

THE CHILD CARE AND PROTECTION ACT

REGULATIONS
(under section 5)

The Child Care and Protection (Children's Registry) Regulations, 2007 L.N. 113A/2007

REGULATIONS
(under section 91)

The Child Care and Protection (Advisory Council) Regulations, 2007 L.N. 99B/2007

The Child Care and Protection (Children's Homes) Regulations, 2007 L.N. 99C/2007

THE CHILD CARE AND PROTECTION ACT

REGULATIONS
(under section 5)THE CHILD CARE AND PROTECTION (CHILDREN'S REGISTRY)
REGULATIONS, 2007*(Made by the Minister on the 27th day of June, 2007)*

L.N. 113A/2007

1. These Regulations may be cited as the Child Care and Protection (Children's Registry) Regulations, 2007.

Citation

2. In these Regulations—

Interpretation

- "recorded information" means any report, update, or notice transmitted to the Registry pursuant to regulation 3 or 6;
- "Register" means the Children's Register established under section 5 of the Act;
- "Registrar" means the Registrar appointed under regulation 14;
- "Registration Officer" means a person so appointed pursuant to regulation 15(3);
- "report" means a report made pursuant to section 6 of the Act;
- "the relevant child", in relation to any report, means the child in respect of whom the report is made;
- "the reporter", in relation to any report, means the person who makes, or is required to make (as the case may be), the report.

Reporting Procedures

3.—(1) Subject to paragraph (3), every report made to the Registry pursuant to section 6 of the Act shall be in Form 1 of the Schedule and shall include the following information—

Forms and transmission of reports, Schedule, Form 1.

- (a) the reporter's name, occupation, address and other contact information (such as telephone numbers and email addresses);
- (b) a description of the circumstances of the reporter's relation to, or acquaintance with, the relevant child;
- (c) as far as is known to, or can reasonably be ascertained by, the reporter—
- (i) the name, gender, age and address of the relevant child;
- (ii) the school that the relevant child attends;

- (iii) the names and addresses of the parents, or guardians, of the relevant child;
 - (iv) the number of other children residing in the same household as the relevant child, and the name, gender and age of each of those other children;
 - (v) any other information that the reporter has and which can reasonably be expected to assist in the identification or location of the relevant child or any other child referred to in sub-paragraph (iv);
- (d) all information that the reporter has as to the matter that gives rise to the suspicion that the relevant child—
- (i) has been, is being or is likely to be abandoned, neglected or physically or sexually ill-treated; or
 - (ii) is otherwise in need of care and protection;
- (e) the details of any evidence, or suspicion, of previous abandonment, neglect or ill-treatment of the relevant child;
- (f) the name, occupation and address of the alleged offender in the matter, as far as is known to the reporter, and any other information that the reporter has and which can reasonably be expected to assist in the identification or location of the alleged offender;
- (g) the date on which—
- (i) each matter alleged under paragraph (d) was committed, if known; and
 - (ii) the information on the matter was acquired by the reporter; and
- (h) whether or not any action was taken by the reporter in respect of the matter and a description of the action taken.

(2) Subject to paragraph (4), as soon as is reasonably practicable after the information giving rise to the obligation to make a report comes to the reporter, the reporter shall complete the report in writing and cause the report to be transmitted to the Registry by any of the following methods—

- (a) registered post;
- (b) hand delivery; or
- (c) through such electronic means as may be approved by the Minister having regard to the provisions of section 7(2) of the Act (confidentiality of reports).

(3) For the purposes of these Regulations, a document is transmitted to the Registry if it is transmitted, by any of the means specified in paragraph (2), to—

- (a) the Registry office; or
- (b) any registration centre,

designated pursuant to regulation 15.

(4) Notwithstanding paragraph (2), a reporter—

- (a) shall in any circumstances where the reporter suspects, or ought reasonably to suspect, that emergency intervention is needed to secure the care and protection of the relevant child; or
- (b) may, in the case of any other report, except a report under section 6(2) of the Act (report by prescribed person),

make the report to a Registration Officer verbally, either in person or by such electronic means of communication as may be approved by the Minister.

(5) Where paragraph (4) applies—

- (a) the Registration Officer shall conduct an interview of the reporter for the purpose of completing the form referred to in paragraph (1), and shall fill in the form with such information as is supplied by the reporter;
- (b) a reporter who completes an interview for the purposes of subparagraph (a) shall be taken to have satisfied the requirements of this regulation as regards the form and transmission of the report.

(6) A report made pursuant to this regulation shall not be considered incomplete if the reporter omits the information required under paragraph (1)(a) (name, address, occupation and contact information) but the following rules shall have effect in any such case—

- (a) regulation 4(b)(i) shall apply only if the information provided by the reporter is sufficient to enable the delivery of the notice in accordance with regulation (4)(2);
- (b) in any case where the reporter is charged with an offence under section 6(4) of the Act (failure to submit report), the onus shall be on the reporter, if he intends to rely on the report in defence of the charge, to show that he is the person who made the report; and
- (c) the Registrar may decline to correct or add to the original report in response to the submission of a supplemental report under regulation 12, unless the Registrar is satisfied that the person making the supplemental report is the person who made the original report.

(7) In any case where the Registrar declines to make a correction or addition under paragraph (6)(c), the Registrar shall in any event treat the supplemental report as a separate report and deal with that report in the manner set out in—

- (a) regulation 4(1), so, however, that the identification number assigned to the report may be a number which identifies that report as relating to the original report in respect of which it was submitted; and
- (b) section 7 of the Act (assessment and referral of reports).

