

Government Notice No 206 of 2002

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 (Foster Care) Regulations 2002.

2. In these regulations –

“Act” means the Child Protection Act;

“alternative placement” means a new place of safety to which a child is committed, following a variation of a committal order under section 2(4) of the Act;

“certificate” means the certificate of registration issued under regulation 13;

“foster care” advisory committee” means Foster Care Advisory Committee set up under regulation 10;

“foster home” means a foster parent or family;

“placement” means a committal order made under section 8 of the Act and includes an emergency placement made in virtue of an emergency protection order made under section 4 of the Act and an interim committal order made under section 8(2) (a) of the Act;

“register” means the register prescribed under the regulation 15;

“visitor means a licensed social worker who has been designated by the Permanent Secretary to monitor any placement made under these regulations.

3. No child shall be placed in a foster home unless the foster home is registered under these regulations.

PART I – THE ROLE OF THE PERMANENT SECRETARY

4. (1) The Permanent Secretary shall be the the supervisory body for all placements made under these regulations.

(2) An application for the registration of a foster home shall be submitted to the Permanent Secretary.

(3) The Permanent Secretary may refer any application for consideration to the Foster Care Advisory Committee.

(4) Upon receipt of the recommendations from the Foster Care Advisory Committee, the Permanent Secretary shall consider the application and may grant or refuse the application.

(5) For the purpose of granting the registration, the Permanent Secretary shall take into account-

- a) the number of children who may be accommodated; and
- b) the age range of the children; and
- c) the recommendations of the Foster Care Advisory Committee.

5. (1) The Permanent Secretary shall keep-

- a) record of the registered foster homes which shall be open to the public; and
- b) detailed case record for every child placed in foster care containing the information kept for as specified in the Third Schedule to these regulations
- c) confidential and secret the detailed case record of every child for a period of 20 years.

(2) Notwithstanding paragraph 5(c), a child placed in foster care or his biological parents may consult personal detailed case record.

6. The Permanent Secretary shall-

- a) have all powers of supervision over the foster home including the power to visit, assess, assist and guide the foster home;
- b) ensure that adequate training be given to the foster home and assistance and support be given to the biological parents;
- c) ensure that the registered foster home complies with the Act and these regulations;

- d) ensure that the child's best interests shall prevail;
- e) interview the child before the placement;
- f) ensure that due consideration shall be given to the child's wishes and views;
- g) inform the Court and the probation officer of the child's wishes and views;
- h) arrange for after-care service to the child upon termination of the placement;
- i) inform the *Ministère Public* of any placement made and recommend that necessary action be initiated before the appropriate jurisdiction regarding the exercise of "*autorité parentale*";
- j) explain to the foster home all the duties and obligations that they have under these regulations; code of conduct and related policy;
- k) enter into a written agreement with the foster home regarding the placement before such placement is made, specifying that the foster home shall carry out the duties specified in the code of conduct to these regulations.

7. Save and except in cases of emergency placements, the Permanent Secretary shall provide the foster home with all the information necessary for the care and welfare of the child, including –

- (a) the reasons for the placement of the child in foster care;
- (b) the child's personal history, religious persuasion, family, social and cultural background;
- (c) the child's health history and state of health;
- (d) the child's educational needs; and
- (e) whenever appropriate psychological report on the child and his emotional needs.

8. (1) The Permanent Secretary shall –

- (a) receive all complaints including complaints of sexual abuse or neglect of the child that may arise in the course of the placement from the foster home, the child, the biological parents or any interested person;
- (b) carry an enquiry into such complaints within the shortest possible delay and may refer the child for specialized care including to a medical practitioner, dental surgeon or psychologist;

- (2) All information gathered in the course of the enquiry shall be kept confidential.
- (3) Where the enquiry or complaint reveals that the child is in imminent danger, the Permanent Secretary shall take the appropriate steps to remove the child immediately and to find an alternative placement.
- (4) In case of alternative placement, the Permanent Secretary shall ensure that the monthly allowance is paid to the alternative foster home.
- (5) The Permanent Secretary may within 72 hours apply to the District Magistrate for a variation of the order.
- (6) The Permanent Secretary shall, upon request, assist and give necessary assistance, financial or otherwise, to the foster home in order to enable it to present its defence in any criminal or civil suit arising out of the child's acts and doings whilst in placement.

