

CONTENTS • INHOUD

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICE		
Justice and Constitutional Development, Department of		
<i>General Notice</i>		
1159 Child Justice Act (75/2008): Draft regulations relating to child justice: Invitation for public comments.....	2	32507

GENERAL NOTICE**NOTICE 1159 OF 2009****DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

**INVITATION FOR PUBLIC COMMENTS
ON
DRAFT REGULATIONS RELATING TO CHILD JUSTICE
IN TERMS OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)**

The Department of Justice and Constitutional Development has, for purposes of section 97 of the Child Justice Act, 2008, prepared draft regulations relating to child justice in order to facilitate the implementation of the Child Justice Act, 2008. This Act provides a statutory framework within which children who are in conflict with the law and are accused of committing offences must be dealt with. The draft regulations are available on the website of the Department at the following address: <http://www.doj.gov.za>. Interested persons are invited to submit written comments on the draft regulations on or before **18 September 2009** to:

- (1) The Director-General: Justice and Constitutional Development
Private Bag X81, Pretoria, 0001; or
- (2) Ms T Skhosana at thskhosana@justice.gov.za, fax 0866487875; or
- (3) Ms I Botha at inbotha@justice.gov.za, fax 0866482289.

For further information, please do not hesitate to contact Ms Skhosana at 012 315 1724 or Ms Botha at 012 315 1702 or 0823381661.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
 Publications: Tel: (012) 334-4508, 334-4509, 334-4510
 Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
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GOVERNMENT NOTICE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2009

CHILD JUSTICE ACT, 2008
REGULATIONS RELATING TO CHILD JUSTICE

The Minister of Justice and Constitutional Development has, under section 97 of the Child Justice Act, 2008 (Act No. 75 of 2008), and—

- (a) after consultation, where appropriate, with the Cabinet members responsible for social development, safety and security, education, correctional services and health; and
 - (b) in consultation with the Cabinet member responsible for home affairs for purposes of section 90(2) of the said Act,
- made the Regulations in this Schedule.

SCHEDULE

Arrangement of Regulations

CHAPTER 1
GENERAL PROVISIONS

- 1. Definitions

CHAPTER 2
CRIMINAL CAPACITY OF CHILDREN UNDER THE AGE OF 14 YEARS AND
MATTERS RELATED TO AGE

- 2. Handing over child under the age of 10 years to parent, appropriate adult or guardian
- 3. Handing over child under the age of 10 years to a child and youth care centre
- 4. Notice to probation officer regarding handing over of child under the age of 10 years
- 5. Referral of child under the age of 10 years to children's court
- 6. Referral of child under the age of 10 years for counselling or therapy
- 7. Referral of child under the age of 10 years to accredited programme
- 8. Arranging support services for child under the age of 10 years
- 9. Arranging a meeting relating to circumstances surrounding allegations and formulation of written plan
- 10. Written plan for child under the age of 10 years
- 11. Probation officer taking no action in respect of child under the age of 10 years
- 12. Recording the outcome of the assessment and decision taken
- 13. Proof of criminal capacity
- 14. Age estimation by probation officer
- 15. Age determination by inquiry magistrate or child justice court

**CHAPTER 3
SECURING ATTENDANCE OF CHILD AT PRELIMINARY INQUIRY**

16. Written notice to appear at preliminary inquiry
17. Summons to appear at preliminary inquiry
18. Arrest to secure attendance at preliminary inquiry

**CHAPTER 4
RELEASE, DETENTION AND PLACEMENT OF CHILD PRIOR TO SENTENCE**

19. Detention of child before preliminary inquiry
20. Failure of child to comply with conditions of release
21. Complaint about injury or trauma of child in detention
22. Register regarding detention of children
23. Placement in a child and youth care centre
24. Error regarding placement
25. Written report relating to transport of child to or from preliminary inquiry or child justice court

**CHAPTER 5
ASSESSMENT OF CHILD**

26. Powers and duties of probation officer at assessment
27. Assessment report

**CHAPTER 6
PRELIMINARY INQUIRY**

28. Procedure relating to holding of preliminary inquiry

**CHAPTER 7
DIVERSION**

29. Diversion orders
30. Provision of resources to implement diversion programmes
31. Certificate of accreditation
32. Quality assurance in respect of diversion programme and diversion service provider
33. Failure of child to comply with diversion order
34. Compliance by child with diversion order
35. Establishment and maintenance of Register of children in respect of whom diversion order has been made
36. Examination of Register of children in respect of whom diversion order has been made

**CHAPTER 8
TRIAL IN CHILD JUSTICE COURT**

37. Duty of presiding officer before plea in child justice court
38. Drawing up of list of independent observers
39. Particulars of list of independent observer
40. Appointment of independent observer

CHAPTER 9 SENTENCING

41. Progress report regarding community-based sentences
42. Progress report regarding restorative justice sentences
43. Progress report regarding fines or alternative to fine
44. Report on sentence of compulsory residence in child and youth care centre
45. Manner if taking child to child and youth care centre for compulsory residence
46. Manner of bringing court order to attention of functionaries in case of sentence of compulsory residence in child and youth care centre
47. Failure of child to comply with certain sentences

CHAPTER 10 LEGAL REPRESENTATION

48. Legal representative appointed to assist court

CHAPTER 11 EXPUNGEMENT OF RECORDS

49. Application to Director-General for expungement of conviction and sentence
50. Consideration of application for expungement by Director-General
51. Application to Cabinet Member for expungement of conviction and sentence
52. Consideration of application for expungement by Cabinet member
53. Expungement of record of diversion order
54. Registration of age of child
55. Register of children lacking criminal capacity
56. Access to register of children lacking criminal capacity

CHAPTER 12 MISCELLANEOUS

57. Manner of notification
58. Short title and commencement

CHAPTER 1 GENERAL PROVISIONS

Definitions

1. In these regulations, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and, unless the context indicates otherwise—

“clerk of the child justice court” means

- (i) a clerk and assistant clerk of court appointed under section 13 of the Magistrate’s Court Act, 1944 (Act No. 32 of 1944);
- (ii) a registrar and assistant registrar appointed under section 14 of the Constitutional Complementary Act, 1995 (Act No. 13 of 1995) and section 34 of the Supreme Court Act, 1959 (Act No. 59 of 1959); or

- (iii) a registrar appointed under any law not yet repealed by a competent authority and, immediately before the commencement of the Constitution, in force in any area which forms part of the national territory;

“designated probation officer” means a probation officer who has been designated by the Director-General: Social Development for a particular police station for the purposes of regulation 8(1) and (2) and for receiving notices in terms of sections 9, 18, 19 and 20 of the Act; and

“the Act” means the Child Justice Act, 2008;

CHAPTER 2

CRIMINAL CAPACITY OF CHILDREN UNDER THE AGE OF 14 YEARS AND MATTERS RELATED TO AGE

Handing over child under the age of 10 years to parent, appropriate adult or guardian

2. (1) A police official must for the purposes of handing a child over to a parent, appropriate adult or a guardian in terms of section (9)(1)(a) of the Act—

- (a) introduce himself or herself to the child and persons in question;
- (b) establish the identity of the person who is to receive the child;
- (c) establish the relationship, if any, between the person who is to receive the child and the child;
- (d) inform the child and the person who is to receive the child of—
 - (i) the nature of the alleged offence;
 - (ii) the reasons why the child cannot be prosecuted; and
 - (iii) the procedures to be followed in terms of the Act; and
- (e) explain to the person who is to receive the child—
 - (i) what is expected from the child and the person in relation to the procedures to be followed in terms of the Act;
 - (ii) the implications of receiving the child; and
 - (iii) the implications if the child fails to comply with an obligation imposed in terms of section 9 of the Act.

(2) A police official must inform the person who is to receive the child of any injuries the child may have sustained.

(3) A police official must, after having complied with subregulations (1) and (2), ascertain whether the person who is to receive the child, is prepared to—

- (a) accept responsibility for the child; and
- (b) co-operate in ensuring compliance with section 9 of the Act.

(4) A police official must —

- (a) obtain the physical and work address, if any, of the person who is to receive the child;
- (b) obtain the contact particulars of the person who is to receive the child or that of any other person through whom the person who is to receive the child can be contacted; and
- (c) release the child into the care of the person in question.

(5) A police official must ensure that the information and explanations given are understood by the child and the person who is to receive the child by—

- (a) using a language that is understood by them;
- (b) using simple vocabulary;

- (c) encouraging or allowing them to ask questions and to respond to the questions asked; and
- (d) verifying their understanding of the information and explanations given.

(6) A police official must address the child and the parent, appropriate adult or guardian in a manner that is conducive to their participation and without intimidating them or publicly humiliating the child.

(7) A police official must hand over a written notice to the parent of the child, appropriate adult or guardian containing the information and explanations referred to in subregulation (1)(d)(ii) and (iii) and (e).

Handing over child under the age of 10 years to child and youth care centre

3. (1) A police official, when handing a child over to a child and youth care centre in terms of section (9)(1)(b) of the Act, must—

- (a) introduce the child to the person who is to receive the child at the centre;
- (b) inform the child and the person who is to receive the child—
 - (i) of the nature of the alleged offence;
 - (ii) of the reasons why the child cannot be prosecuted; and
 - (iii) of the procedures to be followed in terms of the Act.

(2) A police official must inform the person who is to receive the child of the reasons why the child was not handed over to his or parents, appropriate adult or a guardian and of any injuries the child may have sustained.

(3) A police official must complete and sign any documents, if required to do so, relating to the admission of the child and release the child in the care of the person at the centre.

Notice to probation officer regarding handing over of child under the age of 10 years

4. (1) A police official must notify the designated probation officer of the handing over of a child in terms of section 9(1) of the Act on a form which corresponds substantially with Form 1 of the Annexure.

(2) Form 1 of the Annexure must be—

- (a) handed;
 - (b) submitted electronically; or
 - (c) submitted by facsimile,
- to the designated probation officer.

(3) A police official who submitted the notice electronically or by facsimile must ensure that the designated probation officer has received the notice.

Referral of child under the age of 10 years to children's court

5. (1) (a) The probation officer must refer a child to the children's court in terms of section 9(3)(a)(i) of the Act in writing on a form which corresponds substantially with Form 2 of the Annexure.

(b) The probation officer must attach to Form 2 all relevant documents used in the assessment of the child, including the assessment report referred to in section 40 of the Act.

(c) The probation officer must ensure that Form 2 and all the attachments thereto are received by the children's court.

(2) The probation officer must —

- (a) inform the parents of the child of the referral, if the parents' whereabouts are known and they are not aware of the referral; and
- (b) inform the appropriate adult or guardian of the referral, if the child was handed to an appropriate adult or a guardian and if the person in question is not aware of the referral; or
- (c) submit a copy of Form 2 to the child and youth care centre if the child was handed to a centre.

Referral of child under the age of 10 years for counselling or therapy

6. (1) (a) The probation officer must refer a child for counselling or therapy in terms of section 9(3)(a)(ii) of the Act in writing on a form which corresponds substantially with Form 2 of the Annexure.

(b) The probation officer must attach to Form 2 all relevant documents used in the assessment of the child, including the assessment report referred to in section 40 of the Act.

(c) The probation officer must ensure that Form 2 and all the attachments are received by the person who or institution which will provide the counselling or therapy.

(2) The probation officer must —

- (a) inform the parents of the child of the referral, if the parents' whereabouts are known and they are not aware of the referral; and
- (b) inform the appropriate adult or guardian of the referral, if the child was handed to an appropriate adult or guardian and if the person in question is not aware of the referral, or
- (b) submit a copy of Form 2 to the child and youth care centre if the child was handed to the centre.

(3) The probation officer who referred a child for counselling or therapy must request the person or institution providing counselling or therapy to submit to the probation officer regular reports on the child's progress and compliance with the decision.

(4) The probation officer must maintain contact with the child in order to be able to assess and evaluate the outcome of the counselling or therapy and the child's compliance with the decision.

(5) The probation officer must, if he or she is after the conclusion of the counselling or therapy of the opinion that the child is in need of care and protection, make the necessary arrangements for the child to be dealt with in terms of the Children's Act.

Referral of child under the age of 10 years to accredited programme

7. (1) (a) The probation officer must refer a child to an accredited programme in terms of section 9(3)(a)(ii) of the Act in writing on a form which corresponds substantially with Form 2 of the Annexure.