Receipt of reports.

4.—(1) Where a report is received by the Registry under regulation 3, Registration officer shall—

- (a) mark the report with an identification number;
- (b) in the case of a report submitted—
 - (i) under paragraph (2) of regulation 3 (written report), transmit to the reporter a notice of the relevant identification number, in accordance with paragraph (2);
 - (ii) under paragraph (4) of regulation 3 (verbal report), inform the reporter verbally of the relevant identification number, upon completion of the interview mentioned in that paragraph; and
- (c) enter the report into the Register in accordance with the provisions of these Regulations.

(2) The information required to be given by the Registration Officer under paragraph (1)(b)(i) shall be transmitted, by the same means used by the reporter under regulation 3(2) to transmit the report, as soon as is practicable after receipt of the report.

Duties of prescribed person's employer

5. Every entity that provides educational, counselling, health or care services to any child and employs any prescribed person in the provisions of those services shall—

- (a) make copies of the form referred to in regulation 3(1) available to the prescribed person, together with—
 - (i) such guidelines as are issued by the Registrar in relation thereto; and
 - (ii) a copy of the Act and these Regulations;
- (b) adopt such procedures as will ensure the submission of reports by the prescribed person, in accordance with the Act and these Regulations, in relation to any matter arising in the course of the provision of the aforementioned services; and
- (c) designate one or more of its employees to monitor and ensure its compliance with the provisions of this regulation.

*Obligations re the utilization and reports and
maintenance of Register*

6.—(1) Where, pursuant to section 7(1)(a) of the Act, the Registrar refers a report for further investigation or court proceedings, the referee shall—

Progress
reports from
referees

- (a) transmit to the Registrar, at least once in every three calendar months, an update as to the progress of the matter; and
- (b) upon the completion of the investigation or court proceedings, as the case may be, notify the Registrar in writing of the outcome of the matter.

(2) For the purposes of paragraph (1), "the referee" means the person to whom the report is referred pursuant to section 7(1) (a) of the Act (referral to Children's Advocate or Government agency responsible for children).

7.—(1) The appropriate officer of a court shall transmit to the Registrar—

Returns from
court officers

- (a) for each date that the Court is in session, a list of the matters scheduled to be dealt with by that court and involving a child; and
- (b) for each period of three calendar months, a report specifying, in respect of each matter referred to in sub-paragraph (a), the status or outcome (as the case may require) of the matter,

as soon as is reasonably practicable after that information becomes available to the officer.

(2) For the purposes of paragraph (1)—

- (a) a matter involves a child if the matter falls within any of paragraphs (a) to (c) of section 8(1) of the Act (circumstances in which child considered in need of care and protection);
- (b) "the appropriate officer" means—
 - (i) in the case of the Court of Appeal or Supreme Court, the Registrar of the Court;
 - (ii) in the case of a Family Court or Resident Magistrate's Court, the Clerk of the Court.

8.—(1) The Registrar shall ensure that the Register is maintained up-to-date and in accordance with the provisions of this regulation.

Maintenance
of Register

(2) The Register shall be kept in such form as may be approved by the Minister, and shall include the following particulars—

- (a) the matters set out in each report made pursuant to regulation 3; and
- (b) in relation to each such report—

- (i) the assessment made by the registration officer;
- (ii) a record detailing the action taken in respect of the report, all information transmitted pursuant to regulation 6 or 7 (reports, notifications and lists from referees and court officers), and a summary of the final outcome of the matter, setting out all relevant dates.

(3) For the purposes of paragraph (2), the Registrar shall receive, assess and record all information transmitted to the Registry pursuant to regulation 6 or 7.

Confidentiality

Confidentiality
of Register
and reports

9.—(1) Every person shall regard the Register as secret and confidential, and shall not disclose, other than as permitted by these Regulations, any information contained therein or received pursuant to regulation 6.

(2) Subject to regulation 11, information referred to in paragraph (1) may be disclosed only to the extent that such information could be disclosed if it were contained in a report, and the provisions of section 7(2) and (3) of the Act and regulation 10 shall apply, with any necessary modifications, to the disclosure of such information.

Protection
of reporter's
identity

10. A referral or disclosure of a report, or information contained in a report, under section 7 of the Act shall not include a disclosure of the identity of the reporter or any other information from which that identity can reasonably be inferred, except—

- (a) by order of a court; or
- (b) to the Director of Public Prosecutions or a Deputy Commissioner of Police, upon the receipt of a written request certifying that such disclosure is necessary for the investigation or prosecution of a criminal offence.

Extracts
from Register

11.—(1) The Registrar may extract from the Register a record, which—

- (a) shall not include the details of any report;
- (b) may contain a general description of the nature of the reports received and the final outcome of all investigations or proceedings connected therewith.

(2) The record referred to in paragraph (1) may be disclosed—

- (a) for the purposes of the annual report referred to in regulation 16; or
- (b) upon written request, to—
 - (i) the Minister; or
 - (ii) any other person, with the approval of the Minister.

Alteration or deletion of record

Corrections
or additions
to reports

12.—(1) No alteration of any report (hereinafter referred to as the original report) shall be made except as authorized by this regulation.

(2) Any clerical error, which may from time to time be discovered in an original report or the Register, may be corrected by the Registrar.

(3) Any error of fact or substance in an original report may be corrected by the Registrar—

- (a) in the manner specified in paragraph (5); and
- (b) upon the submission by the reporter of—
 - (i) a written supplemental report, in Form 2 of the Schedule to the Registrar; and
 - (ii) satisfactory proof of identity as the person who made the original report.