PART II – THE FOSTER CARE ADVISORY COMMITTEE

10. There is established for the purposes of these regulations a Foster Care Advisory Committee which shall be a body corporate.
11. (1) The Committee shall be made up of 9 members and shall consist of
 - (a) the Permanent Secretary of the Ministry responsible for child development and welfare or a representative designated by him not below the rank of Principal Assistant Secretary;
 - (b) a representative of the Attorney-General's Office;
 - (c) a representative of the Probation Service;
 - (d) a representative of the Commissioner of Police;
 - (e) a representative of the ministry responsible for the subject of health;
 - (f) a representative of the National Children's Council;
 - (g) a representative of the United Nations Children's Fund (UNICEF);
 - (h) a representative of the Mauritius Bar Association; and
 - (i) a representative of the Ministry responsible for the subject of education.

- (2) 7 members shall constitute a quorum.
 - (3) The Committee shall be chaired by the Permanent Secretary or his representative.
 - (4) The Committee shall meet at such times and place as may be decided by the Chairperson.
 - (5) Subject to the other provisions of this regulation, the Committee shall regulate its proceedings in such manner as it thinks fit.
12. The function of the Committee shall be –
- (a) to formulate objectives, policies and priorities for the enhancement and further development of the foster care system in Mauritius;
 - (b) to oversee processes, standards and products related to the development and implementation of a foster care system in Mauritius, including strategies for monitoring and assessment of the system;
 - (c) to oversee evaluation of the foster care system and make recommendations to the Minister for improvements and changes;
 - (d) to consider such application referred to it under regulation 4(2) and make recommendations to the Permanent Secretary.

PART III – REGISTRATION

13. (1) Every application of a foster home shall be made to the Permanent Secretary in the form as set out in the First Schedule to these regulations.

(2) Any information given by the applicant for the purposes of registration shall be kept confidential and shall not be disclosed by the Permanent Secretary to any third party.

(3) The Permanent Secretary may issue a certificate of registration or refuse to register the foster home, after having heard the applicant and caused an enquiry to be made.

(4) The decision shall be communicated to the applicant by registered post within a reasonable delay.

(5) The Permanent Secretary shall not issue a certificate unless he is satisfied that the applicant complies with the prescribed requirements.

14. (1) Subject to paragraph (2), a certificate issued under these regulations shall be valid for a period of 2 years and may be renewed on application for subsequent periods of 2 years.

(2) An application for renewal shall be granted where the foster home certifies to the satisfaction of the Permanent Secretary that it still complies with the standard prescribed in the Code of Conduct as set out in the Fourth Schedule to these regulations.

(3) Where a registered foster home ceases to meet the standard prescribed in the Code of Conduct, the Permanent Secretary may –

- (a) give the foster home a delay not exceeding 3 months within which to comply with the requirements specified by the Permanent Secretary, failing which the certificate shall be revoked;
- (b) after giving the foster home a hearing, suspend or revoke the certificate

15. (1) The Permanent Secretary shall keep a register of foster homes which shall include a list of the foster homes whose certificates have been revoked, suspended or not renewed.

(2) Such register shall be open to public consultation.

(3) A foster home whose certificate has been revoked or cancelled may not apply for fresh registration within 1 year of the revocation or cancellation.

16. Where a certificate has been refused, revoked or cancelled, the applicant may appeal in the form set out in the Second Schedule to the Minister in writing within 21 days from the date on which he has been notified of the refusal, revocation or cancellation, as the case may be.

17. Any material change in the personal circumstances or otherwise of the foster home shall be communicated to the Permanent Secretary as soon as it occurs and not later than one month after its occurrence.

18. (1) Any registered foster home may apply in writing to the Permanent Secretary to be removed from the register, either temporarily or permanently.