(b) The probation officer must attach to Form 2 all relevant documents used in the assessment of the child, including the assessment report referred to in section 40 of the Act.

(c) The probation officer must ensure that Form 2 and all the attachments thereto are received by the person who or institution which will provide the programme.

(2) The probation officer must —

- (a) inform the parents of the child of the referral, if the parents' whereabouts are known and they are not aware of the referral; and

- (b) inform the appropriate adult or guardian of the referral, if the child was handed to an appropriate adult or guardian of the referral and if the person in question is not aware of the referral, or
- (b) submit a copy of Form 2 to the child and youth care centre if the child was handed to the centre.

(3) The probation officer who referred a child for an accredited programme must request the person or institution providing the programme to submit to the probation officer regular reports on the child's progress and compliance with the decision.

(4) The probation officer must maintain contact with the child in order to be able to assess and evaluate the outcome of the counselling or therapy and the child's compliance with the decision.

(5) The probation officer must, if he or she is after the conclusion of the programme of the opinion that the child is in need of care and protection, make the necessary arrangements for the child to be dealt with in terms of the Children's Act.

Arranging support services for child under the age of 10 years

8. (1) The designated probation officer must, for the purposes of arranging support services for children under the age of 10 years in terms of section 9(3)(a)(iv) of the Act—

- (a) enquire from religious and community-based organisations, sport and recreational clubs and schools in the area which support services are available and suitable for children under the age of 10 years;
- (b) obtain particulars relating to the available services; and
- (c) enquire about conditions, if any, for the rendering of the services.

(2) (a) The designated probation officer must, from the information obtained in terms of subregulation (1), compile a database of the support services available in the area.

- (b) The database must reflect—
 - (i) the services available;
 - (ii) the name of the organisation, club or school;
 - (iii) the location where the service will be rendered;
 - (iv) the name of the person who can be contacted; and
 - (v) the contact particulars of the person who is to be contacted.

(c) The database must be updated regularly.

(3) The probation officer when arranging support services in terms of section 9(3)(a)(iv) of the Act for a child, must—

- (a) select from the database possible organisations, clubs and schools which may render the required support services;
- (b) contact the organisations, clubs and schools selected from the database to enquire about the availability of the services;
- (c) inform and explain to the child and the parent, appropriate adult or guardian the services that are available to support the child;
- (d) finalise the arrangements with the organisation, club or school and confirm the dates and time when and the place where the services will be rendered and the period for which the services will be rendered.

(4) The probation officer must after the arrangements have been made in terms of subregulation (3)—

- (a) inform the parents, the appropriate adult or guardian in writing and, if their contact particulars are available, orally, of the arrangements made; and

(b) confirm the arrangements made in writing with the organisation, club or school who is to render the support services.

(5) The probation officer must ensure that the support services commence on the earliest possible date.

(6) The probation officer who arranged support services for the child may request the person or institution rendering the support services to submit to the probation officer regular reports on the child's progress and compliance with the decision.

(7) The probation officer must, for the duration of the support services, maintain regular contact with the child and the organisation, club or school which is involved in order to be able to assess the child's progress and compliance with the decision.

Arranging a meeting relating to circumstances surrounding allegations and formulation of written plan

9. (1) The probation officer, when arranging a meeting in terms of section 9(3)(a)(v), must—

- (a) contact the persons who must attend the meeting in any manner—
 - (i) taking into account the contact particulars that are available;
 - (ii) having regard to their place of residence;
 - (iii) having regard to the time period within which the assessment must be done; and
 - (iv) ensuring their attendance;
- (b) give sufficient notice of the meeting;
- (c) inform the persons who must attend the meeting of the particulars of the child and the nature of the allegation, if unknown;
- (d) indicate to the persons who must attend the meeting—
 - (i) the date, time and place of the meeting;
 - (ii) the purpose of the meeting;
 - (ii) what information, if any, will be required at the meeting;
 - (iii) who will attend the meeting; and
 - (iv) where he or she can be contacted; and
- (e) inform the parent, appropriate adult or guardian that attendance of the meeting by the child and the parent, appropriate adult or guardian is compulsory.

(2) A person who has been requested by the probation officer to attend a meeting must immediately inform the probation officer if, due to circumstances beyond his or her control, that person can no longer attend the meeting.

(3) The meeting must be conducted in an atmosphere conducive to full participation of the child and the other participants and allowing sufficient opportunity for the child to express his or her views.

Written plan for child under the age of 10 years

10. (1) A written plan referred to in section 9(4)(b) of the Act must contain the following details of the services and assistance to be provided for the child:

- (a) The name under which the services or assistance to be provided is generally known;
- (b) an indication as to what the services or assistance entail;
- (c) the negative effects of the services or assistance, if any; and
- (d) the outcome or result of the services and assistance.

(2) A written plan must specify the persons or organisations to provide the services or assistance as follows:

- (a) The name, main business and profile of the person or organisation to provide the services or assistance;
- (b) the physical address of the person or organisation to provide the services or assistance;
- (c) the contact particulars of the person or organisation, including the telephone numbers and e-mail address; and
- (d) the office hours of the person or organisation to provide the services or assistance.

Probation officer taking no action in respect of child under the age of 10 years

11. (1) The probation officer must in deciding to take no action in terms of section 9(3)(a)(vi) of the Act—

- (a) ensure that all the relevant information has been obtained;
- (b) ensure that the relevant information has been considered properly;
- (c) ensure that contradictory information, if any, has been clarified;
- (d) ensure that the personal circumstances of the child has been considered properly;
- (e) ensure that the circumstances surrounding the commission of the alleged offence have been considered properly;
- (f) have regard to the reasons why the other measures referred to in section 9(3) of the Act are not suitable;
- (g) have considered the implications of not taking any action; and
- (h) have engaged the parent, appropriate adult or guardian or a representative of the child and youth care centre or any other person qualified to express an opinion regarding his or her proposed decision.

(2) The probation officer who decides to take no action must immediately after having taken the decision inform—

- (a) the child and his or her parents, an appropriate adult or guardian of the decision in writing and, if their contact particulars are available, orally; or
- (b) the child and youth care centre to which the child was handed over, in writing of the decision.

Recording the outcome of the assessment and decision taken

12. (1) The probation officer must for the purposes of section 9(6) of the Act record the outcome of the assessment and the decision made—

- (a) in writing;
- (b) immediately after concluding the assessment and making the decision;
- (c) with sufficient detail;
- (d) in a manner that reveals the information that was considered; and
- (e) in a manner that explains how he or she arrived at the outcome of the assessment or his or her decision.

(2) The record of the outcome of the assessment and the decision made must be filed in the personal file of the child.

Proof of criminal capacity

13. (1) An order by an inquiry magistrate or a child justice court in terms of section 11(3) of the Act for an evaluation of the criminal capacity of a child must correspond substantially with Part A of Form 3 of the Annexure.

(2) Form 3 must be submitted to the person who must conduct the evaluation together with any documents handed in at the preliminary inquiry or the child justice court and a report by the prosecutor in which the following is stated:

- (a) At whose request was the order made;
- (b) the nature of the charge against the child;
- (c) the stage of the proceedings when the order was made;
- (d) the purport of any statement by the child before or during the preliminary inquiry or during the proceedings in the child justice court;
- (e) the purport of any evidence that has been given that is relevant to the child's criminal capacity;
- (f) the social background and family composition of the child if known to the prosecutor and the names and addresses of the child's relatives, if available; and
- (g) any other fact that may, in the opinion of the prosecutor, be relevant in the evaluation of the child.

(3) The clerk of the child justice court must notify—

- (a) the parent of the child of the order and the person who must conduct the evaluation, if the parent was not present when the order was made; and
 - (b) the appropriate adult or guardian of the order and the person who must conduct the evaluation, if the child was handed to an appropriate adult or guardian and if that person was not present when the order was made; or
 - (c) the child and youth care centre, if the child was handed to a centre,
- in writing and orally, if the persons contact particulars are available.

(4) The notification by the clerk of the child justice court must be done immediately after the order has been made in any manner but the clerk must ensure that the persons receive the notice.

(5) The person who conducted the evaluation of the child's criminal capacity must complete Part B of Form 3 of the Annexure.

Age estimation by probation officer

14. The probation officer must make an estimation of the age of the child in terms of section 13(1) of the Act on a form which corresponds substantially with Form 4 of the Annexure.

Age determination by inquiry magistrate or child justice court

15. (1) The presiding officer at a preliminary inquiry or of a child justice court must refer a child for age estimation in terms of section 14(2)(d) of the Act in writing on a form which corresponds substantially with Part A of Form 5 of the Annexure.

(2) The clerk of the child justice court must notify—

- (a) the parent of the child of the referral, if the parent was not present when the child was referred; and
 - (b) the appropriate adult or guardian of the referral, if the child was handed to an appropriate adult or guardian and if that person was not present when the child was referred; or
 - (c) the child and youth care centre of the referral, if the child was handed to a centre,
- in writing and orally, if the persons contact particulars are available.

(3) The notification by the clerk of the child justice court must be done immediately after the referral in any manner but the clerk must ensure that the persons receive the notice.

(4) The medical practitioner who estimated the age of the child must complete Part B of Form 5.

CHAPTER 3

SECURING ATTENDANCE OF CHILD AT PRELIMINARY INQUIRY

Written notice to appear at preliminary inquiry

16. (1) A written notice in terms of section 18(1) of the Act to a child to appear at a preliminary inquiry must correspond substantially with Form 6 of the Annexure.

(2) A police official, in determining a date on which a child must appear at a preliminary inquiry, must allow a reasonable period for the probation officer to assess the child before the child appears at the inquiry.

(3) (a) A police official must in terms of section 18(4)(a)(i) and (ii) of the Act inform the child and the parent, appropriate adult or guardian of the nature of the allegations against the child and of the rights of the child—

- (i) in a language that they understand and preferably in a language of their choice, or through an interpreter, if necessary;
- (ii) in plain language by using simple vocabulary; and
- (iii) in a manner appropriate to the age, maturity and stage of development of the child and the intellectual capacity of the parent, appropriate adult or guardian.

(b) A police official must, when informing the child and the parent, appropriate adult or guardian of the nature of the allegations against the child and of the rights of the child—

- (i) treat the child with care and understanding;
- (ii) ensure that other persons, whose presence are not required, are not in close proximity;
- (iii) not subject the child to crude language;
- (iv) give enough detail about the matters;
- (v) allow sufficient time so that the child and the other persons can absorb the information;
- (iii) encourage and allow the child and the other persons to ask questions; and
- (iv) elicit responses from the child and the other persons by asking questions in order to ensure that they understand the information.

(4) The police official must explain in terms of section 18(4)(a)(iii) of the Act to the child and the parent, appropriate adult or guardian the immediate procedures to be followed—

- (a) in accordance with subregulations (2) and (3);
- (b) in a step-by-step manner; and
- (c) taking into account the level of knowledge of the persons in respect of the functioning of the courts and the court procedures.

(5) The police official must in terms of section 18(4)(a)(iv) and (v) of the Act warn—

- (a) the child about the importance of his or her appearance at the preliminary inquiry; and
- (b) the parent, appropriate adult or guardian to bring or cause the child to be brought to the preliminary inquiry,

in accordance with subregulation (2) and by indicating the seriousness of the matter and the implications of failure to appear at or to bring the child to the preliminary inquiry.

(6) A police official must obtain the physical and work address and contact particulars of the parent, appropriate adult or guardian and record these particulars on Form 8.

(7) A police official must hand over to the parent of the child, appropriate adult or guardian a written notice containing the information, explanations and warnings referred to in section 18(4) of the Act.

(8) (a) A police official must notify the designated probation officer in terms of section 18(4)(b) of the Act by handing or faxing a copy of completed Form 6 to the designated probation officer.

(b) A police official who submitted the notice by facsimile must ensure that the designated probation officer has received the notice.

Summons to appear at preliminary inquiry

17. (1) A summons issued in terms of section 19(1) of the Act in respect of a child who is to appear at a preliminary inquiry must correspond substantially with Form 7 of the Annexure.

(2) Regulation 16 of the Regulations is applicable, with the necessary changes required by the context, to a police official when issuing a summons in terms of section 19 of the Act.