Schedule
Form 2.

(4) A supplemental report may also be made in respect of any additional relevant information that the reporter has and which was not set out in the original report.

(5) Subject to paragraph (7), upon the receipt of a supplemental report made pursuant to paragraph (3) or (4) the Registrar shall—

- (a) attach the supplemental report to the original report;
- (b) if warranted, correct the relevant entry in the Register (without deleting any information in the original report) by making an entry in the margin of the Register at the place where the error appears; and
- (c) record in the Register any additional information referred to in paragraph (4).

(6) A supplemental report may be delivered to the Registry in any manner in which an original report may be delivered, and when so received shall be treated, as far as the assessment, referral and confidentiality thereof are concerned, as if the supplemental report were an original report.

(7) The provisions of regulation 3(6)(c) and (7) shall apply in any case where satisfactory proof of identity is not submitted under paragraph (3)(b)(ii).

(8) A person who knowingly makes a false statement in a supplemental report to the Registry commits an offence.

13.—(1) As regards any recorded information, the following rules shall apply—

- (a) the identity of any child identified in any recorded information shall be expunged when that child attains the age of eighteen years;
- (b) the identity of any person alleged, in any recorded information, to have committed an offence shall be expunged, in relation to the allegation, if the person is acquitted of the offence before a court;
- (c) a report together with all the other recorded information pertaining thereto shall be entirely expunged if all of the following conditions are satisfied—
 - (i) the identities of all the relevant children named in the report and the alleged offender have been expunged pursuant to paragraphs (a) and (b);

Information
to be expunged
from Registry.

- (ii) apart from the report, there is no evidence to suggest that an offence occurred; and
- (iii) after due investigation by any entity to which the report was referred pursuant to the Act, the report is assessed as false.

(2) The Registrar may act under paragraph (1) either of his own volition or—

- (a) in any case falling within the provisions of paragraph (1)(a) or (c), upon the written application of any child referred to in any of those provisions;
- (b) in any case falling within the provisions of paragraph (1)(b) or (c), upon the written application of the alleged offender,

accompanied by such supporting evidence as the Registrar may require for the purposes of this regulation.

(3) The Minister may, in his discretion, direct the Registrar to expunge any recorded information in the Registry if satisfied that the interests of justice so require.

(4) A request under paragraph (2)(a) or (b) shall be in Form 3 of the Schedule and shall be signed in the presence of a Justice of the Peace.

Registry offices and staff

14.—(1) The Minister shall appoint a fit person to be the Registrar, and a notice of the appointment shall be published in the *Gazette*.

(2) There shall be paid to the Registrar such annual salary as shall from time to time be determined by the Minister.

(3) The Registrar may from time to time employ, at such remuneration and on such terms as may be approved by the Minister, such staff as the Registrar thinks necessary for carrying out the functions of the Registry.

(4) The salaries of the Registrar and the staff of the Registry shall be paid out of the Consolidated Fund.

(5) Anything that the Registrar is authorized or required to do may be done by any member of staff of the Registry authorized by the Registrar, generally or specifically, for that purpose.

15.—(1) The Minister shall—

- (a) provide a suitable place to be the office of the Registry, which shall be deemed to be a registration centre for the purposes of these Regulations; and
- (b) designate—
 - (i) in respect of each parish, one or more suitable places to be registration centres for the purpose of these Regulations; and
 - (ii) a private, toll-free, telephone line dedicated to the receipt of reports

Schedule
Form 3.

Appointment of
Registrar and
employment of
staff

Registry office
and registration
centres.

(2) Each registration centre designated under paragraph (1)(b) shall be equipped with—

- (a) suitable facilities for receiving reports and any other information transmitted to the Registry pursuant to these Regulations; and
- (b) facilities for preserving the confidentiality of recorded information in accordance with the requirements of the Act and these Regulations.

(3) The Registrar shall appoint, in respect of each registration centre, a member of staff of the Registry to be the Registration Officer.

(4) The Registration Officer shall—

- (a) report to the Registrar in respect of the Registration Officer's functions under these Regulations;
- (b) be responsible for the receipt and assessment of reports and other recorded information at the registration centre in respect of which he is appointed and, in connection therewith, shall—
 - (i) maintain records in accordance with the directions of the Registrar;
 - (ii) provide all necessary information and assistance to persons wishing to make a report to the Registry;
 - (iii) upon request, provide guidance and referrals (as appropriate) to persons on matters related to the care and protection of children; and
- (c) carry out such other duties as may be assigned to him by the Registrar for the purposes of these Regulations.

(5) The Registration Officer may, with the approval of the Registrar, delegate any of his functions under these Regulations to any other member of staff of the Registry.

16.—(1) In addition to the functions otherwise set out in the Act or these Regulations, the functions of the Registrar shall be to—

Functions
and duties
of Registrar.

- (a) be responsible for the general operation of the Registry;
- (b) ensure that the Register is maintained in accordance with the provisions of the Act and these Regulations;
- (c) receive and assess reports made to the Registry;
- (d) keep under review the procedures for recording, assessing and investigating reports and make with regard thereto such recommendations to the Minister as the Registrar thinks fit;
- (e) develop guidance notes for the purposes of paragraph 2; and
- (f) develop and implement systems for ensuring—
 - (i) the confidentiality of reports made to the Registry and the contents of the Register, in accordance with the Act and these Regulations;

- (ii) the timely assessment, recording in the Register, and referral (as appropriate), of information received into the Registry.