(2) The decision of the Permanent Secretary shall be communicated to the applicant not later than 30 days from the date of the application, and the register shall be amended accordingly.

19. In case of revocation, suspension or cancellation of a certificate or of removal of any home from the register, the Permanent Secretary shall apply forthwith for a variation of the committal order, under section 8(4) of the Act, to the relevant Court for the alternative placement of any child under the applicant's case.

PART IV – PLACEMENT

20. Prior to any placement, the Permanent Secretary shall ensure that the foster home where it is proposed to place the child still complies the conditions for registration.

SUB PART I - Emergency placement under Sections 4 and 8 of the Act

21. Where a child is the subject of a series of emergency placements he shall be placed as far as is practicable, in the same foster home, provided that they occur within a period not exceeding one year.

22. Where a child has been placed in a foster home pursuant to an interim committal order under section 8(2)(a) of the Act and no committal order is made under section 8(3) of the Act, the foster home shall return the child to the Court at such time as may be determined by the Court.

SUB PART II – Placement as a Result of a Committal under Section 8 of the Act

23. Where the Permanent Secretary has made an application under section 8(1) of the Act and is of the opinion that it is in the interests of the child to be placed in a foster home, he –

- (a) may make recommendations regarding the duration of the placement and the preferred registered foster home, taking into account the child's best interests and, in particular, the desirability of keeping siblings in the same foster home;
- (b) shall inform the Court as to whether there is any relative of the child who is willing to take charge of the child;
- (c) shall ascertain that the preferred foster home is appraised of, agrees with, the individual plan in respect of the child.

24. (1) The Permanent Secretary shall effect regular reviews at intervals of not more than one month to ensure that the foster home and its household continue to suit the child's best interests.

(2) Prior notice of the Permanent Secretary's decision shall be given to the foster home.

(3) If it appears that the requirements imposed are no longer suitable, the Permanent Secretary may either grant a delay to comply with the requirements or apply for a variation order.

25. The placement may be terminated where –

- (a) it appears to the Permanent Secretary that it is not in the child's best interests to remain in placement;
- (b) the child is adopted;
- (c) the child becomes emancipated by marriage;
- (d) the placement order lapses; or
- (e) the child dies.

26. (1) One or both parents may request the Permanent Secretary to place his or their child in foster care where he or they consider that –

- (a) neither parent is capable of caring for the child; and
- (b) the placement is in the best interests of the child.

(2) Where a request under paragraph (1) has been complied with, the parents shall enter into a written agreement with the Permanent Secretary which shall inter alia set out the duration and the conditions of such placement.

27. The Permanent Secretary may delegate any one of his powers under these regulations to an officer or authority who shall furnish a written report to the Permanent Secretary every 6 months. Such report shall be communicated to the Advisory Committee.

28. The Permanent Secretary and or any person to whom any of the powers have been delegated shall not be personally liable for any acts and decisions taken in good faith in the exercise of the powers vested in them by the present Regulations.

29. A foster parent which, immediately before the date of commencement of the regulations, was operating under the aegis of an agency or non-governmental organization who is a member of the National Children's Council may continue to operate without being registered under these regulations

- (a) during the period of 6 months beginning with that date; or
- (b) if, within that period, application is made for registration, until that application is finally disposed of or withdrawn.

30. Any person who contravenes any of the provisions of these regulations shall commit an offence, and shall, on conviction, be liable to a fine not exceeding Rs 5000/- and to imprisonment not exceeding one year.

31. These regulations shall be deemed to have come into operation on 1 October 2002.

Made by the Minister on 28 November 2002.

(regulation 13(1))

APPLICATION FORM TO REGISTER AS A FOSTER HOME

*FICHE D'APPLICATION POUR SE FAIRE ENREGISTRER COMME
FAMILLE D'ACCUEIL*

Please return the application forms duly filled in, together with the following documents, to the address below:

Ministry of Women's Rights Child Development and Family Welfare

3rd Floor, CSK Building

Corner Emmanuel Anquetil and Remy Ollier Streets

Port- Louis

Documents to be submitted:

- Birth certificate for you- your spouse- your children and any person staying with your family
- Your marriage certificate
- A certified copy of your permanent decree of divorce
- Certificate of morality for you, your spouse, all children above 18 and any person staying with your family
- Proof of your income
- Proof of ownership of your property
- Health certificate for you, your spouse and all children above 18 and any person staying with your family.