Arrest to secure attendance at preliminary inquiry

18. (1) A police official who has arrested a child to secure his or her attendance at a preliminary inquiry must, when acting in terms of section 20(3)(a) – (c) of the Act, comply with regulation 16(3), (4) and (7) of the Regulations.

(2) (a) A police official who has arrested a child must notify the child's parent, appropriate adult or guardian—

- (i) in person;
- (ii) telephonically;
- (iii) by facsimile; or
- (iv) electronically,

of the arrest and keep record of the manner in which the person was so notified.

(b) A police official must, when informing the child's parent, appropriate adult or guardian of the arrest, give enough information about—

- (i) the alleged offence for which the child was arrested;
- (ii) the circumstances surrounding the arrest;
- (iii) the place where the child will be detained;
- (iv) the date on which the child will appear at the preliminary enquiry; and
- (v) the place where the child will appear,

to ensure that the persons are fully informed of the circumstances.

(c) A police official who informed a parent, an appropriate adult or guardian of the arrest electronically or by facsimile must ensure that the person has received the notice.

(3) A written report to a presiding officer referred to in section 20(3)(d) of the Act by a police official who was unable to inform a child's parent, appropriate adult or guardian of the arrest, must correspond substantially with Form 8 of the Annexure.

(4) (a) A police official must, after a child has been arrested, inform, in terms of section 20(4)(a) of the Act, the probation officer of the arrest in writing on a form which corresponds substantially with Form 9 of the Annexure.

(b) A police official must obtain the physical and work address and contact particulars of the parent, appropriate adult or guardian and indicate these particulars in Form 9.

(c) Form 9 must be—

- (a) handed;
 - (b) submitted electronically; or
 - (c) submitted by facsimile,
- to the designated probation officer.

(d) A police official who submitted Form 9 electronically or by facsimile must ensure that the designated probation officer has received the form.

(5) The written report to the inquiry magistrate referred to in section 20(4)(b) of the Act must correspond substantially with Form 10 of the Annexure.

CHAPTER 4

RELEASE, DETENTION AND PLACEMENT OF CHILD PRIOR TO SENTENCE

Detention of child before preliminary inquiry

19. The written report referred to in section 22(2) of the Act relating to the non-release of a child detained for a Schedule 1 offence, must correspond substantially with Form 11 of the Annexure.

Failure of child to comply with conditions of release

20. (1) (a) If a child fails to comply with any condition imposed in terms of section 24(4) of the Act, the person who has personal knowledge of the failure must immediately upon becoming aware of the failure, notify the presiding officer by way of an affidavit which must be accompanied, where appropriate, by supporting documents.

(b) For the purposes of paragraph (a), persons who have personal knowledge of the failure include—

- (i) the persons referred to in section 24(4)(a), (d) and (e) of the Act;
- (ii) a principal or educator at a school referred to in section 24(4)(b) of the Act; and
- (iii) the person in charge of the residence referred to in section 24(4)(c) of the Act.

(c) The person informing the presiding officer of the child's failure may also indicate to what extent, if any, compliance with the conditions in future may be problematic.

(d) A police official must, on request of a person referred to in paragraph (b)(i) and (iii), assist the person with the drafting of the affidavit.

(2) The affidavit and supporting documents, if any, must be submitted—

- (a) by hand;
- (b) electronically; or
- (c) by facsimile,

to the investigating police official or the clerk of the child justice court to be handed to the presiding officer together with the court documents.

(2) A person who submitted the affidavit electronically or by facsimile must—

- (a) ensure that the investigating police official or the clerk of the child justice court has received the document; and
- (b) forward the original document by registered post or hand it to the clerk of the child justice court to be attached to the court documents.

Complaint about injury or trauma of child in detention

21. (1) (a) A complaint or observation about an injury sustained or severe psychological trauma suffered by a child referred to in section 28(2) of the Act must be recorded in Part A of Form 12 of the Annexure.

(b) Upon recording of the complaint or observation on Form 12, the police official must number the complaint or observation with a consecutive number for the year.

(c) The police official who received the complaint or made the observation must upon completion of the actions required in terms of this regulation ensure that the following details are entered in the register referred to in section 28(3) of the Act:

- (i) The number allocated to the complaint;
- (ii) the date on which the complaint was lodged;
- (iii) the nature of the injury sustained or severe psychological trauma suffered;
- (iv) the impact of the injury or trauma on the child;
- (v) the circumstances surrounding the injury or trauma;
- (vi) the signature and particulars of the complainant,
- (vii) particulars of the medical treatment which the child received, if any;
- (viii) the date on which Form 12 was submitted to the National Commissioner of Police;
- (ix) the nature of the instructions, if any was given by the National Commissioner of Police; and
- (x) the steps taken to comply with the instructions of the National Commissioner of Police.

in the register referred to in section 28(3) of the Act.

(d) The person who lodged the complaint must, for the purposes of future enquiries, be informed of the number allocated to the complaint.

(e) The person who lodged the complaint or the police official who made the observation must affix his or her signature next to the particulars, referred to in paragraph (c), which have been recorded in the register.

(2) (a) The police official who recorded the complaint or observation in the register must hand Form 12 to the station commissioner and record the date on which it was done in the register.

(3) (a) The station commissioner must on receipt of Form 12 investigate the complaint or observation and make the necessary arrangements for appropriate medical treatment, if satisfied that the circumstances referred to in section 28(2)(a) of the Act exist.

(b) The station commissioner must, for the purposes of the report referred to in section 28(2)(d) of the Act, complete Part B of Form 12.

(c) Form 12 together with the medical report, if applicable, and any other supporting documents must be—

- (i) handed in person, if possible;
- (ii) submitted electronically; or
- (iii) submitted by facsimile,

to the National Commissioner of Police.

- (d) The station commissioner must, if Form 12 and the attachments were submitted electronically or by facsimile—
- (i) keep proof of the manner in which the documents were submitted;
 - (ii) ensure that the National Commissioner of Police has received the documents; and
 - (iii) send the original documents by registered post to the National Commissioner of Police.
- (e) The station commissioner must—
- (i) submit, in the manner referred to in paragraph (c), a copy of Form 12 and the attachments, to the Provincial Commissioner of Police in question; and
 - (ii) file a copy of Form 12 and the attachments in the docket.

(4) (a) The National Commissioner of Police must, after receipt of Form 12 and the attachments, consider the recommendation made by the station commissioner and issue any instruction he or she deems fit by recording it in Part C of Form 12.

(b) Form 12 must, if an instruction has been issued by the National Commissioner of Police, be submitted to the station commissioner in question in the manner referred to in subregulation (3)(c).

Register regarding detention of children

22. (1) A register regarding the detention of children in police cells or lock-ups referred to in section 28(3) of the Act must, in addition to the particulars required in terms of regulation 21(1)(c) of the Regulations, contain the following information:

- (a) The full names of the child and any alias or nickname;
- (b) the nature of the offence alleged to have been committed;
- (c) the age of the child;
- (d) the date and time of arrest;
- (e) the reasons why the child cannot be released;
- (f) the physical condition of the child at the time of arrest;
- (g) the names, addresses and telephone numbers of the parents or next of kin, if known.

(2) The register may be examined in terms of section 28(4) of the Act by—

- (a) a member of the South African Police Service in the performance of his or her functions;
- (b) a social worker or probation officer;
- (c) the prosecutor involved in the case;
- (d) a member of the Intersectoral Committee established in terms of section 94 of the Act;
- (e) an independent observer appointed in terms of section 65(6) of the Act;
- (f) a person who is by law empowered or mandated to take care of the interest of a child;
- (g) the parent of the child or the appropriate adult or guardian;
- (h) a staff member of the child and youth care centre where the child is placed;
- (i) a member of a non-governmental organisation or community-based organisation whose core business is the interest and welfare of children; and

(j) a researcher conducting research relating to the criminal justice system for children.

(3) A person, other than the investigating police official, who wishes to examine the register must—

(a) complete Part A of Form 13 of the Annexure;

(b) hand Form 13 to the station commissioner or the person designated in writing by the station commissioner; and

(c) identify himself or herself, if requested to do so by the station commissioner or designated police official.

(4) (a) The decision of the station commissioner or the person designated in writing by the station commissioner relating to the request to examine the register and the reasons for the decision must be recorded in Part B of Form 13.

(b) Form 13 must be filed in accordance with the general prescripts regarding filing applicable to members of the South African Police Service.

(5) The register must be examined in the presence of a police official.

(6) A person who has examined the register must treat the information obtained from the register as confidential.

Placement in a child and youth care centre

23. The sworn statement of the functionary responsible for the management of a child and youth care centre referred to in section 29(4) of the Act must correspond substantially with Form 14 of the Annexure.

Error regarding placement

24. (1) The person admitting a child at a child and youth care centre, police cell or lock-up or prison must in terms of section 31 of the Act refer a child, in respect of whom an error has been made regarding placement, to the presiding officer for the error to be corrected by completing Form 15 of the Annexure.

(2) The person in charge of a child and youth care centre must, after having completed Form 15, immediately arrange with the investigating police official to take the child to a presiding officer to correct the error.

(3) Form 15 must be handed to the presiding officer when the child appears before the presiding officer.

Written report relating to transport of child to or from preliminary inquiry or child justice court

25. (1) A written report, referred to in section 33(2)(c) of the Act, by a police official relating to the reasons for non-compliance with that section must correspond substantially with Form 16 of the Annexure.

(2) Form 16 may be submitted in any manner to the presiding officer having regard to the period of 48 hours within which it must be submitted.

(3) The police official must keep record of the manner of submission and make sure that the presiding officer has received the form.

CHAPTER 5

ASSESSMENT OF CHILD

Powers and duties of probation officer at assessment

- 26.** (1) (a) A probation officer must inform the child of his or her rights in terms of section 39(1) of the Act—
- (i) in a language that the child understands and preferably in a language of his or her choice, or through an interpreter, if necessary;
 - (ii) in plain language and using simple vocabulary; and
 - (iii) in a manner appropriate to the age, maturity and stage of development of the child.
- (b) A probation officer must when informing the child about his or her rights—
- (i) give enough detail about the rights of the child;
 - (ii) allow sufficient time so that the child can absorb the information;
 - (iii) encourage and allow the child to ask questions and to respond to the questions asked; and
 - (iv) elicit responses from the child by asking questions in order to ensure he or she understands the information.
- (c) The probation officer must conduct the assessment in an atmosphere conducive to participation of the child and his parent, the appropriate adult or guardian and elicit the views of the child.
- (d) The probation officer must, in ensuring a conducive atmosphere for participation, consider all possible venues for the assessment as referred to in section 37 of the Act, including the place of residence of the child or the child and youth care centre where the child has been placed.

Assessment report

- 27.** (1) The probation officer when completing an assessment report referred to in section 40(1) of the Act must—
- (a) provide enough information so as to enable the recipient of the report to understand the conclusions reached and recommendations made;
 - (b) reveal the information that was considered;
 - (c) explain how he or she arrived at the outcome of the assessment or his or her recommendations;
 - (d) include the sources of the information;
 - (e) in a logical manner reflect the recommendations made;
 - (f) motivate any recommendation made in a manner that makes sense given the information that was available and considered; and
 - (g) indicate, in the case of conflicting information, which information he or she relies on and the reasons therefore.
- (2) The probation officer must in completing the assessment report—
- (a) have regard to the purpose of the assessment referred to in section 35 of the Act;
 - (b) ensure that the report contains information about the child's development and competencies, the child's history, the family circumstances, the circumstances surrounding the offence and the impact of the offence on the victim;
 - (c) express an opinion as to the possible reasons for the child committed the offence;
 - (d) express an opinion as to the behaviour of the child and the extent to which the child has been influenced by adults or peers; and
 - (e) indicate the child's ability to be reintegrated into society; and

(f) indicate whether the child acknowledges responsibility for the offence.

(3) The assessment report must be accompanied by Form 14 in which the information referred to in section 40(2) of the Act relating to accommodation and features of the child and youth care centre must be set out.

(4) The probation officer must after having completed the assessment report, file a copy of the report and any attachments thereto in the file of the child in question.