(2) The Registrar shall from time to time cause printed notices to be placed at registration centres and such other conspicuous public places as the Registrar considers appropriate for the purpose of informing the public of the procedures for making reports to the Registry.

(3) The Registrar shall make, annually, a written report to the Minister, including the following information—

- (a) the extracted record referred to in regulation 11(1);
- (b) statistical trends that identify major risk factors affecting the well-being of children, and any other factors that the Registrar determines to be of public interest;
- (c) a description of the performance of the Registry as regards the assessment and referral of reports and the maintenance of records, as measured against the operational standards in place at the Registry.

Penalties

Offences.

17.—(1) A person commits an offence if that person—

- (a) wilfully destroys, alters or deletes any recorded information, other than as permitted by the Act or these Regulations;
- (b) obtains recorded information otherwise than as permitted by these Regulations, or under false pretences.

(2) A person who commits an offence under paragraph (1) is liable upon conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment, with or without hard labour, for a term not exceeding three months, or to both such fine and imprisonment.

SCHEDULE

Form 1

(Regulation 3)

The Child Care and Protection Act

Form of Report to the Registry under section 6 of the Act

(Please complete in legible script using blue or black ink and submit forthwith
to the office of the Children's registry or the nearest registration centre.)

PART I—PARTICULARS RELATING TO CHILD IN RESPECT
OF WHOM THE REPORT IS MADE

(All items in this Part are to be completed
to the best of the reporter's knowledge)

a. Name of child:

_____ / _____ / _____ / _____
Last First Middle Nickname/Petname

b. Date of birth:

YY

MM

DD

or, if date of birth is unknown, estimated age:

c. Gender:
M F

d. Location—

Home address:

Name and address of school:

If home or school address is not available, or if the child is located elsewhere, please
give other details that can help in locating the child:

e. Name(s) of parents or guardians:

f. Address of parent or guardian, if different from home address of child:

g. Number of siblings or other children living with the child, as well as their names and
ages:

h. Impairment or disability affecting the child:

Physical Mental

Describe:

SCHEDULE, *contd.*

PART 4—REPORTER CONTACT INFORMATION

(Completion of this Part is not mandatory, but if completed will facilitate—)

- *reporter's proof of compliance with the duty to report under the Act;*
- *the receipt of any supplementary report that the reporter may file at a later date).*

- a. Name of Reporter: _____ Signature: _____
- b. Occupation: _____
- c. Address and telephone number or email address: _____
- d. Relationship to relevant child: _____

PART 5

(To be completed by Registry official)

- Date of submission of report: _____
- Report identification number: _____
- Interviewer: (where verbal report is made under regulation 3(4)): _____

Form 2

(Regulation 12)

The Child Care and Protection Act

Supplemental Report

(To be submitted with the proof of identity required under regulations 3(6) (c) and 12 (b) (ii))

- Report identification number: _____
- Date of original report: _____
- Name of relevant child: _____
- My original report is to be corrected in the following particulars: _____

The following additional information should be added to my original report: _____

I offer proof of my identity as the maker of the original report in the following particulars:

Date: _____

Signed: _____

THE CHILD CARE AND PROTECTION (CHILDREN'S REGISTRY)
REGULATIONS, 2007

SCHEDULE, *contd.*

Form 3

(Regulation 13)

The Child Care and Protection Act

Application for Information to be Expunged from Registry

I, _____, of _____,
(name) (occupation)

_____ in the parish of _____,
(address)

hereby make this application in respect of the report numbered _____
[in the matter of _____],
(describe subject matter of report, if report number is unknown)

together with all other information recorded in relation thereto in the Registry.

AND I DECLARE as follows —

1. That I make this declaration in my capacity as—
 - The child in respect of whom the report was made.
 - The suspected offender named in the report.

2. I believe that I am entitled to have—
 - my name and any other references to my identity expunged on the grounds that I have attained the age of eighteen years.
 - my name and any other references to my identity expunged on the grounds that I have been acquitted of all charges brought against me arising from the said report.
 - the said report and other information expunged in its entirety on the grounds that—
 - (a) the identities of all the children named in the report and the alleged offender have been expunged pursuant to regulation 13 (1) (a) and (b);
 - (b) apart from the said report, there is no evidence to suggest that an offence occurred; and
 - (c) after due investigation by any entity to which the report was referred pursuant to the Act, the report is assessed as false.

3. The following documents are submitted in support of this application:

Signed by the said:

this _____ day of _____,

before me _____
Justice of the Peace
for the parish of _____

THE CHILD CARE AND PROTECTION ACT

REGULATIONS
(under section 91)THE CHILD CARE AND PROTECTION (ADVISORY COUNCIL)
REGULATIONS, 2007

(Made by the Minister on the 30th day of May, 2007)

L.N. 99B/2007

1. These Regulations may be cited as the Child Care and Protection (Advisory Council) Regulations, 2007.

2. In these Regulations "Council" means the Advisory Council established in accordance with the provisions of section 85 of the Act.

3.—(1) The Council shall consist of eleven members who shall be appointed by the Minister as follows—

(a) five members of whom—

- (i) one shall be a Resident Magistrate nominated by the Chief Justice;
- (ii) one shall be a representative of the Correctional Services nominated by the Minister responsible for national security;
- (iii) one shall be a representative of the Ministry responsible for justice nominated by the Minister responsible for justice; and
- (iv) one shall be a representative of the Ministry responsible for education nominated by the Minister responsible for education;
- (v) one shall be a representative of the Ministry responsible for youth nominated by the Minister responsible for youth;

(b) six members shall be appointed from among persons who, in the Minister's opinion—

- (i) represent organizations having an interest in matters concerning children; or
- (ii) by virtue of special skills, are suitable to be members of the Council.

