation or surrender.  
  
(b) Unless the Minister and the person in whose name the certificate of registration was issued agree on the date, the date mentioned in paragraph (a) shall not be earlier than a date three months after the date upon which notice of the cancellation or surrender was given.
- (3) The managers of a children's home or shelter shall within three months after written notice has been given of the cancellation or surrender of the certificate of registration of that children's home or shelter in terms of subsection (1), transfer to his or her parents or guardian or to any children's home or other suitable place approved by the Minister, every child in such first-mentioned children's home or shelter other than a child placed in the custody of that children's home under this Act.
- (4) After the cancellation or surrender of the certificate of registration of any children's home in terms of this section, the Minister shall act under section 34, or under section 37, in respect of every child who was placed in the custody of that children's home under this Act and who was in that children's home at the time of the cancellation or surrender of the certificate.

### **60. Regulations.**

- (1) The Minister may make regulations—
  - (a) prescribing the form of any application, authority, certificate, consent, notice, order, process, register, summons or subpoena to be made, given, issued or kept in terms of this

Act, and any other form required in carrying out the provisions of this Act;

- (b) as to the organization and maintenance of children's homes established under section 29 (1), the constitution of their boards of management, the appointment, resignation and discharge of members of such boards, the powers and duties of such boards and the manner in which they shall function, and the care, control and bringing up of children in such homes;
  - (c) as to the procedure relating to the registration of children's homes, places of care and shelters under section 30, the requirements with which they shall comply and the cancellation and surrender of certificates of registration issued under that section;
  - (d) as to the classification of children's homes, places of care and shelters registered under section 30, and the amendment of such classification;
  - (e) as to the care, control, bringing up and training of pupils in institutions, shelters and places of safety;
  - (eA) as to the search of children in places of safety;
  - f. prescribing the conditions on which leave of absence may be granted to foster children and pupils in institutions;
  - g. prescribing rules of procedure for any proceedings in children's courts and for any proceedings in magistrates' courts under Chapter 7;
  - h. as to the method of registration of orders of adoption, including the appointment of a registrar of adoptions and his powers and duties and the particulars regarding any adoption that may be disclosed and, with the concurrence of the Minister of Finance, the fees to be paid for an order of adoption or for a certified copy thereof;
  - i. prescribing, with the concurrence of the Minister of Finance, the circumstances in which and the conditions on which the grants or contributions mentioned in section 56 will be made, the amounts or rates of such grants or contributions and methods of accounting therefor;
  - j. as to the rendering of foster care services;
  - k. as to any matter which in terms of this Act is required or permitted to be prescribed by regulation, and generally as to any matter which he may deem it necessary or expedient to prescribe in order to achieve the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.
- (2) Any regulations under paragraph (j) of subsection (1) may be made with retrospective effect from a date determined with the concurrence of the Minister of Finance.
- (3) Different regulations may be made under subsection (1) in respect of different areas or in respect of different categories or classes of persons, institutions and places of care.

- (4) Regulations made under subsection (1) may prescribe penalties for any contravention of or failure to comply with their provisions, not exceeding a fine of R200.