CHAPTER 6 PRELIMINARY INQUIRY

Procedure relating to holding of preliminary inquiry

28. (1) (a) The presiding officer must at the start of the preliminary inquiry inform the child about and explain to the child the matters referred to in section 47(2) of the Act—

- (i) in a language of his or her choice or through an interpreter;
- (ii) in plain language by using simple vocabulary and by avoiding technical terms; and
- (iii) in a manner appropriate to the age, maturity and stage of development of the child.

(b) The presiding officer must, when informing the child about or explaining to the child the matters in question—

- (i) give enough detail so that the child understands the information;
- (ii) allow sufficient time so that the child can absorb the information;
- (iii) encourage and allow the child to ask questions and express his or her views;
- (iv) elicit responses from the child by asking questions in order to ensure that he or she understands the information;
- (v) ensure that the atmosphere is conducive to participation by the child and the parent, appropriate adult or guardian;
- (vi) be sensitive to the needs of the child and the fact that the child may be confused and may be experiencing anxiety and feel intimidated.

(2) The proceedings at the preliminary inquiry must be conducted in a manner that sets the child at ease.

(3) The child should be treated with care and understanding.

CHAPTER 7 DIVERSION

Diversion orders

29. (1) The magistrate, inquiry magistrate or child justice court must, when issuing a diversion order, explain to the child and the parent, appropriate adult or guardian in full detail –

- (a) what the order entails;
 - (b) what the order seeks to achieve;
 - (c) what is expected of the child and the parent, appropriate adult or guardian; and
 - (d) the importance of compliance with the order,
- and verify their understanding.

(2) A diversion order referred to in section 53(1) of the Act must contain enough information and be formulated in plain language using simple vocabulary in order to ensure that the child and the parent, appropriate adult or guardian fully understand what is expected of them and in order to monitor compliance with the order and to deal with non-compliance effectively.

(3) (a) A compulsory school attendance order referred to in section 53(1)(a) of the Act must correspond substantially with Part A of Form 17 of the Annexure.

(b) A family time order referred to in section 53(1)(b) of the Act must correspond substantially with Part B of Form 17 of the Annexure.

(c) A good behaviour order referred to in section 53(1)(c) of the Act must correspond substantially with Part C of Form 17 of the Annexure.

(d) A peer association order referred to in section 53(1)(d) of the Act must correspond substantially with Part D of Form 17 of the Annexure.

(e) A reporting order referred to in section 53(1)(e) of the Act must correspond substantially with Part E of Form 17 of the Annexure.

(f) A supervision and guidance order referred to in section 53(1)(f) of the Act must correspond substantially with Part F of Form 17 of the Annexure.

Provision of resources to implement diversion programmes

30. (1) The Cabinet member responsible for social development must, in order to ensure that resources are available to implement diversion programmes as referred to in section 56(2) of the Act—

- (a) make sure that sufficient funds are allocated specifically for this purpose;
- (b) set up systems and procedures to obtain external funding for the implementation of diversion programmes, if necessary;
- (c) in compiling a budget for the implementation of the programmes, take into account —
 - (i) possible increases in the number of diversion orders issued;
 - (ii) increases in the cost of implementing programmes;
 - (iii) possible extensions of the duration of diversion programmes as a result of the conversion of diversion programmes; and
 - (iv) any other expenditure relating to activities directly related to the implementation of diversion programmes;
- (d) monitor the expenditure on a regular basis by—
 - (i) requiring the diversion service providers to regularly submit financial reports regarding outstanding payments;
 - (ii) determining the patterns of expenditure;
 - (iii) determining the amount available on the budget and any outstanding commitments.
- (e) take the necessary steps to reduce or eliminate unnecessary expenditure;

- (f) consider patterns relating to the increase in the number of diversion orders issued with a view to determining the amount required for future funding; and
- (g) ensure that funds allocated for the implementation of diversion programmes are not utilised for another purpose.

Certificate of accreditation

31. (1) A certificate of accreditation of a diversion service provider referred to in section 56(2)(e) of the Act must correspond substantially with Form 18 of the Annexure.

(2) A certificate of accreditation of a diversion programme referred to in section 56(2)(e) of the Act must correspond substantially with Form 19 of the Annexure.

Quality assurance in respect of diversion programme and diversion service provider

32. (1) (a) A quality assurance process referred to in section 56(2)(g) of the Act must be conducted by a quality assurance panel appointed by the Cabinet member responsible for social development.

(b) The panel must consist of not less than three and not more than 7 members but at least one member must be an independent person.

(c) The members of the panel must have knowledge and experience relating to diversion programmes and children's issues.

(d) An official employed in the State may be appointed as a member of the panel.

(e) The panel must determine its own procedures having regard to sound administrative practices and just administrative action.

(2) In conducting the quality assurance process the panel must—

- (a) give the diversion service provider reasonable notice of the intention to conduct the process;
- (b) hold a preliminary meeting with the management and relevant staff of the diversion service provider to discuss the objective of the quality assurance, the methods, mechanisms and criteria which will be used in the process;
- (c) invite the diversion service provider to submit any written evidence on self-review and recommendations;
- (d) receive oral evidence where necessary and consider and assess the evidence received;
- (e) begin fieldwork which must include site-visits and interviews with the children who are or who have attended diversion programmes;
- (f) prepare a preliminary report which must contain the proposed findings and recommendations supported by reasons for the findings;
- (g) give the diversion service provider an opportunity to respond to the preliminary report;
- (h) consider the response, if any, of the diversion service provider on the preliminary report; and
- (i) compile a final report.

(3) The preliminary and final report must—

- (a) provide enough information so as to enable the diversion service provider and the Cabinet member responsible for social development to understand its conclusions and findings;
- (b) reveal the information that was considered; and
- (c) explain how the panel arrived at the conclusions and findings;

- (d) include the sources of the information;
- (e) in a logical manner reflect the recommendations made, if any;
- (f) motivate any recommendation made in a manner that makes sense, given the information that was available and considered; and
- (g) indicate, in the case of conflicting information, which information was relied upon and the reasons therefor.

(4) (a) The panel must submit the final report to the Cabinet member responsible for social development to be dealt with in terms of the policy framework and system referred to in section 56(2)(c) of the Act.

(b) A copy of the final report must be submitted to the diversion service provider in question.

(5) A quality assurance process must be conducted in respect of each diversion service provider at least once a year or upon receipt of a complaint.

Failure of child to comply with diversion order

33. (1) The probation officer or the person identified in terms of section 57(1) of the Act must notify the magistrate, inquiry magistrate or child justice court of the child's failure to comply with the diversion order in a form which corresponds substantially with Form 20 of the Annexure.

(2) (a) The probation officer or the identified person must immediately, upon completion of Form 20, submit the form and the supporting documents, if any, to the clerk of the child justice court—

- (i) by hand;
- (ii) electronically; or
- (iii) by facsimile.

(b) The probation officer or person identified must, if Form 20 and the attachments were submitted electronically or by facsimile—

- (i) keep proof of the manner in which the documents were submitted;
- (ii) ensure that the clerk of the child justice court has received the documents; and
- (iii) send the original documents by registered post to the clerk of the child justice court.

(3) The clerk of the child justice court must, on receipt of Form 20, obtain the court documents and place the matter before the magistrate, inquiry magistrate or the child justice court, as the case may be.

(4) (a) The clerk of the child justice court must, on receipt of Form 20, submit to the official designated in terms of regulation 35 of the Regulations, a certified copy of the form.

(b) The official designated in terms of regulation 35 of the Regulations must, on receipt of the copy of Form 20, make the necessary entries in the register referred to in section 60 of the Act.

(5) (a) The clerk of the child justice court must inform the official designated in terms of regulation 35 of the Regulations in writing of the outcome of the proceedings before the magistrate, the inquiry magistrate or child justice court and attach any supporting documents.

(b) The designated official must make the necessary entries in the register referred to in section 60 of the Act.

Compliance by child with diversion order

34. (1) (a) The report referred to in section 57(5) of the Act by the probation officer or the person identified in terms of section 57(1) of the Act must correspond substantially with Form 20 of the Annexure.

(b) A prosecutor who receives a report in terms of paragraph (a) must, on receipt thereof, consider the report.

(c) The prosecutor may clarify any aspect of the report with or obtain further information from the probation officer or the identified person.

(d) The prosecutor must submit a certified copy of the report to the clerk of the child justice court in question and the official designated in terms of regulation 35 of the Regulations.

(2) The clerk of the child justice court must, on receipt of the copy of the report, attach it to the court documents in respect of the child.

(3) The official designated in terms of regulation 35 of the Regulations must, on receipt of the copy of the report, make the necessary entries in the register referred to in section 60 of the Act.

Establishment and maintenance of Register of children in respect of whom diversion order has been made

35. (1) (a) The Director-General: Social Development must designate an official to make entries in, update and maintain the register of children in respect of whom a diversion order has been made as referred to in section 60(1) of the Act.

(b) The Director-General: Social Development must forward the particulars of the designated official to the Director-General: Justice and Constitutional Development for distribution to the National Director of Public Prosecutions and the courts.

(2) (a) An entry in the register or any amendment thereto may only be made on receipt of documents which purport to be received from the persons referred to in these Regulations.

(b) Every entry recorded or any amendment of an entry must be verified by the supervisor of the designated official.

(3) The register must, in addition to the information referred to in section 60(1)(a) – (d) of the Act, contain the following particulars:

(a) The reference number allocated in terms of subregulation (4);

(b) a reference to the appropriate section in the Act;

(c) the date on which the diversion order was made; and

(d) the date on which the diversion order lapses.

(4) (a) The register must be maintained in the following manner:

(i) The clerk of the child justice court must, upon the receipt of a diversion order issued by a magistrate, inquiry magistrate or presiding officer of the child justice court, notify the official designated of the order.

(ii) The clerk of the child justice court must attach a certified copy of the order to the notice.

(iii) The official designated must on receipt of the notification number the notice with a consecutive number for the year and enter the required information in the register.

(iv) The official designated must file the notice and attachments received from the clerk of the child justice court, which may only be disposed of in the case of expungement in terms of section 87(6) of the Act.

- (v) The clerk of the child justice court must notify the official designated of any order made in terms of section 58(3) or (4) of the Act and attach a certified copy thereof to the notice.
- (vi) The official designated must deal with a notice received in terms of item (v) in accordance with item (iv).
- (b) The clerk of the child justice court must submit the notice referred to in paragraph (a)—
 - (i) by hand;
 - (ii) electronically; or
 - (iii) by facsimile.
- (c) The clerk of the child justice court must, if the notice was submitted electronically or by facsimile—
 - (i) keep proof of the manner in which the notice was submitted;
 - (ii) ensure that the official designated has received the documents; and
 - (iii) send the original documents by registered post to the official designated.

(5) The clerk of the child justice court, must upon submission of a notice referred to in subregulation (4), indicate in the criminal record book opposite the name of the child that the notice was submitted, the date of submission and affix his or her signature to the entry.

(6) The Director-General: Social Development must on a regular basis inspect the register with a view to identifying possible interventions and issuing the necessary instructions.

Examination of Register of children in respect of whom diversion order has been made

36. (1) The Register referred to in section 60 of the Act must be secured and only accessible to authorised persons.

(2) A person who wishes to examine the register must—

- (a) complete Part A of Form 21 of the Annexure;
- (b) hand Form 21 to the designated official; and
- (c) identify himself or herself, if requested to do so by the designated official.

(3) The official designated must ensure that the person requesting access to the register is a person referred to in section 60(2) of the Act and must record his or her decision and the reasons for the decision in Part B of Form 21.

(4) Form 21 must be filed in accordance with the general prescripts applicable to officials in the public service.

(5) The register must be examined in the presence of the designated official.

(6) A person who has examined the register must treat the information obtained as confidential.

CHAPTER 9

TRIAL IN THE CHILD JUSTICE COURT

Duty of presiding officer before plea in child justice court

- 37.** (1) (a) A presiding officer must inform the child about or explain to the child the matters referred to in section 63(3) of the Act—
- (i) in the language of the child's choice or through an interpreter;
 - (ii) in plain language using simple vocabulary and avoiding technical words; and
 - (iii) in a manner appropriate to the age, maturity, stage of development of the child and the special needs of the child.
- (b) A presiding officer, when acting in terms of section 63(3) of the Act, must—
- (i) treat the child with care;
 - (ii) set the child and the parent, appropriate adult or guardian at ease;
 - (iii) give enough detail about the matters;
 - (iv) allow sufficient time so that the child can absorb the information;
 - (v) encourage and allow the child to ask questions; and
 - (vi) elicit responses from the child by asking questions in order to ensure that the child understands the information.