Veillez retourner les formulaires dûment remplis et les documents suivants à l'adresse ci- dessous :

Ministère des Droits de la Femme, du Développement De l'Enfant
et du Bien Etre de la Famille

Immeuble CSK

Angle des Rues Remy Ollier/ Emmanuel Anquetil

Port Louis

Documents à être soumis :

- Votre acte de naissance, celui de votre conjoint, de vos enfants et de toute personne qui habite chez vous.
- Votre acte de mariage.
- Une copie certifiée conforme du jugement prononçant votre divorce s'il y a lieu.
- Le certificat de moralité pour vous, votre conjoint, vos enfants majeurs, et de toute autre personne qui habite chez vous.
- La preuve de vos revenus y compris vos salaires.
- Votre titre de propriété ou le bail de votre maison.
- L'attestation de santé pour vous, votre conjoint, vos enfants et toute personne qui habite chez vous.

1. Name of Applicants/ Nom du postulant : _____
 2. Address/ Adresse : _____

(Please specify capacity in which occupying single ownership/ jointly owned/
usufructuary/leased)
(Veuillez préciser si le domicile vous appartient/ propriété conjointe/ usufruit/ à bail)
 3. How financed : loan (please state monthly repayment)
Monthly rent
Comment payez- vous: emprunt (préciser le montant mensuel de
repalement/ loyer mensuel) : _____
 4. Phone No/ Numéro de téléphone : _____
 5. Home/ Résidence : _____
 6. Office/ Bureau : _____
 7. Mobile/ Cellulaire : _____
 8. Email address/ Adresse e-mail : _____
 9. Date of birth/ Date de naissance : _____
 10. Marital status/ Situation familiale : _____
Current/ Présente : _____
Previous/ Passée : _____
 11. Occupation/ Profession : _____
 12. Education/ Niveau d'éducation : _____
 13. Employer/ Employeur : _____
 14. Gross monthly salary/ Salaire Mensuel : _____
 15. Other income/ Autre source de revenus: _____
 16. Health status/ Etat de santé : _____
 17. Handicaps (if any) Signaler toute forme de handicap : _____
 18. Current medical treatment/ Traitement médical actuel : _____
 19. Past medical treatment/ Traitement médicale passé : _____
 20. Previous conviction if any/ Condamnation précédente s'il y en a eu: _____
-
21. Jurisdiction/ Tribunal de condamnation : _____
 22. Date/ Date : _____
 23. Type of offence/ Type d'offense : _____

Dependents: (include legitimate, natural, adopted, unacknowledged and step children living in and out of the same household relatives etc) exclude spouse/ partner/ and their dependents

Personnes à votre charge (incluant l'enfant légitime, naturel, adopté, non déclaré et beaux-fils, belles-filles habitant sous le même toit)

Name	Relation to applicant	Age	Education	Occupation
Nom	Lien de parenté avec le postulant	Age	Education	Profession
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

If children are not living in the household- the reason why. Please specify whether one of the children has been adopted or placed in foster care and the reason thereof.

Si les enfants n'habitent pas chez les parents- indiquez pourquoi. Veuillez préciser si un des enfants a été adopté ou placé en famille d'accueil et donnez la raison.

Other household occupiers/ D'autres personnes habitant avec la famille :

Reason for fostering/ Raisons pour devenir famille d'accueil :

Foster child preference: if given the choice, I would prefer:

Préférence pour l'enfant à être accueilli. Si j'ai le choix, je préférerais :

Age range/ Tranche d'âge: _____

Sex/ Sexe : _____

Other preference/ Autre préférence : _____

INFORMATION RELATING TO THE SPOUSE/ PARTNER

INFORMATIONS SUR LE CONJOINT/ PARTENAIRE

Name of Spouse/ Partner/ *Nom du conjoint/ partenaire*: _____

Adresse/ *Adresse* : _____

(Please specify capacity in which occupying: single ownership/ Jointly owned/ usufructary/ leased)

(Veuillez préciser si le domicile vous appartient/ propriété conjointe/ usufruit/ à bail) (living seperately/ *vivre separement*) (if living separately).