(2) The persons referred to in paragraph (1) (b) may include a child.

4. The appointment of a member of the Council shall be for a period of two years and such member shall be eligible for reappointment:

Provided that no person shall be appointed to serve more than two consecutive terms as a member.

5. The Minister shall appoint two of the members of the Council to be the chairman and vice-chairman thereof respectively.

6. In the case of the absence or inability to act of any member the Minister may appoint any person to act temporarily in place of such member, so, however, that such temporary appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

7.—(1) Any member of the Council, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Council.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

8. Any member who fails to attend four consecutive meetings of the Council, without excuse acceptable to the Council, shall cease to be a member thereof.

9. If a vacancy occurs in the membership of the Council such vacancy shall be filled by the appointment of another member who shall hold office for the remainder of the period for which the previous member was appointed, so, however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

10. The Council shall be deemed to be properly constituted for the purposes of these Regulations notwithstanding any vacancy amongst the members thereof or any defect in the appointment of a member thereof.

11. The Council shall meet at least four times in every year and at such times as may be convenient or expedient for the transaction of business, and at such places as the Council may determine.

12. The Chairman may at any time call a special meeting of the Council and shall call a special meeting within fourteen days of a requisition for that purpose addressed to him by any four members of the Council.

13. The Chairman, or in his absence, the vice-chairman, shall preside at the meetings of the Council, and in the case of the absence of both chairman and vice-chairman, the members present and constituting a quorum shall elect one of their number to act as chairman of the meeting.

14. The decisions of the Council shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal, the chairman shall have a casting vote.

15. The quorum of the Council at any meeting shall be six.

16. Minutes in proper form of each meeting shall be kept and shall be confirmed by the chairman as soon as practicable thereafter at a subsequent meeting.

17. Subject to the foregoing provisions, the Council shall have power to regulate its own proceedings, and may delegate to any member or committee thereof the power and authority to carry out on behalf of the Council such duties as the Council may determine.

18. There shall be paid out of the Consolidated Fund to the members of the Council such allowances and expenses as the Minister may specially or generally approve.

THE CHILD CARE AND PROTECTION ACT

REGULATIONS
(under section 91)THE CHILD CARE AND PROTECTION (CHILDREN'S HOMES)
REGULATIONS, 2007*(Made by the Minister on the 5th day of June, 2007)*

L.N. 99C/2007

1. These Regulations may be cited as the Child Care and Protection (Children's Homes) Regulations, 2007.

Citation

2. In these Regulations—

Interpretation

“home” in relation to—

- (a) a licensee means a children's home in respect of which the licensee is granted a licence;
- (b) a medical officer means the children's home for which the medical officer is appointed pursuant to regulation 20;
- (c) a Board of Visitors means a children's home in respect of which the Board is appointed pursuant to regulation 11;

“licence” means a licence to establish and maintain a children's home, granted under section 47 of the Act, and “licensee” shall be construed accordingly;

“local planning authority” has the meaning assigned to it by section 2 of the Town and Country Planning Act.

Licences

3.—(1) An application for a licence shall be in accordance with Form 1 of the Schedule and shall be submitted to the Government agency responsible for children, along with the following—

Licence application. Schedule. Form 1.

- (a) an application fee of five thousand dollars;
- (b) in respect of the proposed manager of the home—
 - (i) a passport sized photograph;
 - (ii) a referral from any three of the following—
 - (A) a Justice of the Peace;
 - (B) a minister of religion;
 - (C) an attorney-at-law;
 - (D) a Resident Magistrate;
 - (E) a Judge of the Supreme Court;
 - (F) the principal of an educational institution or the chairman of the Board of Management of an educational institution;

- (iii) a certificate of clearance issued by the police; and
 - (iv) a medical certificate issued by a duly qualified medical practitioner;
- (c) in respect of each employee—
 - (i) a certificate of clearance issued by the police;
 - (ii) a job description and a copy of the contract of employment or conditions of service, as the case may be; and
 - (iii) if the employee's functions involve the handling or preparation of food for consumption at the home, a copy of the Food Handlers Permit held by the employee under the Public Health (Food Handling) Regulations, 1998;
- (d) certificates evidencing the training and other qualifications of the proposed operator and each employee;
- (e) a detailed operational plan setting out—
 - (i) the planned programmes and activities of the home;
 - (ii) the sex, age group and levels of development of the children proposed to be placed in the home;
 - (iii) the proposed organizational structure and the planned human resources policies and procedures of the home; and
 - (iv) the proposed budget and sources of funding in respect of the home's first year of operation; and
- (f) a report by—
 - (i) an officer of the Jamaica Fire Brigade authorized by the Commissioner of the Brigade in that behalf, stating that the premises proposed for the operation of the home have been inspected and that the officer is satisfied that reasonable provisions have been made for the prevention of fire and for protection against the dangers of fire and other disaster;
 - (ii) a Medical Officer (Health), or any other person authorized in writing in that behalf by the Minister or by a Local Board of Health or a Medical Officer (Health), stating that the premises proposed for the home have been inspected and are in compliance with the provisions of the Public Health Act;
 - (iii) an officer of the local planning authority, authorized in that behalf, stating that the proposed use of the premises as a children's home does not contravene any of the provisions of the Town and Country Planning Act.

