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Child Care Service Order, 1977

Kings Order in Council 30 of 1977

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/order-in-council/1977/30/eng@1998-12-01

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PDF created on 21 February 2024 at 18:29.

Collection last checked for updates: 1 December 1998.

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Child Care Service Order, 1977

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Child Care Service Order, 1977

Kings Order in Council 30 of 1977

Assented to on 1 September 1977

Commenced on 16 September 1977

[This is the version of this document at 1 December 1998.]

A King's Order-in-Council to create a Child Care Service within the Ministry of Local Administration, to define its objects and duties and to provide for the control of voluntary bodies providing services for children.

1. Short title

This King's Order-in-Council may be cited as The Child Care Service Order, 1977.

2. Interpretation

In this Order, unless the context otherwise requires—

“**child**” means any person under the age of sixteen years;

“**committal order**” means an order made by a Juvenile Court under [section 7\(6\)](#);

“**foster-parent**” means any person, not being a parent or guardian of the child, who undertakes the responsibility of providing for the care, accommodation and upbringing of the child, with or without financial reward or who is appointed by a court for this purpose;

“**guardian**” means the natural guardian of a child or tutor duly appointed over such child by law or in the absence of any such guardian or tutor, any relative designated by the parent to assume responsibility for the child, or nominated by a chief or other person in authority to stand in *loco parentis* to the child;

“**institution**” means any residential establishment providing care and accommodation for children;

“**Juvenile Court**” means, pending the establishment of a Juvenile Court or of a court of similar name established by statute, a court presided over by a magistrate in terms of the Magistrate's Court Act, [No. 66 of 1938](#), and on the establishment of a Juvenile Court or court of similar name, such court;

“**Magistrate**” means a magistrate of the first or second class duly appointed as such under the Magistrate's Court Act, [No. 66 of 1938](#);

“**Minister**” means the Minister for Health;

[Amended L.N.194/1996]

“**officer**” means a member of the personnel of the Service referred to in [section 5](#);

“**parent**” means the natural or adoptive father or mother, or stepfather or stepmother of the child;

“**Place of Safety**” means any remand home, police station, hospital, school, institution (whether established under this Order or by a voluntary body), or any other suitable place the occupier of which is willing temporarily to receive a child;

“**Principal**” means and includes deputy principal child care officer appointed as such under [section 5](#);

“**Service**” means the Child Care Service established under [section 3](#);

“**voluntary body**” means any person or group of persons, having wholly or partially independent financial support, which provides services for children.

3. Establishment of a Child Care Service

- (1) There is hereby established a “Child Care Service” which shall be a department in the Ministry of Local Administration and which shall have the duties and perform the functions assigned to it under this Order.
- (2) The Service shall operate through the personnel appointed in terms of this Order.

4. General functions of the Service

- (1) The primary duty of the Service shall be to make provision for orphaned, destitute, homeless or abandoned children, to protect children from the abuse or ill-treatment, to remove children from the custody or care of unfit persons or from conditions which are physically or morally harmful to them or likely so to be, and to perform such other humanitarian services for children’s welfare as may be generally or specially authorised by the Minister.
- (2) In the discharge of its functions the Service shall, wherever possible, endeavour to prevent the separation of a child from his parents, or in their absence, from his family, but shall endeavour, regard being had at all times to the interests and needs of the child, to ensure that the child is not removed from his family.
- (3) The Service shall with the Minister’s approval and subject to such conditions as the Minister may approve, establish and control such institutions, orphanages or foster-homes as may be considered advisable.

5. Personnel of the Service

- (1) The Service shall consist in whole or in part of permanent or part-time officers and of any volunteers approved of by the Minister.
- (2) The personnel of the Service shall be constituted of the following officers—
 - (a) senior officers, being a Principal Child-Care Officer, a deputy principal Child Care Officer and such other Child Care Officers as the Minister may deem necessary;
 - (b) middle ranking officers being superintendents and matrons of institutions;
 - (c) junior rank officers, being assistant matrons and such child care assistants as the Minister may consider necessary.
- (3) The responsibilities, duties and ranking of the officers shall be determined by the Minister in consultation with the Principal.

6. Powers and duties of officers of the Service

- (1) If an officer has had brought to his attention any situation in which a child appears to be destitute, homeless or abandoned or to be suffering from abuse or ill-treatment, or to be in the care of any unfit person or is living in circumstances which are deemed to be physically or morally harmful to him, such officer shall take such action as seems necessary in the best interests of the child, including the removal of the child from the place where he is found or living and his admission to an institution, foster home or other place of safety:

Provided that if it is known that the child has a parent such child shall not be so admitted without the consent of the parent, or failing such consent, an Order of Court obtained under this Order or any other law:

Provided further that if no parent or relative of the child can be immediately found to give such consent, the parent or relative shall as soon as practical thereafter be informed of any action being taken in respect of the child under this Order.

- (2) Any officer who acts in terms of subsection (1) shall within three days thereafter report the matter to the Principal and provide him with all relevant available information which may be required.
- (3) The Principal may thereupon confirm the actions of such officer or amend or vary any provision made by such officer for the child and shall forthwith inform the child's parents or guardian of the child's reception into care.
- (4) The Principal may continue to make provision for the child until such time as the child's parents or guardian resume care of him.
- (5) Save if the Principal considers it advisable to refer the matter to a Juvenile Court, the Principal and the officers shall ensure that any child received into care is returned to the care of the parent or guardian or in their absence some other suitable member of the child's family.
- (6) The Principal may if he thinks it advisable in the interests of any child, that such child should be placed in a Place of Safety, on due notice given to the child's parent or guardian, apply to the Juvenile Court for a Place of Safety Order.
- (7) The Principal may on consideration of any recommendation made by the officer dealing with the matter make available such provision as in his view appears to be necessary in the interests of the child, including the payment of reasonable allowances to or on behalf of the child.
- (8) In all matters the Principal shall act subject to the supervision of the Minister who may override or amend any of his actions.