Phone No. Office/ *Numéro de telephone Bureau* : _____

Mobile/*Cellulaire* : _____

Email Address/ *Adresse e-mail* : _____

Date of Birth/ *Date de naissance* : _____

Marital Status/ *Situation familiale* : _____

Current/ *Présente* : _____

Previous/ *Passée* : _____

Occupation/ *Profession* : _____

Education/ *Niveau d'éducation* : _____

Employer/ *Employeur* : _____

Gross monthly salary/ *Salaire Mensuel*: _____

Other income/ *Autre source de revenus* : _____

Health status/ *Etat de santé* : _____

Handicaps (if any) *Signaler toute forme de handicap* : _____

Current medical treatment/ *Traitement médical actuel* : _____

Past medical treatment/ *Traitement medical passé*: _____

Previous conviction if any/ *Condamnation précédents s'il y en a eu:*

Jurisdiction/ *Tribunal de condamnation* : _____

Date/ *Date*: _____

Type of offence/ *Type d'offense*: _____

*Dependents if living separately: (include legitimate, natural, adopted unacknowledged and step children living in and out of the same household relatives etc)

Personnes à votre charge (incluant légitime, naturel, adopté, non déclaré et beaux-fils, belles-fille (s) habitant par sous le même toit).

Name	Relation to applicant	Age	Education	Occupation
<i>Nom</i>	<i>Lien de parenté avec le postulant</i>	<i>Age</i>	<i>Education</i>	<i>Profession</i>

*need to fill only by the dependents of spouse or partner if living separately

A remplir si les personnes a charge du conjoint ou partenaire habitant séparément.

Other information which you may wish to supply

Informations additionnelles que vous souhaitez fournir

References (at least 2 and NOT related by blood or by marriage to the applicant and/ or the spouse/ partner)

Références (au moins 2 n'ayant aucun lien de parenté avec le postulant ou/ et son conjoint/ partenaire)

1. Name/*Nom* : _____

Address/*Adresse* :

Phone No/ No. De téléphone : _____

2. Name/ *Nom* : _____

Adresse/*Adresse* : _____

Phone No/ *No. de téléphone* : _____

I/ we declare that all the above information is to the best of my/ our knowledge true at the time that they are given. I/ we declare that I/ we have never been found guilty of any acts of domestic violence/ police case nor have I/ we been deprived partly or totally of my / our parental authority over any of my/ our children.

Je déclare/nous déclarons que les informations ci-dessous sont vraies au moment de la déclaration. Je déclare/ nous déclarons n'avoir jamais été trouvé(e)(s) coupable de violence domestique ou toute autre forme de violence, ne jamais avoir eu des démêlés avec la police et ne jamais avoir été privé partiellement ou totalement de mon/ notre autorité parentale à l'égard de n'importe lequel de mes/ nos enfants.

Date.....

(i)
Name Signature

(ii)
Name Signature

(regulation 16)

Name of appellant:

Address:

Telephone No:

Date of application:

Date of refusal:

Grounds of appeal:

Date:

Signature:

Attachments (if any):

(regulation 5(1))

The records shall include inter alia —

1. the child's name, sex and date of birth;
2. the name and addresses of the child's biological parents, grandparents, when possible, siblings and relations;
3. a medical and social history of the child;
4. the reasons for the placement of the child;
5. reports of visits made to the child by the appointed visitor;
6. any Court order made in respect of the child;
7. a copy of the foster care agreement between the Permanent Secretary and the foster home;
8. a copy of the application for registration as foster home as filled by the foster home.

(regulation 14(2))

Code of Conduct

This code of conduct shall apply to all registered foster home. Any reference therein to a foster parent shall apply without any distinction to the need of family in a foster family and the manager of a Group foster home.