(2) A person who proposes to establish or maintain children's homes on more than one premises shall apply for a licence in respect of each premises.

(3) Where a company or other entity, not being an individual, proposes to establish or maintain a children's home, the company or entity, as the case may be, shall appoint an individual to operate the home on its behalf, and the person so appointed shall be the applicant for the licence required under section 47 of the Act.

(4) A licence shall be in accordance with Form 2 of the Schedule.

Schedule
Form 2.

4.—(1) Within twenty-eight days after receiving a completed application in accordance with regulation 3, an officer of the Government agency responsible for children shall—

Assessment
of premises
and applicant.

- (a) make arrangements to visit the proposed premises of the home, for the purpose of conducting an assessment thereof; and
- (b) notify the proposed operator of the home of the date, time and place for the operator to attend an assessment for the purpose of determining, through discussion, observation and competency tests, the applicant's suitability to operate a children's home.

(2) Within fifty-six days after conducting the assessments mentioned in paragraph (1), the officer shall submit a report thereon to the Minister, together with the completed application and accompanying documents.

5. Notice of the grant of a licence shall be published in the *Gazette*.

Publication
of notice re
grant of licence.
Restrictions
re licences.

6.—(1) The Minister may specify in a licence that a children's home shall not receive any boys or girls, as the case may require, or shall only receive such number of boys or girls as may be specified in the licence.

(2) For the purposes of paragraph (1) the Minister may take into account the space available on the proposed premises, the proposed staffing and any restrictions imposed by the local planning authority.

7. A licensee shall ensure that—

Conduct of
operations.

- (a) the home commences operation as a children's home not later than six months after the grant of the licence;
- (b) the number of children resident in the home at any time shall not exceed the number specified in the licence;
- (c) a child who is not within the age limits specified in the licence is not allowed to reside in the home;
- (d) the standards set out in—
 - (i) the Guidance on Standards of Care for Residential Child Care Facilities document; or
 - (ii) any other document applicable to children's homes, issued from time to time by the Minister, are observed in relation to the home; and

- (e) the licence is displayed in a conspicuous place in the home.

Records and
reports.

8.—(1) The licensee shall—

- (a) be responsible to the Minister for the efficient management of the home;
- (b) keep or cause to be kept, in relation to the home and in such form as the Minister may from time to time direct—
- (i) a register of admissions and discharges of children;
 - (ii) a daily journal (containing a record of every event of importance connected with the children's home);
 - (iii) a daily register (containing a record of the presence or absence of each child); and
 - (iv) a disciplinary log containing the following details in relation to every punishment administered at the home—
 - (A) the name of each child involved;
 - (B) the name of the person who administers the punishment;
 - (C) the period and nature of the punishment; and
 - (D) whether the child was afforded a hearing;
 - (v) a file containing particulars of every serious incident occurring at the home, including, in relation to each incident, the date and time of occurrence, the names of the persons involved, the circumstances and the corrective action taken;
- (c) keep or cause to be kept, in respect of each child at the home, in such form as the Minister may from time to time direct, a file containing—
- (i) all available information on the status, health and welfare of the child, including demographic data, physical and mental health status, educational profile, socio-economic status, guardianship, and closest family relation, and, for that purpose, information may be received from a social inquiry report and any data available from the Government agency responsible for children;
 - (ii) a health record containing the following details—

(A) every visit to a medical practitioner or health care provider, with the dates and times of such visits and the names of the persons who accompanied the child on such visits;

(B) illnesses, presenting symptoms, treatment and drugs prescribed or administered,

accompanied by a health card indicating diseases against which the child has been immunized; and

(iii) a school record.

(2) The licensee shall—

(a) in respect of each month of operation of the home, transmit to the Minister, before the end of the next succeeding calendar month, a copy of every entry made to the file mentioned in paragraph (1)(b)(v);

(b) in respect of each financial year, transmit to the Minister, within ninety days after the end of that financial year, the financial statements of the operations of the home;

Provided that at least once in every three years, the financial statements required under this paragraph shall be audited financial statements accompanied by the auditor's report thereon; and

(c) if requested in writing by the government agency responsible for children, submit to that agency financial statements of the operations of the home for the period specified in the request, within sixty days after receiving the request or such longer time as the agency may allow.

9. A licensee shall—

Maintenance of records.

(a) ensure that all registers, books and records required to be kept under these Regulations, are kept up to date; and

(b) cause to be forwarded to the Minister such returns, statements or other information as the Minister may from time to time require.

10.—(1) It shall be a condition of every licence that—

Compliance with Regulations.

(a) the licensee shall comply with these Regulations; and

(b) if the licensee breaches that condition the Minister may, without prejudice to any other penalty, exercise the powers conferred by section 49 of the act to—

(i) cancel or suspend the licence;

(ii) refuse to renew the licence; or

- (iii) apply for an order or interim order for the removal of any child from the home.

Inspections

Board of visitors

11.—(1) There shall be a Board of Visitors for each children's home, consisting of such number of members (hereinafter referred to as visiting members) appointed by the Minister for such period as shall be specified in the instrument of appointment.

(2) The Minister shall notify the licensee of any such appointment and of the persons so appointed.

(3) The visiting members are hereby authorized to—

- (a) enter the home and to have access to every part thereof;
- (b) interview any child of the home, either alone or in the presence and hearing of a member of staff of the home;
- (c) hear and make enquiries concerning any complaint made to them by a child of the home;
- (d) report such complaint, with any remarks, to the Advisory Council and, if the visiting members think it appropriate, to the Minister.

