
Government Notice No. 170 of 2019

THE CHILD PROTECTION ACT

**Regulations made by the Minister under section 21
of the Child Protection Act**

1. These regulations may be cited as the Child Protection (Place of Safety for the Welfare and Protection of Children) Regulations 2019.
2. In these regulations –
 - “Act” means the Child Protection Act;
 - “applicant” means a person who makes an application under regulation 4(1);
 - “authorised officer” means an officer authorised as such by the Permanent Secretary;
 - “caregiver” means a person employed by an institution to look after children;
 - “hospital” –
 - (a) means a State-controlled or private medical institution which provides medical or surgical treatment for in-patients or out-patients; and
 - (b) includes a health centre;
 - “Manager” means the person responsible for the operation and management of a place of safety;
 - “welfare and protection”, in relation to a child, includes –
 - (a) the provision of personal care to the child;
 - (b) the protection of the child from violence, abuse or a hostile environment;

(c) the rehabilitation of the child through physical, psychological and social recovery.

3. These regulations shall not apply to a Government-owned institution for children and to a hospital.

4. (1) No person shall operate an institution for the welfare and protection of children unless the institution is designated as a place of safety by the Minister under these regulations.

(2) (a) A person who wishes to operate an institution for the welfare and protection of children shall make an application to the Permanent Secretary in the form set out in the First Schedule.

(b) On receipt of an application made under paragraph (a), the Permanent Secretary may, in addition to the information and documents required in the application form, request the applicant to submit such other information or document as he may determine.

(3) (a) The Permanent Secretary shall, not later than 21 days after receiving all the information and documents required under paragraph (2)(b), request the applicant to cause the application to be published in the Gazette and, for 2 consecutive days, in at least 2 newspapers having wide circulation.

(b) Any person may, not later than 21 days after the last publication of the application being published in a newspaper, give notice of his objection or make a representation to the Permanent Secretary, stating the grounds of objection or representation.

(4) The Permanent Secretary shall, not later than 3 months after the date of the last publication being published in a newspaper, grant or refuse the application.

5. (1) The Permanent Secretary shall, in determining an application, have regard to –

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- (a) whether the institution and the amenities therein meet the necessary conditions to be a place of safety;
 - (b) whether the staff is adequate and possesses the appropriate qualifications in child related matters, including matters relating to child care, child development, child psychology and rehabilitation;
 - (c) any objection raised under regulation 4(3)(b); and
 - (d) such other criteria as he may determine.
- (2) No application shall be granted where –
- (a) the applicant does not furnish sufficient evidence of the conditions specified in these regulations;
 - (b) the applicant is not fit and proper;
 - (c) any objection to section 4(3)(b) is upheld; and
 - (d) the way in which the applicant intends to carry on the institution as a place of safety is susceptible not to provide services or facilities reasonably required.
- 6.** (1) Where the Permanent Secretary determines an application, he shall make a recommendation to the Minister.
- (2) The Minister may, after due consideration of the recommendation of the Permanent Secretary, grant or reject the application.
- 7.** (1) Where the Minister rejects an application, the Permanent Secretary shall notify the applicant by registered letter, not later than 21 days of the decision of the Minister, and the reasons thereof.
- (2) An applicant who is aggrieved by the decision of the Minister may, not later than 21 days after being notified of the

decision, make written representations to the Minister for him to review his decision.

(3) The Minister may review his decision or reject the representations made.

8. (1) Where the Minister grants an application, he shall designate the institution as a place of safety and the Permanent Secretary shall issue a licence in respect of that institution, on such terms and conditions as he may determine, including –

- (a) the maximum number of children for whom residential accommodation and personal care may be provided at any one time;
 - (b) conditions regarding the age, sex, category of children who may be received in the place of safety;
 - (c) the administration and internal structures of the place of safety;
 - (d) that the financial accounts of the place of safety to be audited by the National Audit Office;
 - (e) conditions regarding training of personnel, recreational activities, catering services, provision of lighting, water and other amenities; and
 - (f) furnishing of an insurance policy for any of its employees.
- (2) A licence issued under paragraph (1) shall –
- (a) be in the form set out in the Second Schedule;
 - (b) be valid for a period of 3 years from its date of issue and may be renewed for further periods of 3 years; and

- (c) be displayed in a conspicuous place at the entrance of the place of safety.