Drawing up of list of independent observers

38. (1) The magistrate of the district must, for the purposes of compiling a list of independent observers in terms of section 1 of the Act, invite religious groups, community structures and non-governmental organisations within the district to nominate persons to serve as independent observers in terms of section 65 of the Act.

(2) A nomination for appointment as independent observer must be done on Part A of Form 22 of the Annexure.

(3) (a) A person nominated to serve as an independent observer must complete Part B of Form 22 of the Annexure.

(b) A person who has been nominated as independent observer and who is willing to accept the nomination, must indicate on Part B of Form 22 any information which reflects his or her background and profile which may be relevant for purposes of deciding whether the nominee is suitable to assist a particular child.

(4) (a) The magistrate of the district must, if the nominee has accepted the nomination and if Form 22 has been completed to the satisfaction of the magistrate, enrol the name of the nominee on the list of independent observers.

(b) The magistrate of the district may obtain further information from the nominee or the group, organisation or institution which nominated the nominee in order to clarify any uncertainty.

(5) The list of independent observers may be kept manually or electronically.

(6) The magistrate of the district must update the list on a regular basis to ensure that the contact details of persons whose names appear on the list are correct.

(7) (a) The magistrate of the district must ensure that there are sufficient persons listed for appointment as independent observers.

(b) In the event of a shortage of persons to be appointed as independent observers, the magistrate of the district must invite further nominations in the manner referred to in his regulation.

Particulars of list of independent observers

39. The list of independent observers referred to in section 1 of the Act must contain the following particulars:

- (a) The surname and full names of the person;
- (b) the residential address of the person;
- (c) the age of the person;
- (d) the language proficiency of the person;
- (e) the occupation of the person;
- (f) the social interest of the person; and
- (g) the cultural background of the person.

Appointment of Independent observer

40. (1) The presiding officer must, for the purposes of appointing an independent observer in terms of section 65(6) of the Act, consider the names of the persons whose particulars appear on the list and select from that list the person best suited to assist the child.

(2) The clerk of the child justice court must, on the instruction of the presiding officer, notify, in the manner directed by the presiding officer, the person selected of his or her proposed appointment to assist the child.

(3) The presiding officer must ascertain from the child whether he or she is willing to be assisted by the person selected.

(4) (a) The presiding officer may obtain from the person selected any further information he or she deems fit for purposes of determining whether the person selected is suitable to assist the child.

(b) The presiding officer must inform the person selected of his or her responsibilities in assisting the child and ascertain whether the person is willing to assist the child.

(5) The presiding officer must, if he or she is satisfied that —

- (a) the child is willing to be assisted by the person selected;
 - (b) the person selected is willing to assist the child; and
 - (c) the person selected is suitable to assist the child,
- appoint the person selected by recording his or her personal particulars on the court record.

CHAPTER 10

SENTENCING

Progress report regarding community based sentences

41. (1) A progress report referred to in section 72 of the Act must—

- (a) be in writing;
- (b) indicate the—
 - (i) case number;
 - (ii) name of the child;
 - (iii) particulars of the offence convicted of;
 - (iv) particulars of the sentence imposed; and
 - (v) sources of information;

- (c) set out the information obtained;
- (d) clearly indicate the progress made in complying with the order with specific reference to the objectives of the sentencing option in question;
- (e) reflect the views of the child regarding his or her progress;
- (f) indicate the conclusions reached and the basis thereof or reasons therefor;
- (g) contain recommendations, if applicable, supported by motivation; and
- (h) be accompanied by supporting documents, if applicable.

(2) The progress report must be submitted to the clerk of the child justice court in question in a manner referred to in regulation 35(4)(b) of the Regulations.

(3) The clerk of the child justice court must, on receipt of the progress report, attach the progress report to the case record and place it before the presiding officer who imposed the sentence.

(4) The presiding officer must direct the clerk of the court how to deal with the matter and, in the case of a child who has failed to comply with a sentence referred to in section 79 of the Act, indicate the date on which the child must appear before the child justice court for an inquiry.

Progress report regarding restorative justice sentences

42. (1) Regulation 41 of the Regulations is applicable to a progress report referred to in section 73(4) of the Act.

(2) The progress report must in addition, indicate—

- (a) the extent to which restitution to and compensation of the victim have taken place, if applicable, and the relations between the victim and offender have been restored; and
- (b) the views of the offender relating to his or her responsibilities; and
- (c) the attitude of the child in carrying out the sentence imposed.

Progress report regarding fines or alternatives to fine

43. (a) Regulation 41 of the Regulations is applicable to a progress report referred to in section 74(3) of the Act.

(b) The probation officer must in addition, include in the report information about—

- (i) the amount of compensation paid, the date on which and person to whom the payment was made;
- (ii) the person or group to whom or organisation or institution to which the service or benefit was provided and the dates on which it was done; and
- (iii) the views of the offender relating to his or her responsibilities; and
- (iv) the attitude of the child in carrying out the sentence imposed,

and attach an affidavit in support thereof.

Report on sentence of compulsory residence in a child and youth care centre

44. (1) A report referred to in section 76 the Act by the head of the child and youth care centre to which a child has been sentenced must correspond substantially with Form 23 of the Annexure.

(2) The report must clearly indicate—

- (a) which of the objectives referred to in section 69 of the Act have been achieved and the basis for the view which must be substantiated by supporting information;

- (b) which of the objectives have not been achieved and the possible reasons for that which must be substantiated by supporting information; and
- (c) indicate the possibility of the child's re-integration into society without serving the additional term of imprisonment with reference to—
 - (i) the pattern of behaviour of the child during his or her term in the child and youth care centre;
 - (ii) any positive or negative incidents in which the child was involved, and in the event of a negative incident, the circumstances surrounding the incident which may have had an impact of the child;
 - (iii) interventions of the centre in instances where the child behaved in an unacceptable manner and the child's response to that;
 - (iv) the extent to which the child has adjusted to the new environment;
 - (v) the child's relationship with his or her peers including new entrants;
 - (vi) the child's relationship with the staff of the centre when the child was disciplined;
 - (vii) the extent to which the child has carried out his or her duties or assigned tasks; and
 - (viii) the extent to which the child has acknowledged responsibility for any wrongdoing in which he or she was involved.

(3) The head of the child and youth care centre must ensure that the views expressed on the issues referred to in section 76(3)(b) of the Act make sense given the information provided.

(4) Form 23 of the Annexure must be accompanied by supporting documents, if applicable.

(5) The progress report must be submitted to the clerk of the child justice court in question in a manner referred to in regulation 35(4)(b) of the Regulations.

(6) The clerk of the child justice court must, on receipt of the progress report, attach the progress report to the case record and place it before the presiding officer who imposed the sentence.

Manner of taking child to a child and youth care centre for compulsory residence

45. (1) (a) A child who has been sentenced in terms of section 76 of the Act must be taken to the child and youth care centre by a police official and, if necessary, be accompanied by a social worker, social service professional or child and youth care worker as defined in the Children's Act or an escort.

(b) The persons who take or accompany the child to the centre must, if reasonably possible, include somebody of the same sex as the child.

(2) A child must be transported—

- (a) in a manner that ensures proper control over the child;
- (b) using the least invasive means to control the child and with due regard to the child's right to bodily integrity;
- (c) in a manner that takes into account the safety and security of the child and the members of society;
- (d) in a manner that takes into account the age, dignity and level of maturity of the child;
- (e) in a manner that is appropriate to the nature of the offence of which the child has been convicted;
- (f) in any police vehicle other than a marked police vehicle; and
- (g) in the cabin of a police vehicle and not in the back.

(3) (a) The person responsible for transporting the child must, when a long distance has to be travelled to the centre, ensure that the child is allowed reasonable

breaks and have access to water, food and, if necessary, overnight accommodation.

(b) The person responsible for the transporting of the child must at all times ensure that he or she has proper control over the child without humiliating the child in public.

(4) The person transporting the child must hand the child to the person in charge of the centre specified in the order and provide the person with the court order.

Manner of bringing court order to attention of functionaries in case of sentence of compulsory residence in child and youth care centre

46. (1) A copy of the court order made in terms of section 76(1) of the Act must accompany the child to the centre or institution where the child is to be detained until he or she is admitted in the centre specified in the order.

(2) The clerk of the child justice court must on receipt of the court order inform, by telephone, the person in charge of the child and youth care centre specified in the order of the order and fax a copy of the order to that person.

Failure of child to comply with certain sentences

47. (1) The presiding officer to whom a report in terms of section 79(1) of the Act was made regarding the failure of a child to comply with a sentence referred to in that section, must indicate to the clerk of the child justice court a date on which the child must be brought before the child justice court.

(2) (a) The clerk of the child justice court must inform the person or the institution in whose care the child is of the date and time on which the child must be brought before a child justice court for an inquiry referred to in section 79 of the Act.

(b) The clerk of the child justice court must provide to the person or institution particulars of the court and its location.

(c) The clerk of the child justice court must notify the person or institution of the particulars referred to in paragraph (a) in the manner referred to in regulation 35(4)(b) of the Regulations and proof of the manner in which the notice was submitted must be attached to the court record.

(3) The person or institution in whose care the child is must, subject to subregulation (4), take the child to the child justice court in question.

(4) The investigating police officer or if he or she is not available, any other police official, must, if the person or institution referred to in subregulation (3) is not in a position to bring the child to the child justice court, take the child to the child justice court.

CHAPTER 11

LEGAL REPRESENTATION

Legal representative appointed to assist the court

48. (1) A legal representative appointed in terms of section 83 of the Act to assist the court must—

(a) attend all the hearings of the case;

(b) address the court on any matter requested by the court;

(c) have access to the documents and statements in the docket; and

(d) ensure that the best interest of the child is upheld at all times.

(2) A legal representative appointed to assist the court may—

- (a) address the court on the merits and procedural aspects of the case;
- (b) address the court on the sentence to be imposed;
- (c) cross-examine a witness in relation to the evidence adduced by the witness;
- (d) discredit the evidence of a witness;
- (e) raise an objection to a question posed to the child or state witness; and
- (f) question the admissibility of evidence led by the state.

CHAPTER 13

EXPUNGEMENT OF RECORDS

Application to Director General for expungement of conviction and sentence

49. (1) An application in terms of section 87(1)(a) of the Act to the Director-General: Justice and Constitutional Development for the expungement of a conviction and sentence must correspond substantially with Form 24 of the Annexure.

(2) (a) Form 24 must be available at every police station, magistrate's office and on the website of the Department of Justice and Constitutional Development.

(b) Copies of section 87 and Schedules 1, 2 and 3 of the Act must be made available to every applicant who requests an application form.

(3) The applicant must, after having completed Form 24, submit it to the Director-General: Justice and Constitutional Development—

(a) by registered post;

(b) by handing it in at the Office of the Director-General.

(4) An official of the Department of Justice and Constitutional Development who has been designated to deal with applications relating to the expungement of convictions and sentences may, if the information in Form 24 is inadequate or not clear, request further information from the applicant or any organ of state.

Consideration of application for expungement by Director-General

50. (1) (a) The designated official in the Department of Justice and Constitutional Development must, upon receipt of an application in terms of section 87 of the Act, hand, or cause to be handed, the completed Form 24 to the Head of the Criminal Record Centre of the South African Police Service.

(b) The Head of the Criminal Record Centre or a person designated by him or her in writing, must, on receipt of Form 24, verify the information in the application form relating to any conviction or sentence and ascertain whether the child has been convicted of a similar or more serious offence during the five or ten year period referred to in section 87(1) of the Act.

(c) The Head of the Criminal Record Centre or a person designated by him or her in writing must record his or her findings in writing and submit them to the official designated by the Director-General: Justice and Constitutional Development who must place the response and the application received before the Director-General for a decision.

(2) The Cabinet member responsible for the administration of justice must express his or her opinion in terms of section 87(1)(b) of the Act in writing and record his or her reasons for the opinion.