(4) The visiting members shall enquire into any report they may receive as to the likelihood of injury to the mind or body of a child at the home and, in a case of urgency—

- (a) may recommend to the licensee such action as appears to them to be expedient; and
- (b) shall, in every such case, report the circumstances thereof to the Advisory Council and, if the visiting members think it appropriate, to the Minister.

(5) The visiting members shall—

- (a) make enquiries concerning the diets of the children of the home and may make a report thereon to the Advisory Council and, if the visiting members think it appropriate, to the Minister;
- (b) observe and assess the state of the premises of the home and bring to the notice of the licensee any repairs, alterations or additions that may appear to them to be necessary;
- (c) perform such other functions relating to the home and the children thereof as may from time to time be assigned to them by the Minister.

(6) The visiting members shall be entitled to see any document or record of the home which relates to an investigation being carried out by them in respect of the home or a child thereof.

(7) The Board of Visitors shall make an annual report to the Minister

in respect of the exercise of the functions assigned to it under these Regulations.

12. Every member of the Advisory Council and every person duly authorized by the Minister may—

Inspections by
Advisory
Council, etc.

- (a) at all reasonable times enter to visit or inspect any children's home; and
- (b) upon any visit to, or inspection of a children's home, record any observations on the management of such home in a book which shall be provided by the licensee for that purpose.

13. No person shall obstruct or impede any member of the Advisory Council, any visiting member or any person authorized by the Minister under regulation 12, in the conduct of any entry, visit or inspection under these Regulations.

Obstruction

Care of Children

14. A licensee shall ensure that, in relation to the home—

Welfare.

- (a) each child is provided with sufficient food to keep the child in good health, the meals provided are in accordance with such dietary scale as may be prescribed by the Minister and a copy of that scale is displayed in any place where meals are prepared for the home;
- (b) in the case of children of four or more years of age, children of different sexes do not sleep in the same room;
- (c) the daily routine of the home, including the hours appointed for rising, school instruction, practical training, chores, meals, recreation, study and retiring to bed, are approved by the Minister;
- (d) any substantial deviation from the daily routine referred to in paragraph (c) is entered in the daily journal of the home and that a notification of the deviation is sent forthwith to the Minister;
- (e) a copy of the daily routine referred to in paragraph (c) is conspicuously displayed in the home;
- (f) each child is provided with a locker or other storage space in which to keep the child's personal possessions;
- (g) no child who resides, or is, at the home engages in the solicitation of money or other aid for the maintenance of the home, from any member of the public;
- (h) no child who resides, or is, at the home is employed in any work that is likely to—
 - (i) impair that child's health or capacity for benefiting from instruction; or

(ii) deprive the child of reasonable recreation or leisure.

Education.

15.—(1) The licensee shall arrange for the proper education of every child who resides at the home and secure the approval of the Minister in respect of those arrangements.

(2) Where educational programmes are provided at the home, the licensee shall ensure that—

- (a) those programmes are in accordance with a curriculum approved by the Minister;
- (b) any substantial deviation from the approved curriculum is entered in the daily journal and a notification thereof is sent forthwith to the Minister;
- (c) a copy of the timetable for each programme is conspicuously displayed at the home; and
- (d) the attendance, of each child who resides at the home at educational and practical training classes is recorded in a register provided by the licensee for that purpose.

Discipline.

16. The discipline of the home shall be—

- (a) maintained by the licensee or his superintendent and staff; and
- (b) promoted by a system of rewards and privileges.

Restrictions on punishment.

17.—(1) Subject to paragraph(2), in any case where punishment is necessary for the maintenance of discipline at the home, one of the following methods shall be used—

- (a) forfeiture of rewards and privileges (including pocket money);
- (b) temporary loss of recreation;
- (c) isolation from other children.

(2) The method of punishment referred to in paragraph (1)(c) shall be used only in exceptional cases and in accordance with the following provisions—

- (a) no child under the age of twelve years shall be isolated;
- (b) any room used for the purpose of isolation shall be light and airy, and light shall be provided to any child isolated during the hours of darkness;
- (c) some form of occupation shall be provided for the child while the child is isolated;
- (d) a means of communication with some member of the staff of the home shall be available to the child while the child is isolated;
- (e) the child shall be monitored at regular intervals by a member of staff;
- (f) no isolation shall be for a longer period than twelve hours at any one time; and

(g) the circumstances leading to such punishment shall forthwith be reported to the Minister.

Disciplinary
log

18.—(1) A licensee shall, at least once in every week, examine and sign the home's disciplinary log.

(2) A medical officer appointed for a children's home pursuant to regulation 20 shall, at least once in every three months, examine and sign the home's disciplinary log.

(3) The Board of Visitors shall, at each visit and inspection of a home, examine and sign the home's disciplinary log and the file mentioned in regulation 8(1) (b) (v) (serious incident file).

Prohibited acts.

19.—(1) No licensee or member of staff of any children's home shall strike, cuff, slap or use any other form of physical violence towards any child who resides, or is, at the home.

(2) No child at a children's home shall be permitted to administer any form of punishment upon any other child at the home.

Medical Care

Medical officer.

20.—(1) A licensee shall—

(a) appoint a medical officer, who shall be a duly qualified medical practitioner, for the home; or

(b) make suitable arrangements for the treatment of the children of the home at a health facility located at reasonably accessible proximity to the home.