9. (1) An application for the renewal of a licence –

- (a) shall be made to the Permanent Secretary not later than one month before the date of expiry of the licence;
- (b) shall be made in the form set out in the Third Schedule; and
- (c) shall be accompanied by such documents as the Permanent Secretary may determine.

(2) The Minister may, on the recommendation of the Permanent Secretary, renew the licence for another period of 3 years, on such terms and conditions as he may determine.

10. (1) The Minister may suspend or cancel a licence in respect of a place of safety –

- (a) on any ground which would entitle it to refuse an application for a licence;
- (b) where the place of safety is not operated as such within 6 months from the date of the issue of the licence;
- (c) where the place of safety ceases its operation under the licence;
- (d) where the conditions under these regulations have not been complied with;
- (e) on the ground that the holder of the licence has been convicted of an offence involving fraud or dishonesty or has been convicted under the Act or regulations made under the Act;

- (f) on the ground that the holder of the licence has failed to comply with this Act or these regulations;
- (g) where there is serious risk to life, health or the well-being of the children or any other hazards likely to compromise the safety of the children at the place of safety; or
- (h) where it is in the public interest to do so.

(2) Before cancelling a licence, the Permanent Secretary shall, by notice in writing, require the holder of the licence, within 14 days from the date of service of the notice, to show cause why the licence should not be cancelled.

(3) Where the Permanent Secretary is satisfied that, after having regard to all the circumstances of the case and, where necessary, after the holding of an oral hearing, he may make recommendations to the Minister for the cancellation of the licence or the imposition of other conditions to the licence.

11. (1) The Manager of a place of safety shall make available, to an authorised officer, for inspection of all detailed records of all children in that place of safety.

(2) The Manager of a place of safety shall, every 2 months, submit a report in respect of each child to the Ministry, giving details of health condition, behaviour and education, and any other matter related to the developmental aspect of the child.

(3) The Manager of a place of safety shall not allow any unauthorised person to have access to the children without prior approval of the Permanent Secretary or an authorised officer for this purpose.

(4) The Permanent Secretary shall designate any authorised officer to carry out regular inspections at any place of safety, including ad hoc visits following any complaint received at the Ministry.

12. Any person who, prior to the coming into operation of these regulations, operates an institution for the welfare and protection of children shall, within 3 months of the coming into operation of these regulations, make an application to the Minister for the institution to be designated as a place of safety.

13. These regulations shall come into operation on 1 October 2019.

Made by the Minister on 16 September 2019.

FIRST SCHEDULE

[Regulation 4(2)]

CHILD PROTECTION ACT

[Ministry of Gender Equality, Child Development and Family Welfare]

APPLICATION FOR PLACE OF SAFETY

Name of applicant

Profession of applicant

Address of applicant

Name of proposed place of safety

Address of proposed place of safety

Services to be provided in the proposed place of safety –

(a)

(b)

(c)

(d)

(e)

Documents attached –

(a) location plan of proposed place of safety;

(b) certificate from the Sanitary Division of the Ministry of Health and Quality of Life;

(c) certificate from the Chief Fire Officer, Mauritius Fire and Rescue Service;

- (d) security clearance from the Commissioner of Police;
- (e) the Curriculum Vitae of the proposed Manager of the proposed place of safety;
- (f) a certificate of character issued by the Director of Public Prosecutions in the name of every person who will be involved in the management of the place of safety; and
- (g) the list of employees or proposed employees of the proposed place of safety, their background, their health clearances and their child-related qualifications/training.

I HEREBY DECLARE THAT THE PARTICULARS GIVEN IN THE APPLICATION FORM AND THE DOCUMENTS ATTACHED ARE, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE AND CORRECT.

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Signature of applicant

.....
Date

SECOND SCHEDULE

[Regulation 8(2)(a)]

CHILD PROTECTION ACT

[Ministry of Gender Equality, Child Development and Family Welfare]

LICENCE TO OPERATE PLACE OF SAFETY

Mr./Mrs.* of
is hereby authorised to operate the place of safety,
situate at, which has been duly
designated by the Minister of Gender Equality, Child Development
and Family Welfare.

Services to be provided at the place of safety –

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.....
.....

The licence shall be subject to the following conditions –

- (a) this licence is valid for a period of three years as from
- (b) this licence is not transferable;
- (c)
- (d)
- (e)

.....
Permanent Secretary
Ministry of Gender Equality,
Child Development and
Family Welfare

ADDITIONAL CONDITIONS ATTACHED TO LICENCE

1. Location of place of safety

The place of safety shall be located in a residential and peaceful area, far away from any airport, highway, marshy land, activity, or workshop which creates dust, odour, noise and other environmental hazards.