7. Place of Safety Order

- (1) In any application made to a magistrate by the Principal in terms of [section 6\(6\)](#) for a Place of Safety Order, the presiding official of such Court may require the Principal or his deputy or any other officer to give evidence under oath, either orally or in writing as to the nature of the circumstances giving rise to the application.
- (2) Any parent or guardian of a child in respect of whom such application is being made shall be given a reasonable opportunity of appearing before the magistrate to make any representations concerning such application.
- (3) The magistrate may on such application make a Place of Safety Order for a period not exceeding twenty-eight days.
- (4) Prior to but not later than the expiry of the twenty-eight days referred to in subsection (3) the matter shall be referred to a Juvenile Court for hearing and adjudication thereon.
- (5) The Juvenile Court may request the Principal to produce such reports or submit such evidence as it may consider necessary in the circumstances, and may cause the parent or guardian of the child to be summoned to appear before it and answer such questions as may be put to him by the Court or the Principal or any officer or person appearing on the Principal's behalf.
- (6) The Juvenile Court may after having considered the evidence and any representations made to it—
 - (a) order the child to be returned to his parent or guardian as the case may be;
 - (b) make a Committal Order in terms of which the child is placed under the control of the Principal and in such form of care as the Principal may provide for a period to be determined by such Court or until such Order is revoked by it on application by the Principal, parent or guardian of the child;
 - (c) make an Order placing the child in a hospital or other institution or other place of safety or under the supervision of an officer of the Court for such period as it may determine or until such order is revoked on the application of the Principal or parent or guardian of the child.

8. Duty of police to assist

Any police officer shall, when called upon to do so by the Principal or any Child Care Officer, assist in enabling officers of the Service to carry out their duties as designated in this Order.

9. Additional powers and duties of the Service

- (1) Any officer of the Service may enter and inspect any premises where any child is being cared for by persons other than his parent or guardian, if it is necessary in his opinion to ensure that the care and accommodation being provided are adequate for the wellbeing of the child.
- (2) All officers of the Service shall cooperate with the Police or with any other officers appointed under any other law in connection with the safety, care or protection of the child.

10. Duties of voluntary bodies

- (1) Any person not being a Government body, or person so authorised by the parent or guardian, who is providing institutional or other form of residence care for children, shall notify the Principal that he is carrying out or intends to carry out such functions.
- (2) Any such person shall permit any officer of the Service at reasonable times to inspect premises and to give such information as to the numbers, ages and origin of the children as the Principal may require.
- (3) Any such person shall carry out such requirements as to the care and accommodation of children as are set out in regulations made under this Order.

11. Duties of foster-parents

A foster parent, in whose care a child is placed by the Principal shall carry out such requirements as to the care and accommodation of such child as are set out in regulations made under this Order.

12. Duties of officers of the Service in relation to voluntary institutions and foster-parents

- (1) The Principal shall ensure that a register is kept of all voluntary institutions and foster-homes and that officers of the Service carry out such supervisory duties as are required under the regulations made under this Order.
- (2) The Principal shall make available such advice and assistance as is required to enable voluntary institutions and foster-parents to maintain reasonable standards of care and accommodation for children.
- (3) The Principal may request any voluntary body or foster-parent to provide care and accommodation for a child:

Provided that when so doing, the financial costs and education costs, are met by the Service.
- (4) The Principal may instruct any voluntary body or foster-parent to discontinue providing care and accommodation for children where such provision is not in keeping with the requirements set out in this Order or in the regulations to this Order.

13. Indemnification of the Government, the Service and the Police

The Government, the Service and any police officer who has acted under this Order is hereby indemnified against and exempted from all legal proceedings whatsoever (whether criminal or civil) on account of anything done by any officer or police officer in the *bona fide* execution of his duty and the exercising of his powers under this Order.

14. Offences

Any person who wilfully obstructs or interferes with an officer of the Service or a police officer engaged in carrying out duties under this Order, or who refuses, obstructs or prevents the inspection of premises as required under this Order, or who refuses to comply with any instruction as to the discontinuation of provision for children as required under this Order, shall be guilty of an offence and liable on conviction to a fine of two hundred emalangenis or twelve months imprisonment or both.

15. Regulations

The Minister may make regulations for the better administration of this Order and for the attainment of the objects of this Order, and without affecting the generality of the foregoing may prescribe—

- (a) requirements as to the administration, staffing and standards of provision in residential institutions established under this Order and under the control of the Principal;
- (b) requirements as to the provision of medical and educational facilities for children in institutions established under this Order, or in voluntary institutions or foster-homes;
- (c) requirements as to the investigation or supervision of children referred to the Service and as to the procedures to be followed in such cases;
- (d) requirements as to the visitation or supervision of children in voluntary institutions or foster-homes;
- (e) requirements as to the provision of clothing, bedding or other material items for children placed in the care of voluntary institutions or foster-homes;
- (f) requirements as to the amount of payments to be made for maintenance, medical fees and education of children placed in the care of voluntary institutions or foster-homes and as to the procedures to be followed where such payments are made;
- (g) requirements as to the charges to be paid by the parent or guardian of any child received into care or committed to care by the Court;
- (h) requirements as to the form of reports, keeping of records and such other administrative and documentary procedures as are necessary for the good order and efficiency of the Service;
- (i) subject to any other law, the procedure and conduct relating to the enforcement of discipline amongst officers of the Service.