(2) The duties of a medical officer appointed under paragraph (1), or the arrangements made pursuant to that paragraph, as the case may be, shall include—

(a) a thorough medical examination of a child, upon that child's admission to and discharge from the home;

(b) an annual medical examination of each child residing at the home;

(c) monthly visits to the home;

(d) general supervision and advice as to conditions relating to the hygiene or sanitation of the home;

(e) dietary advice;

(f) examination and treatment of sick or ailing children and such members of staff who reside at the home as the licensee or manager of the home may specify;

(g) keeping medical records in such form as the Minister may from time to time specify; and

(h) furnishing such reports and certificates as the Minister may from time to time require.

Medical officer's
attendance at
meetings of
Board of Visitors.

21.—(1) A notice of the meeting of the Board of Visitors of a home shall be given to the home's medical officer at least seven days before the holding of such meeting.

(2) The medical officer may, if he so desires, and shall if required by the Board of Visitors, attend any such meeting:

Provided that a medical officer who is a Government official shall only be required to attend such meetings if such attendance does not conflict with his official duties.

Dental officer.

22.—(1) A licensee shall appoint a dental officer for the home or make other suitable arrangements for the dental care of the children of the home.

(2) The duties of a dental officer appointed under paragraph (1), or the arrangements made pursuant to that paragraph, as the case may be, shall include, in respect of each child residing at the home—

- (a) an examination of the child's teeth at least once in every year; and
- (b) the performance of such fillings, extractions or other dental work as may from time to time be necessary.

(3) Every dental officer appointed under paragraph (1) or providing dental care pursuant to any arrangement made under that paragraph, shall keep a record of his work in such form as the Minister may from time to time specify.

Reports re death,
illness, etc.

23.—(1) Where any child at a children's home dies, becomes seriously ill, contracts an infectious disease or is injured in any accident, the licensee shall forthwith report such death, illness, disease or injury, as the case may be, to—

- (a) the home's medical officer or, if such officer is unavailable, to some other qualified medical practitioner;
- (b) the child's parent or guardian; and
- (c) the Minister.

(2) Where any child at a children's home dies in sudden or violent circumstances, the licensee shall forward to the Minister, as soon as is practicable, a report of the proceedings at any inquest touching the death.

SCHEDULE

(Regulation 3)

Form I

THE CHILD CARE AND PROTECTION ACT

*Application for a Licence to operate
Children's Home*

1. Name of children's home.
2. Parish.
3. Name of applicant.
4. Address.
5. Name and telephone number of resident manager.
6. Qualifications.
7. Size of land.
8. Type and structure of the building.
9. Total number of rooms (apartments).
10. Number and size of bedrooms/dormitories.
11. Number and size of living rooms.
12. Type and number of major pieces of equipment.
13. Type and number of pieces of furniture.
14. Number, size and type of beds for use of children.
15. Number and type of toilets.
16. Number and type of bathrooms.
17. Water supply.
18. Names, duties and qualifications of—
 - (a) resident staff, other than superintendent;
 - (b) non-resident staff.
19. Sex and ages of children proposed to be placed in the home.
20. Name and address of manager or managing board for the home (if any).
21. Amounts and source of each contribution received from Government, public bodies or a private charity.
22. Other sources of funding.
23. Name and address of school where children enrolled at the institution are taught.
24. In relation to previous applications—
 - (a) date of previous application(s);
 - (b) whether or not application was successful;
 - (c) if a licence was previously granted—

*THE CHILD CARE AND PROTECTION (CHILDREN'S HOMES)
REGULATIONS, 2007*

SCHEDULE, *contd.*

Form 1, *contd.*

*Application for a Licence to operate
Children's Home, contd.*

- (i) the address of the previously licensed home;
 - (ii) the period(s) for which the licence was granted;
 - (iii) the reasons for applying for a new licence instead of renewing the previous licence.
25. Applicant's previous employment history and professional experience.
26. Statement and explanation of the nature of every affiliation, of applicant, to a charitable organization, non-governmental organization, religious group or any other body.
27. Statement of registration of the home, and any affiliated body referred to in Item 26, under the Companies Act, Friendly Societies Act or any other law providing for the registration of entities.
28. Applicant's reasons for wishing to operate a children's home.
29. Evidence of applicant's credit status from—
- (a) a bank licensed under the Banking Act;
 - (b) a financial institution licensed under the Financial Institutions Act;
 - (c) a building society registered under the Building Societies Act;
 - (d) a society registered under the Co-operative Societies Act;
 - (e) a person licensed under the Securities Act as a dealer or investment adviser;
 - (f) a person who—
 - (i) engages in insurance business within the meaning of the Insurance Act;
 - (ii) performs services as an insurance intermediary within the meaning of the Insurance Act,
 other than an insurance consultant or an adjustor; or
 - (g) a person whose regular occupation or business is the provision of trust services.
30. Description of applicant's philosophy of child care.
31. Description of the financial management system that will be instituted at the home, and what records will be maintained.
32. Statement that the applicant has read and is willing to comply with the provisions of the Child Care and Protection Act, the Guidance and Standard of Care for Residential Care Facilities and other related documents issued by the Minister.

Signature of Applicant

Date

Form 2

THE CHILD CARE AND PROTECTION ACT

*Licence to establish and maintain
a Children's Home*

This is to certify that _____ is hereby licensed by
the Minister, under the Child Care and Protection Act, to establish and maintain a children's
home known as

at

subject to the following terms and conditions—

Minister

Date