2. Sanitary conditions and physical state of building

(1) The building and premises, including the kitchen, laundry and sanitary facilities of the place of safety shall be in accordance with the health and safety regulations in force.

(2) The building shall be structurally sound and shall not allow the ingress of water, especially during cyclones.

(3) All rooms shall have adequate openings to allow in natural light, fresh air and lighting. Electric lighting shall also be provided.

(4) The water supply for drinking purposes shall be sufficient and potable.

(5) The indoor space requirement shall be in the range of 3.25 square metres to 7 square metres of unencumbered space per child. Only areas designated for child play activities and sleep shall be counted when calculating available space. Hallways, toilets, staff rooms and kitchens shall not be counted.

(6) The Manager of the place of safety shall make special separate provision for children under 2 years of age.

(7) The outdoor space requirement shall be 7 square metres of useable play space per child. This does not include outdoor buildings.

(8) For every 5 children or part thereof, there shall be –

- (a) a junior toilet or adult toilet with a step and junior seat;
- (b) a hand basin with a step or placed at a height for access by children;
- (c) at least one potty for every 5 children; and
- (d) where there are 15 or more children there shall be a separate area for bathing and toileting of children.

(9) There shall be a minimum of 2 toilets and 2 hand basins for children in the place of safety.

(10) There shall be at least one change bench or couch of a height of not more than 50 centimetres, with a washable top for every 10 children.

(11) The Manager of the place of safety shall ensure that the building or buildings, grounds, and all equipment and finishing used in the care services are maintained in a safe, clear and hygienic condition and are in good repair at all times.

(12) The building or buildings and grounds shall be kept free of vermin.

3. Staff of place of safety

(1) No person shall act as Manager of the place of safety unless he is registered as Manager of that place of safety with the Ministry of Gender Equality, Child Development and Family Welfare.

(2) No child-care giver shall be registered and work in the place of safety unless he produces –

- (a) evidence of such basic qualifications or experience as appropriate for a child-care giver;

- (b) a medical certificate to the effect that he is physically and mentally fit to work with children; and
- (c) a certificate of character issued by the Director of Public Prosecutions.

(3) The Manager of the place of safety shall, by the end of every 2 months and as and when required, submit to the Permanent Secretary of the Ministry of Gender Equality, Child Development and Family Welfare –

- (a) a list of children enrolled at the place of safety, giving the date of admission, by whom was a child admitted and the nature of the problem of the child; and
- (b) a list of employees of the place of safety,

and inform the Permanent Secretary of any change in any of the list occurring in that year.

(4) The Manager or any employee of the place of safety shall not, without the prior approval of the Permanent Secretary of the Ministry of Gender Equality, Child Development and Family Welfare, submit any report or details on any child or disclose any information to a third party, other than to the Ministry of Gender Equality, Child Development and Family Welfare.

(5) The place of safety shall ensure quality of alternative care provision in the residential care setting, in particular with regard to the professional skills, selection, training and supervision of carers. Their roles and functions shall be clearly defined.

(6) The holder of the licence to operate the place of safety shall provide, inter alia, the following personnel –

- (a) adequate administrative staff;

- (b) services of child-care givers in the ratio of a minimum of –
 - (i) 1:2 for children of up to one year of age;
 - (ii) 1:3 for children of one to 3 years of age;
 - (iii) 1:4 for children of 3 to 5 years of age;
 - (iv) 1:5 for children of 5 to 11 years of age;
 - (v) 1:6 for children of 11 to 17 years of age; and
 - (vi) 1:1 for children with special needs;
- (c) at least one cook and one assistant for daily preparation of meals for the children; and
- (d) at least 2 cleaners and one handyman for proper maintenance of the premises of the place of safety, including toilets and for minor repairs of furniture, appliances and equipment.