(3) The Director-General must, if he or she intends to refuse the application on the basis that the application does not meet the requirements of section 87(2) of the Act, notify the applicant in writing of—

- (a) his or her intention; and
 - (b) the requirements which have not been met and why not,
- and specify a date on or before which the applicant may respond to the Director-General on the information submitted.

(4) The Director-General must, after expiry of the date specified in the notice, consider the response by the applicant, if any, and make a decision regarding the application for expungement.

(5) The Director-General must, if an application has been refused, within 15 working days thereafter inform the applicant in writing—

- (a) of the decision;
- (b) of the reasons for the refusal of the application;
- (c) of the remedies available to the applicant in terms of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(6) The Director-General must, if he or she is satisfied that the child complies with the criteria set out in section 87(1) of the Act, issue a certificate of expungement which correspond substantially with Form 25 of the Annexure.

(7) An applicant to whom a certificate of expungement has been issued in terms of section 87(2) of the Act must hand or submit by registered post the certificate to the Head of the Criminal Record Centre of the South African Police Service.

Application to Cabinet member for expungement of conviction and sentence

51. (1) An application in terms of section 87(3) of the Act to the Cabinet member responsible for the administration of justice for the expungement of a conviction and sentence must correspond substantially with Form 26 of the Annexure.

(2) Form 26 must be available at every police station, magistrate's office and on the website of the Department of Justice and Constitutional Development.

(3) The applicant must, after having completed Form 26, submit it to the Cabinet member—

- (a) by registered post; or
- (b) by handing it in at the Office of the Cabinet member.

(4) An official in the Department of Justice and Constitutional Development who has been designated by the Cabinet member to receive applications relating to the expungement of convictions and sentences may, if the information in Form 26 is inadequate or not clear, request further information from the applicant or any organ of state.

Consideration of application for expungement by Cabinet member

52. (1) (a) The designated official in the Office of the Cabinet member responsible for the administration of justice must, on receipt of an application in terms of section 87(3) of the Act, hand, or cause to be handed, the completed Form 26 to the Head of the Criminal Record Centre of the South African Police Service.

(b) The Head of the Criminal Record Centre or a person designated by him or her in writing, must, on receipt of Form 26, verify the information in the application form relating to any conviction or sentence and ascertain whether the child has been convicted of other offences during the five or ten year period referred to in section 87(1) of the Act.

(c) The Head of the Criminal Record Centre or a person designated by him or her in writing must record his or her findings and submit them to the official designated by the Cabinet member who must place the response and the application received before the Cabinet member for a decision.

(2) The Cabinet member must, if he or she intends to refuse the application on the basis that there are no exceptional circumstances justifying expungement of the conviction and sentence as referred to in section 87(3) of the Act or that the child does not otherwise comply with the criteria in section 87(1) of the Act, notify the applicant in writing of—

(a) his or her intention; and

(b) the requirements which have not been met and why not,

and specify a date on or before which the applicant may respond to the Cabinet member on the information submitted.

(3) The Cabinet member must, after expiry of the date specified in the notice, consider the response by the applicant, if any, and make a decision regarding the application for expungement.

(4) The Cabinet member must, if an application has been refused, within 15 working days thereafter inform the applicant in writing—

(a) of the decision;

(b) of the reasons for the refusal of the application; and

(c) of the remedies available to the applicant in terms of the Promotion of Administrative Justice Act, 2000

(5) The Cabinet member must, if he or she is satisfied that the child complies with the criteria set out in section 87(1) and (3) of the Act, issue a certificate of expungement which correspond substantially with Form 27 of the Annexure.

(6) An applicant to whom a certificate of expungement has been issued in terms of section 87(3) of the Act must hand or submit by registered post the certificate to the Head of the Criminal Record Centre of the South African Police Service.

Expungement of diversion order

53. (1) The Director-General: Social Development may, for the purposes of determining whether the criteria referred to in section 87(6) of the Act has been complied with, obtain information relating thereto from any person, organ of state or private body.

(2) (a) The Director-General must, if information has been received to the effect that the criteria has not been met, inform the child in writing about the information and the implications thereof.

(b) In the notice the Director-General must indicate a date on or before which the child may submit a response to the information received from the Director-General.

(3) The Director-General must, after having considered any response from the child, make a decision on the expungement of the record of a diversion order.

(4) The Director-General must record in writing his or her decision relating to the expungement of the diversion order.

(5) The designated official referred to in regulation 35(1) of the Regulations must, if the Director-General has decided to expunge the record, remove the child's particulars from the diversion register and archive all documents relating to that child.

(6) The designated official must, within 15 working days after having removed the child's particulars from the diversion register, inform the child of the expungement.

(7) The Director-General must, within 15 working days after having refused to expunge the record of a diversion order, inform the child in writing—

- (a) of the decision;
- (b) of the reasons for refusal;
- (c) of the remedies available to the child in terms of the Promotion of Administrative Justice Act, 2000.

Registration of the age of child

54. (1) The Department of Home Affairs must, for the purposes of section 90(2) of the Act, report back to the inquiry magistrate, child justice court or probation officer in question about the registration of the age of the child—

- (a) in writing;
- (b) within 30 days after receipt of a copy of the record of the age determination referred to in section 90(1) of the Act;
- (c) by indicating what steps have been taken regarding the registration of the age of the child;
- (d) by giving reasons why the age has not been registered, if that is the case;
- (e) by advising what can further be done to have the age registered; and
- (f) by attaching a copy of any document confirming the registration of the age of the child, if applicable.

Register of children not having criminal capacity

55. (1) The probation officer must, after having recorded the outcome of the assessment and the decision in terms of section 9(6) of the Act, submit for inclusion in the register referred to in section 97(6) of the Act to the Director-General: Social Development or a person designated by him or her, the particulars required in that section.

(2) The probation officer must inform the Director-General: Social Development or a person designated by him or her of any failure by a child to comply with any obligation imposed in terms of section 9 of the Act and the manner in which the matter was dealt with.

(3) The probation officer must, upon compliance by the child with the obligations imposed on the child in terms of section 9, inform the Director-General: Social Development or a person designated by him or her of the particulars of the child's compliance.

(4) The Director-General: Social Development or a person designated by him or her must, on receipt of the information from the probation officer in terms of subregulations (1) – (3), record the information in the register referred to in section 97(6)(a) of the Act, and file any document so received in the personal file of the child.

Access to register of children not having criminal capacity

56. (1) The register referred to in section 97(6) of the Act may be examined by—

- (a) a person or an official involved in the administration of justice;
- (b) a probation officer in the exercise of his or her official duties;
- (c) a prosecutor in the exercise of his or her official duties;
- (d) a person who is by law empowered or mandated to take care of the interest of a child;

- (e) a parent of the child or the appropriate adult of guardian;
- (f) officials of the child and youth care centre involved in the matter;
- (g) members of non-governmental organisations or community-based organisations whose core business is the interest and welfare of the child;
- (h) any researcher conducting research relating to the criminal justice system for children or the interest of a child; and
- (i) a member of the Intersectoral Committee established in terms of section 94 of the Act.

(2) A person who wishes to access the register must—

- (a) complete Part A of Form 21 of the Annexure;
- (b) hand Form 21 to the Director-General: Social Development or the person designated by him or her; and
- (c) identify himself or herself, if requested to do so by the Director-General or designated official.

(3) The Director-General or the designated official must ensure that the person requesting access to the register is a person referred to in subregulation (2) and must record his or her decision and the reasons for the decision in Part B of Form 21.

(4) Form 21 must be filed in accordance with the general prescripts applicable to officials in the public service.

(5) The register must be accessed in the presence of the designated official.

(6) A person who has examined the register must treat the information obtained as confidential.

CHAPTER 14 MISCELLANEOUS

Manner of notification

57. (1) Any notice required to be submitted in terms of these Regulations may be submitted—

- (a) by hand;
- (b) by registered post;
- (c) by facsimile; or
- (d) electronically,

unless these Regulations provide otherwise.

(2) The person who is to submit the notice must, in determining the manner in which the notice must be submitted, have due regard to the importance of the notice and any actions required in terms of the Act or these Regulations which must be concluded within a specified time period.

(3) The person who submitted the notice must ensure that the person who is to receive the notice has indeed received it if the notice is submitted in terms of subregulation (1)(c) or (d) and must submit the original notice thereafter by registered post.

(4) The person who submitted the notice must keep proof of the manner in which the notice was submitted.

Short title and commencement

58. These Regulations are called the Regulations relating to Child Justice and come into operation on

Form 1

**NOTICE TO PROBATION OFFICER: HANDING OVER OF CHILD UNDER THE AGE OF 10 YEARS
SECTIONS 9(1) OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)**

REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 4]

Ref No:

Particulars of designated Probation Officer

Full names and Surname:-----
Stationed at:-----
Contact Details:-----

Particulars of child

Full names and Surname :
Age: Date of birth: Sex:
Alleged offence:
Physical condition of child during handing over:

Details of the handing over

Full names of person and Child and Youth Care Centre to whom/which child was handed over: -----

Physical address of person or Child and Youth Care Centre:-----

Contact particulars of person or Child and youth Care Centre :-----

Date and time of handing over:-----
Has the person receiving the child been informed of the procedures and the obligations in terms of the Act relating to the assessment of child? If yes, please indicate any information which may be relevant for purposes of assessment :-----

Signature: Police Official

Date

Name of police official:-----
Service No:-----
Rank: -----

Official Stamp

Form 2

REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 5]

Ref/File no.

To: The Clerk of the Children's court, -----

and

To: -----

(indicate the person/centre where child was handed over)

Particulars of designated Probation Officer

Full names and Surname	
Stationed at	
Contact details	

Particulars of child and person and centre where child was handed over

Full names and Surname of child	
Full names and Surname of person and the Name of the centre	
Physical Address of person and/or centre	

REFERRAL

Please mark appropriate referral with X and complete

(i) Referral to Children's court in terms of section 9(3)(i) of the Act

After having assessed the abovementioned child, I am of the view that he/she

* Select the appropriate ground with an X

- may be a child in need of care and protection as referred to in section 150 (1) and (2) of the Children's Act, 2005;
- does not live at his or her parents' home or in appropriate alternative care;
- is alleged to have committed a minor offence/offences aimed at meeting his/her basic needs for food or warmth.

- I accordingly refer the matter to the Children's court to be dealt with in terms of sections 155 and 156 of that Act.
- I attach hereto a copy of assessment report referred to in section 40 of the Act and other relevant documents.

Signature: Probation officer-----
Date

(ii) Referral of child to counselling or therapy in terms of section (9)(3)(ii) of the Act

After having assessed the abovementioned child, I have decided to refer him or her for counselling/therapy for the reasons set out in the attached assessment report referred to in section 40 of the Act.

1. The child must receive counselling/therapy for the period of -----, or until-----
2. You are requested to furnish me with reports on the child's progress and compliance with the decision every -----.

Signature: Probation officer

Date:

(iii) Referral of child to an accredited programmes in terms of section 9(3)(iii) of the Act

After having assessed the abovementioned child, I have decided to refer him or her to an accredited programme for the reasons set out in the attached assessment report referred to in section 40 of the Act.

2. The child must attend the programme for a period of -----, or until -----.
3. You are requested to furnish me with reports on the child's progress and compliance with the decision every ----- until the end of the programme .

Signature: Probation officer

Date:

Copy to: -----

(appropriate persons such as parent)

Official Stamp

Form 3

ORDER FOR THE EVALUATION OF CRIMINAL CAPACITY OF CHILD

* Section 97(6) of the Act requires probation officers to report on the particulars of the child's compliance with the decision for the purposes of the register.

Note: In terms of section 11(4) of the Act, you are required to furnish the inquiry magistrate or child justice court with a written report of the evaluation within 30 days of this order

Evaluation of criminal capacity

1. Brief description of how the evaluation was conducted:-----

2. Evaluation of **cognitive development**:-----

Findings and supporting reasons:-----

3. Evaluation of **moral development**: -----

Findings and supporting reasons:-----

4. Evaluation of **emotional development**: -----

Findings and supporting reasons: -----

5. Evaluation of **psychological development**: -----

Findings and supporting reasons:-----

6.Evaluation of **social development**: -----

Findings and supporting reasons: -----

7. Overall Findings:-----

AFFIDAVIT /SOLEMN DECLARATION

I, -----, state under oath that:

1. I am a ----- registered with the -----
-----, registration number ----- (if applicable).
2. In my capacity as ----- at -----, I conducted
the evaluation of ----- as ordered by the court.
3. I recorded my findings and conclusions in Part B of this form.
4. The findings recorded in this form, have been established during my evaluation of the child.