1. A foster parent shall ensure that there is no discrimination in respect of the foster child within the household. He shall comply with all lawful directives given to him by the Permanent Secretary.

2. Any foster parent shall at all times inform the Permanent Secretary of any likely changes of address, telephone or contact number of the child who is in placement. Such notification shall as far as it is practicable take place at least 8 days before its occurrence.

3. The foster parent shall ensure that all services and duties as set out in the specific agreement are complied with at all times. These shall concern living conditions, privacy, education and discipline, health and hygiene, safety and religious and cultural practices. These will include inter alia

- (a) The child has a right to privacy as appropriate for his age;
- (b) The child's right to education which may include the following

-
Attend school and adequate facilities for studying as is appropriate for the age and any special needs of the child;

As far as is practicable attend specialized institution for child with special needs, i.e disabled child;

Have regular contact with teachers and other professionals who interact with the child;

Child to be kept as far as practicable in current school;

Follow-up of homework and school report;

Respect for religious and cultural identity;

Discipline is given in a positive way, the child is not subjected to corporal punishment, immobilization, force feeding, deprivations, humiliation or frightening;

- (c) The child's access to health safety and hygienic conditions which may include the following –

The child must be properly fed, i.e a balanced diet, same standard of food as the rest of the family;

First aid kit available in the house;

Regular medical and dental check-ups and vaccinations;

Major illnesses: hospital, clinic and doctors (In case of serious illness or main surgery, the Permanent Secretary must be informed without the shortest possible delay;

Treatment for disabled children;

Psychological follow-up if need be;

Duty to inculcate to the child minimum standards of personal hygiene such as daily shower, cleaning teeth, trimming of nails etc;

Community standards of cleanliness and appearance are maintained;

- (d) The parent's duty to ensure that the following safety rule prevail in the home at all times –

Make sure that harmful equipment or toxic liquids are not accessible to children;

House should be safe, e.g babies regarding stairs, electrical sockets;

Child should not be exposed to known risks in the house (gas, kettle, oven);

- (e) The possibility extended to the child to have access to his own religion and cultural identity in the respect of the following –
Child to be encouraged and supported to follow his own religion (degree of observance) and culture;

No attempt to change religion or influence to change.
Respect for the child's religion;

Wish of child to change religion must be referred to
Permanent Secretary.

4. A foster parent shall give access at all times to the visitor appointed to supervise the placement. The foster parent shall give all facilities to the visitor to interview the child in private and shall not intervene in the visit.

The foster parent shall communicate to the child and to the educational institution that the child attends, the name, address and telephone number of the assigned; At the time of the placement, the visitor shall see the child at home or at the educational institution;

- (a) every week for the 6 weeks;
- (b) every fortnight for the next 2 months;
- (c) every month for the next 6 months.

Subsequently, the visitor shall see the child at least once every six months or on request from the child, the foster parent or the teacher/instructor.

5. The child shall not be asked to perform unreasonable household duties such as cooking for the whole family, cleaning of the house alone. Babysitting must be subject to age difference, maturity and physical ability and there should be no abuse.

6. No child who has been placed in foster care shall be gainful employment without the prior written consent of the Permanent Secretary and, so far as is practicable, the biological parents.

Such obligations shall not be applicable when the child is following a 'stage' in the course of a professional or industrial training.

7. Subject to any restraining order decided by the Court and directives given by the Permanent Secretary, foster parents shall allow the child's biological parents, siblings and relatives to have access to the child in placement.

Such access shall be given in a manner which shall be the least disruptive to the child's emotional, social and educational balance.

The foster parent shall also ensure that the child has access to his friends and relations, taking into account the influence that such friends and relations may have on him.

8. Any finances, grants and pensions given by the relevant authority for the upkeep and maintenance of the child shall be used solely for the benefit of the child.

The visitor shall supervise whether the grant has been put to reasonable use by the parent.

9. The foster parent shall contract an insurance policy with a reputable insurance policy, approved by the Permanent Secretary with a view to meeting any legal liabilities of the foster parent arising by reason of a placement.