(7) The Manager of the place of safety shall also make necessary arrangements in the following cases –

- (a) to cater for children in case of illness for appropriate medical care and in any other cases;
- (b) to deal with emergency situations expeditiously, thoroughly and carefully, taking into account the child's immediate safety and well-being, such as the child's longer-term care and development shall also be taken into consideration, in terms of his personal and developmental characteristics, ethnic, cultural, linguistic and religious background, family and social environment, medical history and any other special needs;

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- (c) to arrange with the Ministry of Health and Quality of Life for regular medical check-up of the children and ensure that they are in good health;
 - (d) to arrange for counseling of the children;
 - (e) to ensure that the rights of the children to education and participation are entertained (education up to the age of 16 being compulsory, pupils having failed the Primary School Achievement Certificate (PSAC) should attend pre-vocational classes and children with special education needs should attend specialised units/schools and any child who has never attended school should have access to a Special Needs Education institution);
 - (f) to provide security at the entrance of the place of safety for effective movement control;
 - (g) to provide for security, either in the form of security services by a security company duly licensed by the Commissioner of Police under the Private Security Service Act, or security alarms;
 - (h) to provide transport services and assistance for the conveyance of children to any Court in Mauritius.

4. Food policy

(1) The holder of the licence shall have a food policy, taking into consideration special dietary requirements of the children and shall abide by any applicable enactment.

(2) The place of safety shall enlist the services of a nutritionist who will advise on the provision of balanced meals for the children.

(3) The food provided at the place of safety shall be nutritious, adequate in quality, varied and offered at frequent intervals.

(4) Food shall be kept fresh and served warm. Adequate drinking fluids shall be provided to residents, especially during dry seasons.

(5) The religious restriction on the consumption of specific food item for each child shall be respected.

5. Administration

The holder of the licence shall also keep the following books for record purposes –

- (a) an admission register;
- (b) a staff register;
- (c) a movement book;
- (d) an occurrence book;
- (e) a cash book;
- (f) a visitor's book;
- (g) an inventory of all items of equipment and furniture;
- (h) an individual case file for each child which shall include an individual care plan as well as details regarding the nature of the problem, health, nutritional habits, family background and overall development of the child;
- (i) a daily timetable of activities for each age group of children;
- (j) a weekly menu;
- (k) an indicative yearly plan of outings; and
- (l) a donation book.

6. Activities

(1) Every child shall be allowed to practise his faith and the Manager of the place of safety shall not impose any religious and sectarian practice on the child.

(2) Every child may be allowed to participate in simple tasks such as daily household activities, to inculcate the concept of shared responsibility, especially if recommended by a medical practitioner or psychologist for occupational therapy.

(3) The place of safety shall not have more than 25 children so as to ensure personalised care of a child.

7. Children with disabilities

(1) (a) Where a child is disabled, the accommodation provided needs to be adapted to his particular needs.

(b) The needs of a disabled child may be very different according to the nature of the disability of the child's functioning and individual circumstances.

(c) The nature of disability of the child needs to be assessed to ensure that requirements for his accommodation are identified and arrangements made to ensure the suitability of accommodation.

(2) The Manager of the place of safety shall not –

(a) take, or allow any person to take, a child away from the place of safety, including the place from where the child has been removed;

(b) leave a young child unattended or allow the young child to be supervised by other children;

(c) use, or allow any person to use, corporal punishment or any other form of harsh punishment;

- (d) humiliate or insult, or allow any person to humiliate or insult, a child under any circumstance;
 - (e) make, or allow any person to make, racial and ethnic discrimination or harassment against a child;
 - (f) allow unauthorised persons to enter the place of safety;
 - (g) reveal, or allow any person to reveal, information about any child;
 - (h) display or broadcast, or allow to display or broadcast, any images, videos or photographs of a child to the media or to the general public;
 - (i) allow any person to work as volunteer unless the Manager is satisfied that the person can act as such;
 - (j) incite, or allow any person to incite, a child to change his religion;
 - (k) allow unauthorised persons to visit or contact any child;
 - (l) allow inappropriate gestures to be made towards a child;
 - (m) marry, or allow any person to marry, any child;
 - (n) apply for 'Child Beyond Control' without prior approval of the Ministry of Gender Equality, Child Development and Family Welfare; and
 - (o) allow any of the parents, or any family member, of a child to visit the child in the place of safety.
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THIRD SCHEDULE

[Regulation 9(1)(b)]

CHILD PROTECTION ACT

[Ministry of Gender Equality, Child Development and Family Welfare]

APPLICATION FOR RENEWAL OF LICENCE OF PLACE OF SAFETY

Name of applicant

Profession of applicant

Address of applicant

Name of place of safety

Address of place of safety

I/We*, being the holder of the licence in respect of the abovenamed place of safety hereby apply for the renewal of the licence no. dated

.....
Signature of applicant

.....
Date

**Delete as appropriate*