Signature: Person who conducted the evaluation Date

I certify that this declaration was signed and sworn to/affirmed before me, at -----on this
----- day of ----- 20---, the deponent having acknowledged
that he/she –

- (a) knows and understands the contents of this affidavit;
- (b) does not have any objection to taking the prescribed oath;
- (c) considers the prescribed oath to be binding on her conscience.

Signature: Justice of Peace /Commissioner of Oaths

Full names and surname:-----
Designation: -----
Area of Operation: -----
Business Address: -----

**AGE ESTIMATION OF CHILD BY PROBATION OFFICER
SECTION 13 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 14]**

1. Particulars of the child:

Full names and Surname:.....
Sex:.....

2. Age estimation

Indicate with an X which of the following information has been considered and give particulars-

<input type="checkbox"/> Previous age determination	
Statement by -	
<input type="checkbox"/> parent	
<input type="checkbox"/> appropriate adult,	
<input type="checkbox"/> guardian	
<input type="checkbox"/> community or religious leader;	
<input type="checkbox"/> child	
<input type="checkbox"/> School registration form	
<input type="checkbox"/> School report	
<input type="checkbox"/> Baptismal or religious certificate	
<input type="checkbox"/> Age estimation by a medical practitioner	

Attach copies of relevant documents, where necessary

Other relevant information (provide details)

.....

OPINION:

Based on the information set out above and the child's general appearance, the age of
 is estimated at:

.....
Signature: Probation Officer
 Full names and Surname:.....
 Stationed at:.....
 Contact details

.....
Date
Official Stamp

AGE ESTIMATION OF CHILD BY MEDICAL PRACTITIONER
SECTION 14 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
 [Regulation 15]

At the preliminary inquiry/In the Child Justice Court	
Held at	
Case no/File no.	

PART A

Personal particulars of child

Full names and Surname	
Sex	

Particulars of parent, appropriate adult or guardian or child and youth care centre

Full names and Surname / Name of centre	
Contact details of person/ centre	
Physical address of person/centre	

PART B

REFERRAL OF CHILD TO MEDICAL PRACTITIONER

TO: Particulars of medical practitioner

Full names and Surname	
Stationed at	
Contact details	

Medical Assessment of child

Height		
Weight		
Condition of :	Face	
	Lungs:	
	Heart:	
	Teeth :	
	Sight:	
	Hearing:	
	Speech:	
	Orthopaedic:	
	Neurological:	
	Intellectual:	
Any diseases, infection, injuries or impairment: indicate degree		
Nutrition	Adequate/deficient, if deficient provide details	
Vaccinations	Yes/ No, if yes,	

	provide details	
Physical development	Normal/abnormal If abnormal, provide details	
Sexual organs	Breasts	
	Pubic hair	
	Genitals	
	Auxiliary	
Substance abuse	Yes/ No, if yes, provide details	
Other Observations	Provide details	
Medical or other treatment required/recommende d		

Remarks

.....

Opinion/conclusion

Based on the above-examination and the child's general appearance –
 (a) The age of the child is assessed at being between and
, the most probable age is
 (b) The possible date of birth could be

Signature: Medical Practitioner

Date

Official Stamp

**WRITTEN NOTICE TO APPEAR AT A PRELIMINARY INQUIRY
SECTION 18 OF THE CHILD JUSTICE ACT, 2008 (ACT NO.75 OF 2008
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 16]**

Police Station:	CAS/CR No:	Investigating police official								
District/ Division	Place of Preliminary Inquiry	Room No:	Date of preliminary inquiry							
			<table border="1"> <tr> <td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td> </tr> </table>							

TO:

Full name and Surname of child:											
Physical Address:											
Work address /School attended:											
Sex	M	F	Nationality						Age:		
ID No:											

You are called upon in terms of section 18 of the Child Justice Act, 2008 (Act 75 of 2008) to appear at a preliminary inquiry on the date stated above at ... to consider allegations against you in that on or about ----- and at or near ----- in the district of -----you did wrongfully and unlawfully -----

The original of this notice was today handed to the aforementioned child personally and in the presence of/ a copy was later handed to -----, ID no. ----- of -----being his/ her

- Parent
- Appropriate adult
- Guardian

The child and the parent, appropriate adult or guardian were informed of –

- The nature of the allegations against the child
- The child’s rights, and
- The immediate procedures to be followed.

The child was warned to appear at the preliminary inquiry on the date, time and place indicated above and the parent, appropriate adult or guardian was warned and to bring or case to be brought the child at a preliminary inquiry on the date, time and place indicate above.

Place:-----

Signature: Peace officer

Date:

Full Names of Issuing Officer

Official Stamp:

Acknowledgement of receipt of written notice

Signature: Child

Date:

Signature: Parent, Appropriate adult or Guardian

Date:

**SUMMONS TO APPEAR AT A PRELIMINARY INQUIRY
SECTION 20 OF THE CHILD JUSTICE ACT, 2008 (ACT NO.75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 17]**

Summons No.-----

Case No:-----/-----

Magistrate's Court

District		
Held at	Room No.	Date of Preliminary Inquiry:

To any **POLICE OFFICIAL** or any **OTHER PERSON** empowered to serve a summons in criminal proceedings:

You are commanded/called upon in the name of the State to serve a copy of this summons on the child ("accused"), in the presence of his or her parent, appropriate adult or guardian, whose particulars are specified below, so as to summon him/her to appear at a preliminary inquiry and to remain in attendance in connection with the allegation/s specified below. Report to this Court on the service (what you have done thereon)

Particulars of child

Full names and Surname			
Sex:	Age:		
Address			

Particulars of parent, appropriate adult or guardian

Full names and Surname			
Address			

Particulars of the allegation/s

It is alleged that upon or about day of in the year and at or near,you wrongfully
--

Signature:

Date:

Full Names of Issuing officer

Official stamp

FOR OFFICIAL PURPOSES ONLY

I,-----, the undersigned, certify that I have served this summons personally upon the child mentioned in this summons, in the presence of / a copy was served on his or her parents, appropriate adult or guardian, at -----

The child and the parent, appropriate adult or guardian were informed of –

- The nature of the allegations against the child
- The child’s rights, and
- The immediate procedures to be followed.

The child was warned to appear at the preliminary inquiry on the date, time and place indicated above and the parent, appropriate adult or guardian was warned and to bring or case to be brought the child at a preliminary inquiry on the date, time and place indicate above.

Time -----**day**----- **month**----- **year**-----

Place:----- **Signature: Police official** -----

Acknowledgement of receipt of written notice

Signature: Child

Signature: Parent, Appropriate adult or Guardian

Date: -----

Date:-----

REPORT BY INVESTIGATING POLICE OFFICER TO PRESIDING OFFICER REGARDING DETENTION OF CHILD BEFORE FIRST APPEARANCE AT PRELIMINARY INQUIRY SECTION 22(2) OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008) REGULATIONS RELATING TO CHILD JUSTICE [Regulation 19]

CAS/CR No:.....

1. Particulars of child

Table with 5 rows: Full names and Surname; Age of the Child, Date of birth/ID no, Sex; Date of arrest, Time of arrest; Place of detention; Alleged offence/s.

2. Reasons for detention of child

The child could not be released for the following reason/s (mark appropriate box with X):

- (a) the parents, appropriate adult or guardian could not be located; and/or
(b) there is a substantial risk that the child may be a danger to any other person or to himself or herself

State attempts made to locate the parent, appropriate adult or guardian, if section 22(1)(a) applies:

Dotted lines for text entry regarding attempts to locate parent/guardian.

(provide full details of each attempt made including dates and times)

What are the risks if the child is released, with reference to section 22(1)(b)?:

Dotted lines for text entry regarding risks of release.

(explanation must provide sufficient detail and where possible be accompanied by documentation)

Signature: Investigating Police Official

Date

Full names and Surname of Investigating Police Official:

Service No:

Rank:

Official Stamp

4. Particulars of the Station Commissioner

Full names and surname:.....Service No:

5. Details of the injury or severe trauma

(i)	Is there evidence that the child has suffered physical injury or severe psychological trauma? If yes, provide details:.....
(ii)	Does the child appear to be in pain as a result of the injury? If yes, provide details:.....
(iii)	Is there an allegation that a sexual offence as defined in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act , 2007 (Act No. 32 of 2007) has been committed against the child? If yes, provide details:.....
(iv)	Are there any other circumstances which require the child to receive medical treatment? If yes, provide details:.....

6. Details of medical treatment received by child

Decision and arrangements regarding medical treatment:.....
Nature of medical treatment received by child:.....
Future medical treatment to be received by child, if any:

7. Circumstances surrounding the injury or trauma and recommendations

--

Circumstances surrounding the injury or trauma:.....
.....
.....
.....
.....
.....
.....

(In explaining the circumstances also state the manner in which you established the circumstances surrounding the injury or trauma was made)

Recommendations:.....
.....
.....
.....
.....
.....

(Recommendations may relate to the child and the person responsible for the injury or trauma, if any)

(Note: Attach a copy of the medical report, as required by section 28(2)(c)

.....
Signature: Station Commissioner

.....
Date

Official Stamp:

Part C

Note: to be completed by National Commissioner

Date of receipt of report:-----
Remarks/Instructions:-----

Signature: National Commissioner

Date

Official Stamp:

**APPLICATION TO EXAMINE THE REGISTER OF CHILDREN IN DETENTION
SECTION 28 OF THE CHILD JUSTICE ACT, 2008 (ACT NO 75 OF 2008)
REGULATION RELATING TO CHILD JUSTICE**

[Regulation 22]

CAS/CR NO:.....

To: Station Commissioner

Part A

(to be completed by applicant)

1. Particulars of applicant

Full names and Surname	
Identity Number	
Capacity/occupation	
Name of employer/ business	
Physical address	
Contact details	

2. Reasons for examination of register

Reasons for examination *(In providing reasons also state: particulars of legislation in terms of which you qualify to examine the register, the particulars of the institution for which the research is undertaken; if for research purposes, brief description of research undertaken)	

Signature: Applicant

Date

Part B

(to be completed by station commissioner/designated official)

3. Decision on application for examination

Request: (Mark with X)	granted <input type="checkbox"/> refused <input type="checkbox"/>
Reasons for decision:	
Identification of applicant verified (Mark with X)	Yes <input type="checkbox"/> No <input type="checkbox"/>

Signature: Station Commissioner

**Date
Official Stamp**

Form 14
SWORN STATEMENT IN RESPECT OF PLACEMENT OF CHILD
SECTIONS 29(4) AND 40(2) OF THE CHILD JUSTICE ACT, 2008 (ACT NO 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
 [Regulation 23]

Particulars of child (furnish particulars to the extent known)

Full names and Surname		
Age	Date of birth:	Sex:

I,state under oath that:

1. I am responsible for the management ofChild and Youth Care Centre.
2. I confirm that this Centre has capacity to accommodate ----- children and at present the Centre is accommodatingchildren, the Centre is accordingly
 - in a position to accommodate the abovementioned child.
 - not in a position to accommodate the abovementioned child.
3. The Centre is equipped with:

.....

.....

.....

(state features and amenities)
4. The Centre is safe and secured as :

.....

.....

.....

(state security measures installed at the Centre)

.....
Signature: Manager
Date

OATH/DECLARATION

I certify that this statement was signed and sworn to /affirmed before me, at -----on this -
 ----- day of ----- 20 , the deponent having acknowledged that
 he/she –

- (a) knows and understands the contents of this affidavit;
- (b) does not have any objection to taking the prescribed oath;
- (c) considers the prescribed oath to be binding on her conscience.

.....
Commissioner of Oaths

Full names:.....
Designation:.....
Area:.....
Business Address:

**ERROR REGARDING PLACEMENT OF CHILD REFERRAL OF CHILD BACK TO PRESIDING OFFICER
SECTION 31 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 24]**

Case No:

To: The Clerk of the Child Justice Court:

1. Particulars of the child:

Full names and Surname:-----
Age:-----Date of birth/Id No: -----
Alleged offence/s:-----

2. Particulars of the order

Particulars of the Order:-----
Date of the order :-----
Name of Presiding Officer who made order:-----
(Note: attach copy of the order)

3. Particulars of the person admitting child and reasons for referral

Full names and Surname:-----
Position held:-----
Reasons for referring child back to presiding officer:-----

(Attach any relevant document if available)

.....
Signature: Person referring child back

.....
Date

Family time order in terms of section 53(1)(b) of the Act

(i) You are ordered to spent at least hours per week /month with your family.

(ii) Under this order you are required to-

- Interact with members of your family;
- help with or perform household duties;
- do your homework;
- listen to and co-operate with other family members;
- behave in the following manner
 -
 -
 -
 -

(iii) This order will apply from the date of this order until.....

(iv) Ms/Mr, in his/her capacity as, will monitor this order and report to this court.

(v) Your failure to comply with this order will result in you being issued with a warrant of arrest.

.....
Signature: Presiding officer

.....
Date

Name of the Presiding officer:.....

PART C

Good behaviour order in terms of section 53(1)(c) of the Act

(i) You are from the date of this order until ----- ordered to abide by the following standard of behaviour:-----

(ii) Stop the following behaviour

(iii) Under this order you are required to-

- Interact with members of your family;
- help with or perform household duties;
- do your homework;
- listen to and co-operate with other family members;
- attend community activities approved by your parents, appropriate adult or guardian;
- other:-----

(iv) Ms/Mr.....will monitor and report back on your compliance with this order.

(v) Your failure to comply with this order may result in you being issued with a warrant of arrest

.....
Signature: Presiding officer

.....
Date

Name of the Presiding officer:.....

PART D

Peer Association order in terms of section 53(1)(d) of the Act

(i) You are ordered to associate with the following person/s:

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

(Identify the persons with sufficient detail to avoid any confusion on the child)

(ii) You are further ordered to refrain from associating with the following persons:

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

(iii) The order will apply from the date of this order until

(iv) Ms/Mr will monitor whether you comply with the order and report back to this court.

(v) Failure to comply with the order may result in you being arrested and brought back to court.

.....
Signature: Presiding officer

.....
Date

Name of the Presiding officer:.....

PART E

Reporting order in terms of section 53(1)(e)

(i) You are ordered to report to Mr/Ms....., who will monitor you behaviour, at, everyday (three times a week, once a week), from the date of this order until

(ii) You must report to Ms/Mr, on the following:

.....
.....

(iii) Ms/Mr may require you to:

.....
.....

(iv) Should you fail to report to Mr /Msas stipulated in this order or if he or she feels that your behaviour has not improved you will be arrested and brought back to this court.

.....
Signature: Presiding officer

.....
Date

Name of the Presiding officer:.....

PART F

Supervision and guidance order in terms of section 53(1)(f)

(i) You are placed under the supervision and guidance of, abased at

....., from the date of this order until

.....

(ii) You will be supervised and guided in respect of the following:

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

(iii) You are required to immediately meet with Ms/Mr, to develop a supervision and guidance plan. The supervision and guidance plan must include the following:

- details of the sessions; (number, times and place)
- objectives to be achieved; and
- responsibilities

(iv) Ms/Mrwill act as your mentor and assist you to achieve the objectives of the plan. Ms/Mr is required to report back to court on your progress.

(iv) Failure to comply with the order may result in you being issued with a warrant of arrest.

.....
Signature: Presiding officer
Name of the Presiding officer:.....

.....
Date

**CERTIFICATE OF ACCREDITATION OF DIVERSION SERVICE PROVIDER
SECTION 56 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 31]**

This is to certify that:

(Name and physical address)

Reg No:-----

Accreditation Certificate No: -----

is an accredited diversion service provider to provide diversion programmes, provided that the service provider continues to comply with the minimum standards referred to in section 55 of the Act.

This certificate of accreditation is valid for a period of four years commencing

Minister: Social Development

Date:

Official stamp:

Form 19

**CERTIFICATE OF ACCREDITATION OF DIVERSION PROGRAMME
SECTION 56 OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
[Regulation 31]**

This is to certify that :

-----,

an accredited service provider,

Accreditation Certificate No.-----

is accredited to provide the following diversion programme-

-----,

provided that the diversion programme/s continue to comply with the minimum standards referred to in section 55 of the Act.

This certificate of accreditation is valid for a period of four years commencing

Minister: Social Development

Date:

Official Stamp:

**APPLICATION TO EXAMINE THE REGISTER OF DIVERSION ORDERS OR REGISTER OF CHILDREN
NOT HAVING CRIMINAL CAPACITY
SECTION 60 OR SECTION 97(6) OF THE CHILD JUSTICE ACT, 2008 (ACT NO 75 OF 2008)
REGULATION RELATING TO CHILD JUSTICE
[Regulation 36]**

CAS/CR NO:.....

To: **Director-General/Designated official**

Part A
(to be completed by applicant)

1. Particulars of applicant

Full names and Surname	
Identity Number	
Capacity/occupation	
Name of employer/ business	
Physical address	
Contact details	

2. Reasons for examination of register

Reasons for examination *(the reasons must be for purposes set out in section 60(2)(a) and (b) of the Act)	

Signature: Applicant

Date

Part B
(to be completed by the Director- General or designated official)

3. Decision on application for examination

Request granted/ refused:	
Reasons for decision:	

**Signature: Director- General /
Designated official**

Date

Official Stamp

Form 22

**APPLICATION FOR NOMINATION OF INDEPENDENT OBSERVER
SECTION 1 READ WITH SECTION 65 OF THE CHILD JUSTICE ACT, 2008 (ACT NO.75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE
(Regulation 38)**

PART A: NOMINATION

Personal Particulars on the Nominator

Full name and Surname:	
ID No.	
Physical Address:	
Contact details : (Home, work and cellphone number or email address)	
Name and contact details of Institution represented, if applicable	

Particulars of the nominee

Full name and surname :	
ID No :	
Physical Address:	
Contact details: (Home, work and cellphone number or email address)	
Reason for Nomination :	

.....
Signature: Nominator

.....
Date:

PART B: ACCEPTANCE OF NOMINATION

Full name and Surname :	
ID No.	
Physical Address:	
Contact Details: (Home, work and cellphone or email address)	
Language Proficiency	
Occupation:	
Have you ever been convicted of an offence?	
Background Information : (include cultural background and social interest, in particular the welfare and interest of child)	
Membership details: (other membership or positions held)	
Other information relevant for purposes of nomination as an independent observer:	

I declare that the information provided above is to the best of my knowledge and belief true and correct.

I accept the nomination to serve as an independent observer and declare myself and fit and proper person for nomination.

I accept that serving as an independent observer is a social responsibility and that I do not expect any payment for service rendered.

Signature: Nominee

Date

Place:-----

Form 23

REPORT BY THE HEAD OF CHILD AND YOUTH CARE CENTRE REGARDING THE POSSIBILITY OF CHILD'S REINTEGRATION INTO SOCIETY WITHOUT SERVING TERM OF IMPRISONMENT SECTION 76 OF THE CHILD JUSTICE ACT, 2008 (ACT NO.75 OF 2008) REGULATIONS RELATING TO CHILD JUSTICE [Regulation 44]

TO: The Clerk of the Child Justice Court

1. Particulars of the Child and Youth Care Centre

Name of the Child and Youth Care Centre:-----
Full names and Surname of the head of the Child and Youth Care Centre:-----
Contact details:-----

2. Particulars of the child and sentence

Full names and Surname:-----
Case No:-----
Offence:-----
Sentence imposed:-----
Presiding officer:-----
Date:-----

3. Report

3.1 Details of the programmes referred to in section 191(2)(j)(i) of the Children's Act, 2005, attended by the child:-----

3.2 Child's overall response to programmes:-----

3.3 Have the objectives of sentencing referred to in section 69 of the Act been achieved? If yes, provide details :-

(indicate the basis of your views with reference to the information available)

3.4 Which objectives referred to in section 69 of the Act have not been met, if any? What are the possible reasons thereof?

3.5 Indicate the possibility of the child's re-integrated into the society without having served the additional term of imprisonment: -----

Recommendations:

(provide facts and if opinion is expressed it must be motivated)
(attach supporting documents, if any)

Signature: Head: Child Youth Care Centre

Date

Official Stamp

Form 24

**APPLICATION FOR EXPUNGEMENT OF RECORDS OF CONVICTION AND SENTENCE BY THE
DIRECTOR-GENERAL
SECTION 87(1) OF THE CHILD JUSTICE, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO CHILD JUSTICE ACT, 2008
[Regulation 49]**

This application can only be made-

- (a) For offences referred to in Schedule 1 and 2 of the Child Justice Act, 2008
- (b) If a period of 5 years has elapsed after a conviction of a Schedule 1 Offence.
- (c) A period of 10 years has elapsed after a conviction of a Schedule 2 Offence.
- (d) A child has not been convicted of a similar or more serious offence during the period of 5 or 10 years.

Note Copies of section 87 and schedules 1, 2 and 3 of the Act are available at every police station and magistrate office and the Department's website at: <http://www.doj.gov.za>
The application form will be forwarded to the Criminal Record Centre for verification of the information, then the Director-General will consider the application.

1. Particulars of the Child

Full names and Surname:----- Age: ----- ID No/Date of birth:----- Physical address:----- ----- ----- ----- Postal Address:----- ----- ----- -----
--

2. Particulars of the parents, appropriate adult or guardian

Full names and Surname: ----- ID No.----- Relationship to the child:----- Physical address (if different from the child's):----- ----- ----- -----
--

3. Particulars of Conviction and Sentence

Offence:----- Schedule (1 or 2):----- Case No, if known:----- Child Justice Court :----- Date of Conviction:----- Sentence:-----
--

4. Criteria for Expungement

Mark appropriate box with X <input type="checkbox"/> A period of 5 years has elapsed after the date of conviction of a Schedule 1 offence.

A period of 10 years has elapsed after the date of conviction of a Schedule 2 offence

I have not been convicted of a similar or more serious offence during the period mentioned above.

Yes No

If yes, provide details of all the offences which you were convicted of during the 5 or 10 year period and also indicate why the offence is not similar or more serious :-----

I request that a certificate of expungement be issued directing the Criminal Record Centre to expunge the records of my conviction and sentence in terms of section 87(1) of the Child Justice Act, 2008.

I certify that the information provided in this form is to the best of my knowledge true and correct.

Signature: Applicant

Date

Form 25

**CERTIFICATE OF EXPUNGEMENT OF CONVICTION AND SENTENCE BY THE DIRECTOR-GENERAL
SECTION 87(1) OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO THE CHILD JUSTICE ACT, 2008
(Regulation 50)**

Acting in terms of section 87(1) of the Child Justice Act, 2008 (Act No.75 of 2008), I issue this certificate of expungement in respect of the following applicant:

Surname:-----

Full names:-----

ID No/Date of birth :-----

in respect of the following:

OFFENCE	DATE OF CONVICTION	SENTENCE

DIRECTOR-GENERAL: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

Date:

Official stamp:

(attach supporting documents, if any)

I have not been convicted of a similar or more serious offence during the period mentioned above.
 Yes No

If yes, provide details of all the offences which you were convicted of during the 5 or 10 year period and also indicate why the offence is not similar or more serious:-----

I request that a certificate of expungement be issued directing the Criminal Record Centre to expunge the records of my conviction and sentence in terms of section 87(3) of the Child Justice Act, 2008.

I certify that the information provided in this form is to the best of my knowledge true and correct.

Signature: Applicant

Date

Form 27

**CERTIFICATE OF EXPUNGEMENT OF CONVICTION AND SENTENCE BY MINISTER
SECTION 87 (3) OF THE CHILD JUSTICE ACT, 2008 (ACT NO. 75 OF 2008)
REGULATIONS RELATING TO THE CHILD JUSTICE ACT, 2008
(Regulation 52)**

Acting in terms of section 87(3) of the Child Justice Act, 2008 (Act No.75 of 2008), I issue this certificate of expungement in respect of the following applicant:

Surname:-----
Full names:-----
ID No/Date of birth :-----

in respect of the following:

OFFENCE	DATE OF CONVICTION	SENTENCE

MINISTER: JUSTICE AND CONSTITUTIONAL DEVELOPMENT

DATE:

Official stamp: