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GENERAL NOTICE

NOTICE 582 OF 1995

DEPARTMENT OF WELFARE

CHILD CARE DRAFT AMENDMENT BILL

The above-mentioned Bill is hereby published for general information and comment. Comment should be addressed to the Director-General, Department of Welfare, Private Bag X901, Pretoria, 0001 (for attention: The Director: Family and Community Care), and must reach the Department not later than **31 July 1995**.

EXPLANATORY NOTE:

The most significant object of this Bill is to amend the Child Care Act, 1983 (Act No. 74 of 1983) (the Act), so as to rectify certain omissions in the Act, to remove legal uncertainty and to provide for changing circumstances.

The Bill envisages to provide for the *ex-officio* appointment of prosecutors as children's court assistants for the districts in which they hold office and for legal representation for children in children's court proceedings.

In terms of the Act the contents of a statement or report of a social worker, which has been lodged with a children's court, may on request only be disclosed for any civil action by order of any court to a court. It has, however, become evident that it is in the interest of a child that such statement or report, be disclosed to the family advocate appointed under the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987), so as to make a recommendation which is in the best interest of a child. Clause 3 envisages to correct this situation.

ALGEMENE KENNISGEWING

KENNISGEWING 582 VAN 1995

DEPARTEMENT VAN WELSYN

KONSEPWYSIGINGSWETSONTWERP OP KINDERSORG

Bovermelde Wetsontwerp word hiermee vir algemene inligting en kommentaar gepubliseer. Kommentaar moet gerig word aan die Direkteur-generaal, Departement van Welsyn, Privaatsak X901, Pretoria, 0001 (vir aandag: Die Direkteur: Gesin- en Gemeenskapsorg), en moet die Departement nie later as **31 Julie 1995**, bereik.

VERDUIDELIKENDE NOTA:

Die belangrikste oogmerk van hierdie Wetsontwerp is om die Wet op Kindersorg, 1983 (Wet No. 74 van 1983) (die Wet), te wysig om sekere weglatings in die Wet reg te stel, om regsonsekerheid uit te skakel en om vir veranderde omstandighede voorsiening te maak.

Die Wetsontwerp beoog om voorsiening te maak vir die *ex-officio*-aanstelling van aanklaers as assistente van die kindersorg vir die distrikte waar hulle die amp beklee en vir regsverteenvoerding vir kinders in kindersorgverrigtinge.

Ingevolge die Wet mag die inhoud van 'n verklaring of 'n verslag van 'n maatskaplike werker wat by 'n kindersorg ingedien is, slegs op versoek openbaar gemaak word vir die doeleindes van 'n siviele geding op las van 'n hof aan 'n hof. Dit het egter duidelik geword dat dit in belang van 'n kind is om sodanige verklaring of verslag openbaar te maak aan die gesinsadvokaat wat aangestel is ingevolge die Wet op Bemiddeling in Sekere Egskeidingsaangeleenthede, 1987 (Wet No. 24 van 1987), ten einde 'n aanbeveling te maak wat in die beste belang van die kind is. Klousule 3 beoog om die situasie reg te stel.

At present a person who wishes to adopt a child may maintain such a child apart from his parents if he applied for the adoption of the child. This provision has as a result that a child is in the care of a person who is not a suitable adoptive parent in which case the child ought to be removed and placed suitably elsewhere. Such removal can be traumatic for all the parties involved, especially the child. The Bill envisages to provide that any person, including the prospective adoptive parent, may only with the consent of the commissioner of child welfare, receive and maintain a child apart from his parents for a period longer than 14 days.

Section 14 (4) of the Act focuses on the parents who are unfit or unable to have a child in their custody and not on the child. The Bill envisages to place the focus on the child as being a child in need of care. In the Bill the grounds on which a court may decide if a child is in need of care, are extended.

The Act does not provide for the care of a child in a children's home beyond the age of 18 years. As a result thereof some of these children cannot finish their education or training. The Bill envisages to authorise the Minister to extend an order of any court so as to enable a pupil in a school of industries, a foster child and a child in a children's home to continue his or her studies up to the age of 21 years.

In terms of section 18 of the Act a person may only adopt a child when he or she has adequate means to maintain and educate the child. This is not always considered to be a factor in the best interest of a child and the provision is deleted in the Bill.

The Bill envisages to limit a parent who has given his or her consent for the adoption of his or her child to withdraw such consent before the expiration of 30 days.

In the Bill the circumstances in which a child may be adopted without the consent of the parents are extended. When parents fail to maintain a child while being able to do so, or are serving a period of two years or more of imprisonment and the court is satisfied that the termination of the right of such parent is essential to ensure the well-being of the child, such child may be adopted without the consent of the parents.

At present a children's home or place of care maintained and controlled by the State may not be inspected. In view of the present policy of transparency this provision is deleted in the Bill.

In order to make provision for increased flexibility in the movement of children who are subject to court orders the Bill provides for release on licence of such children. The clauses which provide for such matters are to a great extent a re-enactment of the relevant provisions of the Children's Act, 1960 (Act No. 33 of 1960).

In terms of section 39 the Minister or the superintendent of a hospital may in certain circumstances give permission for the operation or medical treatment of a child. The Bill envisages that where the said superintendent or his deputy is not available and the Minister

Tans mag 'n persoon wat 'n kind wil aanneem 'n kind weg van sy ouers onderhou indien hy aansoek gedoen het om die aanneming van die kind. Hierdie bepaling het tot gevolg dat 'n kind in die sorg is van 'n persoon wat nie 'n geskikte aannemende ouer is nie in welke geval die kind verwyder behoort te word en elders in geskikte sorg geplaas word. Sodanige verwydering kan vir alle partye traumaties wees, veral vir die kind. Die Wetsontwerp beoog om voorsiening te maak dat enige persoon, insluitende die voornemende aannemende ouer, 'n kind slegs met die toestemming van die kommissaris van kindersorg mag ontvang en weg van sy ouers mag onderhou vir 'n tydperk langer as 14 dae.

Artikel 14 (4) van die Wet fokus op die ouers wat nie geskik of in staat is om 'n kind in hulle sorg te hê nie en nie op die kind nie. Die Wetsontwerp beoog om die fokus op die kind, as sorgbehoewend, te plaas. In die Wetsontwerp word die gronde uitgebrei waarop 'n hof kan besluit of 'n kind sorgbehoewend is.

Die Wet maak nie voorsiening vir die versorging van 'n kind in 'n kindêrhuis en 'n pleegkind na die onderdom van 18 jaar nie. Dit het tot gevolg dat sodanige kinders nie hulle onderrig en opleiding kan voltooi nie. Die Wetsontwerp beoog om die Minister te magtig om 'n bevel van enige hof te wysig om 'n leerling in 'n nywerheidskool, 'n pleegkind en 'n kind in 'n kindêrhuis in staat te stel om sy of haar studies tot die ouderdom van 21 jaar voort te sit.

Ingevolge artikel 18 van die Wet mag 'n persoon slegs 'n kind aanneem indien hy of sy oor voldoende middele beskik om die kind te onderhou en op te voed. Dit word nie altyd in die beste belang van die kind geag nie en die bepaling word in die Wetsontwerp geskrap.

Die Wetsontwerp beoog om 'n ouer wat toestemming gegee het vir die aanneming van sy of haar kind, te beperk om sodanige toestemming terug te trek voor die verloop van 30 dae.

In die Wetsontwerp word die omstandighede waaronder 'n kind sonder die toestemming van die ouers aangeneem kan word, uitgebrei. Indien 'n ouer wat daartoe in staat is versuim om 'n kind te onderhou of wat 'n vonnis van twee jaar of meer tronkstraf uitdien en die hof tevrede is dat die beëindiging van die reg van sodanige ouer noodsaaklik is om die welsyn van 'n kind te verseker, kan sodanige kind sonder die toestemming van die ouers aangeneem word.

Tans mag 'n kindêrhuis of versorgingsoord wat deur die Staat onderhou en beheer word, nie geïnspekteer word nie. In die lig van die huidige beleid van deursigtigheid word hierdie bepaling in die Wetsontwerp geskrap.

Ten einde voorsiening te maak vir toenemende buigsaamheid in die plasing van kinders wat aan hofbevele onderworpe is, word in die Wetsontwerp voorsiening gemaak vir vrylating met vergunning van sodanige kinders. Die klousules wat vir sodanige aangeleentheid voorsiening maak, is tot 'n groot mate 'n herverordening van die betrokke bepalings van die Kinderwet, 1960 (Wet No. 33 van 1960).

Ingevolge artikel 39 mag die Minister of die superintendent van 'n hospitaal onder sekere omstandighede toestemming verleen vir 'n operasie of mediese behandeling van 'n kind. Die Wetsontwerp beoog dat, waar die gemelde superintendent of sy verteenwoordiger nie

cannot in view of the emergency of the operation or treatment be approached in the available time, the commissioner of child welfare may give the necessary consent.

In the Bill provision is made for the exclusion of certain work or employment from the prohibition on the employment of children and to regulate such work. The Bill also makes provision for the appointment of a commission to assist the Minister in the execution of his or her powers in respect of the employment of children under the age of 15 years and for the imposing of penalties for persons who employ children contrary to the provisions of the Act. In the Bill provision is made for delegation of powers to the provinces.

The Bill also envisages to make the Child Care Act, 1983, applicable throughout the Republic of South Africa. The laws of the former TBVC States and self-governing territories are therefore repealed.

beskikbaar is nie en die Minister, in die lig van die dringendheid van die operasie of behandeling nie genader kan word in die beskikbare tyd nie, die kommissaris van kindersorg die nodige toestemming moet verleen.

In die Wetsontwerp word voorsiening gemaak vir die uitsluiting van sekere werk of diens van die verbod in die Wet op die indiensneming van kinders en vir die regulering van sodanige werk of diens. Die Wetsontwerp maak ook voorsiening vir die aanstelling van 'n kommissie om die Minister in die uitvoering van sy of haar bevoegdhede by te staan ten opsigte van die indiensneming van kinders onder die ouderdom van 15 jaar en vir die oplegging van strawwe vir persone wat kinders in diens neem in stryd met die bepalings van die Wet. In die Wetsontwerp word voorsiening gemaak vir die delegasie van bevoegdhede aan die provinsies.

Die Wetsontwerp beoog ook om die toepassing van die Wet op Kindersorg, 1983, uit te brei na die voormalige TBVC-state en die selfregerende gebiede. Die wette van die voormalige TBVC-state en die selfregerende gebiede word gevolglik herroep.

REPUBLIC OF SOUTH AFRICA

CHILD CARE AMENDMENT BILL

(Draft)

(MINISTER FOR WELFARE AND POPULATION DEVELOPMENT)

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

— Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Child Care Act, 1983, so as to effect certain textual alterations; to substitute or insert certain definitions, to provide for the appointment of a assistant of a children's court; to provide for legal representation for children; to make provision that the contents of a statement or report of a social worker lodged with a children's court may be disclosed to the family advocate; to further provide for the maintenance of certain children apart from their parents; to shift the focus from the unfit or the unable parent to the child in need of

care; to extend the grounds on which a court may decide if a child is in need of care; to extend the continuation of foster care orders and orders placing a child in a children's home; to extend the conditions for the adoption of children; to provide for the withdrawal of consent of a parent to adoption; to extend the circumstances on which consent to adoption may be dispensed with; to further regulate the detention and the bringing of children before the children's court; to extend the inspection of children's homes and places of care; to provide for the release on licence of a pupil; to make provision for a commissioner of child Welfare to give consent for an operation or medical treatment; to make provision for the exclusion of certain work or employment from the prohibition on the employment of children and to regulate such work; to prescribe penalties regarding the employment of certain children; to provide for the appointment of a commission to assist the Minister in the execution of his powers regarding the employment of children; to provide for the delegation of certain powers to the provinces; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:

Amendment of section 1 of Act 74 of 1983, as amended by section 2 of Act 34 of 1986 and section 1 of Act 86 of 1991

Section 1 of the Child Care Act, 1983 (hereinafter referred to as the principal Act), is hereby amended:

(a) by the deletion of the definition of "Black";

- (b) by the insertion after the definition of "children's home" of the following definitions:

"children in especially difficult circumstances' means children in circumstances which deny them their most basic human rights such as children living on the street, abandoned children, neglected and abused children, and children exposed to armed conflicts, violence or natural disasters;

'child in need of care' means a child referred to in section 14(4);"

- (c) by the insertion after the definition of "district" of the following definition:

"'entertainment industry' means that industry where a performer or performers present a performance to the public or to a group of persons which performance is aimed at recreation, education or information whether the performer is remunerated or not and shall without derogating from the generality of the aforementioned include the performances in or for the music, film, theatre, broadcasting, modelling or advertising industries as well as street shows;"

- (d) by the insertion after the definition of "management" of the following definition;

"'married person' means any person married by way of a contract which, in terms of any act or by customary law constitutes a marriage;"

- (e) by the insertion after the definition of "school of industries" of the following definition;

"'shelter' means a facility to temporarily provide for the needs of a child who has no home or visible means of support;"

Amendment of section 7 of Act 74 of 1983

2. Section 7 of the principal Act is hereby amended -

- (a) by the substitution for subsection (2) of the following subsection:

"(2) An officer who has been appointed by an Attorney-General to appear on his or her behalf and to prosecute in criminal proceedings in a magistrate's court of any district shall *ex-officio* be an assistant of any children's court held in that district."

- (b) by the substitution for subsection (3) of the following subsection:

"(3) If a children's court assistant is for any reason unable to act as such [or if no children's court assistant has been appointed for any children's court under subsection (2)], the commissioner concerned may designate any competent officer in the Public Service to act as children's court assistant as long as the said children's court assistant is unable so to act [or until a children's court assistant is appointed under subsection (2), as the case may be]."

Insertion of section 8A in Act 74 of 1983

3. The following section is hereby inserted in the principal Act after section 8:

"Legal Representation

8A. (1) A child may have legal representation at any stage in a proceeding under this Chapter.

(2) Where a child does not have legal representation under this Chapter, the children's court -

(a) shall, as soon as practicable after the commencement of the proceedings; and

(b) may, at any later stage in the proceeding;

determine whether legal representation is desirable to protect the child's interests.

(3) (a) Where the children's court determines that legal representation is desirable to protect a child's interests, the children's court shall direct that legal representation be provided for the child at state cost, if necessary.

(b) The children's court assistant shall see that effect is given to the direction of the court concerning legal representation referred to in paragraph (a).

- (4) Where the children's court determines that legal representation is not necessary to protect a child's interests, the reasons for such decision shall be entered in the minutes of the court proceedings."

Amendment of section 9 of Act 74 of 1983, as substituted by section 2 of Act 34 of 1986

4. Section 9 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- "(3) The contents of a statement or a report of a social worker which has been lodged with a children's court, shall not be disclosed for the purposes of a civil action except for the purposes of an investigation by a family advocate in terms of the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987), or by order of any court to a court where such disclosure would be in the interest of any child mentioned in the report."

Amendment of section 10 of Act 74 of 1983

5. Section 10 of the principal Act is hereby amended -

- (a) by the substitution for subsection (1) of the following subsection:

10(1)(a) No person other than the managers of a maternity home, a hospital, a place of safety [or], a children's home or a person referred to in sub-section (1B)(a) shall receive -

[(a)] any [illegitimate] child under the age of seven years ; or

(b) any child for the purpose of adopting him or causing him to be adopted] and maintain him apart from his parents for a longer period than 14 days, unless such person -

(i) has applied in terms of section 18 for the adoption of the child; or

(ii) has obtained the consent in writing of the commissioner of the district in which the child was residing immediately before he was received.

(b) Any person who receives a child for the purpose of adopting him or her shall within a period not exceeding 14 days after the consent referred to in paragraph (a) has been obtained, apply in terms of section 18 for the adoption of such child."

(b) by the insertion of the following subsections after subsection (1)

"(1A) Any parent or person other than a hospital, a place of safety, a children's home or a person referred to in subsection (4) having the custody of a child under the age of seven years who has delivered such child to any person for the purpose of being maintained apart from his parents for a longer period than 14 days shall, within seven days after delivery, in the prescribed form give notice of the delivery of the child to the commissioner of the district in which is situated the place where such child is to be maintained.

(1B) The provisions of subsections (1) and (1A) shall not apply to -

(a) the receipt of a child by a grandfather, grandmother, brother, sister, uncle or aunt of the infant or the husband or wife or widower or widow of any such relative of the child;

(b) the delivery of a child to a person referred to in paragraph (a) or a maternity home, a hospital, a place of safety or a children's home.

(1C) The duties of a maternity home, hospital, place of safety or a children's home relating to the receipt or delivery of a child under the age of seven years shall be as prescribed."

(c) by the substitution for subsection (3) of the following subsection:

"(3) Any consent mentioned in subsection (1)[(ii)](a) shall be subject to the prescribed conditions and to such other conditions as may be determined by the commissioner in any specific case.";

(d) by the addition of the following subsection:

"(4) Any person who contravenes a provision of this section shall be guilty of an offence."

Amendment of section 11 of Act 74 of 1983

6. Section 11 of the principal Act is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

"(1) If it appears to any court in the course of any proceedings before that court that any child **[has no parent or guardian]** is a child in need of care, or that it is in the interest of the safety and welfare of any child that he or she be taken to a place of safety, that court may order that the child be taken to a place of safety and be brought as soon as **[may be]** practicable thereafter before a children's court.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) If it appears to any commissioner of child welfare on information on oath given by any person that there are reasonable grounds for believing that any child who is within the area of his or her jurisdiction **[has no parent or guardian]** is a child in need of care or that it is in the interest of the safety and welfare of any child who is within the area of his or her jurisdiction that he or she be taken to a place of safety, that commissioner may issue a warrant authorizing any policeman or social worker or any other person to search for the child and to take him or her to a place of safety, to be kept there until he or she can be brought before a children's court.".

Amendment of section 13 of Act 74 of 1983, as amended by section 4 of Act 86 of 1991

7. Section 13 of the principal Act is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

"(2) Any child in regard to whom a children's court assistant is of opinion that he **[has no parent or guardian, or has a parent or guardian who can not be traced, or has a parent or guardian or is in the custody of a person who**

is unable or unfit in terms of Section 14(4) to have the custody of him or her.] or she is a child in need of care, may be brought before the children's court of the district in which the child resides or happens to be by any policeman, social worker or authorized officer or by a parent, guardian or other person having custody of the child.";

(b) by the substitution for subsection (3) of the following subsection:

"(3) The children's court before which a child is brought in terms of subsection (1) or (2) shall hold an inquiry in the prescribed manner and determine whether the child [has no parent or guardian, or has a parent or guardian who cannot be traced, or has a parent or guardian or is in the custody of a person unable or unfit to have the custody of that child] is a child in need of care. Provided that if the child ordinarily resides in the district of another children's court the first-mentioned court may refer the inquiry to the children's court of that other district.".

Amendment of section 14 of Act 74 of 1983

8. Section 14 of the principal Act is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

"(1) Any children's court holding an inquiry in terms of section 13(3) may at any time during the inquiry order any medical officer to examine the child concerned and/or his or her parents and to report to the court thereanent.";

(b) by the substitution for subsection (2) of the following subsection:

"(2) The commissioner presiding over a children's court holding such inquiry **[may at any time]** ~~shall~~ during that inquiry request any social worker to furnish a report on any matter affecting the child concerned or his or her parents or guardian or the person having the custody of that child.";

(c) by the substitution for the words preceding paragraph (a) of subsection (4) of by the following words:

"At such inquiry the court shall determine whether the child before the court is a child in need of care in that-";

(d) by the insertion in subsection (4) after paragraph (aA) of the following paragraph:

"(aB) the child -

- (i) has been abandoned or is without visible means of support; or
- (ii) displays behaviour which cannot be controlled by his parents or the person in whose custody he or she is; or
- (iii) frequents the company of any immoral or vicious person or persons, or is otherwise living in circumstances likely to cause or conduce to his seduction, corruption or prostitution; or
- (iv) is being maintained in circumstances which are detrimental to his interests; or

- (v) is in a state of physical or mental neglect; or
- (vi) has not received medical treatment when such treatment is necessary; or
- (vii) has been physically, emotionally or sexually abused or ill-treated by his or her parent or guardian or the person in whose custody he or she is."

(e) by the substitution for paragraph (b) of subsection (4) of the following paragraph:

"(b) the child has a parent or a guardian or is in the custody of a person who [is unable or unfit to have the custody of the child, in that he] -

- [(i) is mentally ill to such a degree that he is unable to provide for the physical, mental or social well-being of the child;
- (ii) has assaulted or ill-treated the child or allowed him to be assaulted or ill-treated;]
- (iii) has caused or conduced to the seduction, abduction of or [prostitution] any sexual offence [of] against the child or the commission by the child of immoral acts;
- [(iv) displays habits and behaviour which may seriously injure the physical, mental or social well-being of the child;
- (v) fails to maintain the child adequately;]
- (vi) maintains the child in contravention of section 10B;
- [(vii) neglects the child or allows him to be neglected;
- (viii) cannot control the child properly so as to ensure proper behaviour such as regular school attendance;
- (ix) has abandoned the child; or
- (x) has no visible means of support]; or

- (xi) who are or is known to have repeatedly physically assaulted or sexually or emotionally abused one or more other children and who has or have not responded positively to previous efforts for treatment or rehabilitation." .

Amendment of section 15 of Act 74 of 1983, as amended by section 6 of Act 86 of 1991

9. Section 15 of the principal Act is hereby amended -

- (a) by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

"A children's court which, after holding an inquiry in terms of section 13, is satisfied that the child concerned **[has no parent or guardian, or has a parent or guardian who cannot be traced, or has a parent or guardian or is in the custody of a person unable or unfit to have the custody of the child,]** is a child in need of care, may -";

- (b) by the substitution for subsection (2) of the following subsection:

"(2) If any requirement mentioned in subsection 1(a) of this section is in the opinion of the social worker concerned not being complied with, or other circumstances have arisen or come to light which are in the social worker's opinion seriously adverse to the interests of the child, the child concerned may be brought by that social worker before the children's court of the district in which the child resides, whether or not it is the children's court which made the order under subsection (1)(a) of this section, and which shall hold an inquiry in terms of section 13(3), after which the court may vary the said order or make a new order under subsection (1) of this section."

Amendment of section 16 of Act 74 of 1983

10. Section 16 of the principal Act is hereby amended-

(a) by the substitution for subsection (3) of the following subsection:

"(3) The Minister may, in order to enable a pupil or child to complete his or her education or training or if he or she deems it for any other reason necessary, order that any former pupil of or pupil in a school of industries or a foster child, or a child in a children's home whose period of retention has expired or is about to expire, return to or remain in that school of industries, foster care or children's home for any further period which he or she may **[fix]** determine, and may from time to time extend that period: Provided that no such order or extension shall extend the period of retention of any pupil or child beyond the end of the year in which that pupil attains the age of 21 years."

(b) by addition of the following subsection after subsection (3):

"(4) When the Minister has made an order under subsection (3) such order shall vary the original order made by any court in terms of this Act."

Substitution of section 17 of Act 74 of 1983

11. Section 17 of the principal Act is hereby substituted by the following section:

"17. A child may be adopted -

(a) by a husband and his wife jointly;

- (b) by a widower or widow or unmarried or divorced person;
- (c) by a married person whose spouse is the parent of the child:

Provided that every such person has been screened as a suitable adopter by a social worker who is employed or contracted by a welfare organisation or a department under the control of the Minister."

Amendment of section 18 of Act 74 of 1983

12. Section 18 of the principal Act is hereby amended-

- (a) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) that the applicant is or that both applicants are qualified to adopt the child in terms of section 17 **[and possessed of adequate means to maintain and educate the child];** and";

- (b) by the deletion of paragraph (g) of subsection (4);

- (c) by the addition of the following subsections after subsection (7):

"(8)(a) Notwithstanding the provisions of any other law the parent of a child who has given his or her written consent to the adoption of such child before a commissioner of child welfare, shall have the right to withdraw such consent before the expiration of 30 days after having given such consent.

(b) Consent to an adoption cannot be withdrawn after the expiration of the period referred to in paragraph (a).

(c) The withdrawal of a consent to adoption referred to in paragraph (a) shall be given in writing before a commissioner of child welfare.

(9) The commissioner who attests the consent referred to in subsection (5) shall inform the person granting the consent that he or she shall not be entitled to be present when the application for adoption of the the child concerned is considered unless the court dealing with such application is of the opinion that his or her presence is necessary for the proceedings before it."

Amendment of section 19 of Act 74 of 1983

13. Section 19 of the principal Act is hereby amended by the addition of the following subparagraphs after subparagraph (vi) of paragraph (b):

"(vii) who while able to do so fails to maintain the child, whether or not there is a need or necessity for such maintenance, or who fails to make regular payments in terms of a contribution order issued in terms of section 43 of this Act or section 62 of the Children's Act, 1960 (Act No. 33 of 1960) or in terms of any law repealed by section 21 of the Child Care Amendment Act, 1995; or

(viii) who is serving a period of imprisonment of 2 years or more for any offence where the court is satisfied, after comprehensive investigation by a social worker, that the termination of the right of such a parent is essential to ensure the well-being of the child."

Deletion of section 27 of Act 74 of 1983

14. Section 27 of the principal Act is hereby deleted.

Amendment of section 31 of Act 74 of 1983

15. Section 31 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A social worker, a nurse or any other person, authorized thereto by the Director-General, or any commissioner, may, and shall if so directed by the Minister, enter any children's home or place of care [~~other than a children's home or place of care maintained and controlled by the State,~~] and inspect that children's home or place of care and the books and documents appertaining thereto and view and interview any child therein, or cause such child to be examined by a medical officer or psychiatrist and submit a report to the Director-General.".

Amendment of section 34 of Act 74 of 1983, as amended by section 10 of Act 86 of 1991

16. Section 34 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1A) of the following paragraph:

"(b) If any requirement referred to in paragraph (a) is in the opinion of the social worker concerned not being complied with, or other circumstances have arisen or come to light which are in the social worker's opinion seriously adverse to the interests of the child, the child concerned

may be brought by that social worker before the children's court of the district in which the child resides, which shall hold an inquiry in terms of section 13(3), after which the court may vary the order issued by the Minister or make a new order under section 15(1).".

Insertion of sections 35A, 35B and 35C in Act 74 of 1983

17. The following sections are hereby inserted in the principal Act after section 35:

"Pupil of institution may be released on licence

"35A.(1)(a) The management of an institution may by licence in writing permit any pupil of that institution to live in the custody of a suitable person or in any training institution on such conditions and for such period as may be agreed upon between such person or the managers of the training institution and the management of the institution or for any longer period which may from time to time be so agreed upon: Provided -

(i) that the original period agreed upon for any licence shall not exceed two years; and

(ii) that the period for which a licence has been granted shall only, with the consent of the Minister, be extended to exceed two years; and

(iii) that the period for which a licence has been granted, shall not expire later than at the end of the period for which the pupil is under the protection of the institution.

(b) In granting such licence the management of the institution shall, in so far as they are appropriate, have regard to the matters mentioned in section 40.

(2) The management of an institution may stipulate in any such licence that the pupil shall, while in the custody of the person or in the training institution named in the licence, be subject to the supervision of any social worker.

(3) The management of an institution by whom a licence has been granted may, after consultation with the social worker referred to in subsection (2), at any time, by notice in writing addressed to the person in whose custody the pupil concerned is or the managers of the training institution in which the pupil concerned is, cancel the licence and direct the said person or managers to return the pupil or to send the pupil back to the institution from which he or she was released: Provided that any interested person may within one month from the date of that notice appeal to the Minister against the cancellation of the licence and the Minister may after reference to the management of the institution and after proper enquiry, either confirm the cancellation or rescind such cancellation of the licence: Provided further that any licence which has been extended with the consent of the Minister, shall not be cancelled without the consent of the Minister.

(4) If the period for which a licence has been granted to a pupil expires before the expiration of the period for which the pupil is under the protection of the institution, the management of the institution shall, after consultation with the supervisor referred to in subsection (2) -

- (a) require the pupil to return to the institution from which he or she was released; or
- (b) extend the licence for a further period; or
- (c) grant a licence permitting the pupil to live in the custody of some other person or in some other training institution; or
- (d) recommend to the Minister -
 - (i) that the pupil be transferred under section 34(1); or
 - (ii) that the pupil be discharged under section 37;

Provided that where a licence has been extended with the consent of the Minister the pupil concerned shall not be required, without consent of the Minister, to return to the institution and a licence shall not be granted to the pupil concerned, without the consent of the Minister, to live in the custody of another person or in another training institution.

(5) If at the time of the return of a pupil to an institution in consequence of the cancellation of his or her licence, he or she has reached such an age that he or she can no longer be retained in that institution, he or she shall, as soon as possible, and not later than a date three months after his or her return, be again placed out on licence by the management concerned.

(6) A management which has cancelled a licence under subsection (3) shall forthwith report the cancellation and the reason therefore to the Minister and when any pupil whose licence has been so cancelled is again placed out on licence, in accordance with subsection (5), the management shall forthwith report that fact to the Minister.

(7) (a) The Minister may at any time by order in writing cancel a licence granted to a pupil if he or she deems it necessary in the interests of that pupil and may direct the pupil to return to the institution the management of which granted the licence, or to enter any other institution mentioned in the order.

(b) If a pupil has been directed to enter an institution other than that from which he or she was released on licence, he or she shall as from the date of the Minister's order cease to be a pupil of the last-mentioned institution and shall become a pupil of the institution which he or she was directed to enter.

(8) If the licence of any pupil is cancelled or if at the expiration of the period for which a licence has been granted to a pupil he or she is directed to return to the institution from which he or she was released or if any pupil is directed by the Minister to enter an institution other than that from which he or she was released, he or she may for the purposes of this section, but subject to the provisions of subsections (5) and (6), be dealt with as if he or she were admitted to an institution for the first time.

(9) Any policeman, social worker or authorized officer who has reason to believe that any licence which has been granted to a pupil will be cancelled, may take the pupil to a place of safety to be detained therein until such time as a decision has been taken in connection with such pupil and any commissioner may order that any pupil whose licence has been cancelled be detained in a place of safety until he or she can enter the institution to which he or she is to be admitted or until effect can be given to any order which may be made in respect of him or her under section 36 or 37.

Licence may be varied

35B. The management of an institution which has granted to a pupil a licence to live in the custody of any person or in any training institution may, at any time, with the consent of the said person or of the managers of that training institution, vary the terms of the licence or substitute therein for the name of the said person or training institution the name of any other suitable person or training institution.

Reports on pupils to Minister

35C.(1) The board of a school of industries or the managers of a children's home shall on the completion by any pupil or child of the first two years of his or her period of retention in the school of industries or in the children's home and on the completion of every second succeeding year of his or her period of retention, report to the Minister the reasons why the pupil has not been placed out on licence or recommended for discharge and, if in the opinion of the board or managers the further retention of the pupil is advisable, the grounds on which that opinion is based.

(2) Whenever the Minister so directs the management of an institution shall submit to the Minister a report similar to the report mentioned in subsection (1) on any pupil or group of pupils in that institution indicated by the Minister, who has or who have not completed two years of his or her or their period of retention.

Reports on certain children

35D.(1)(a) While any child is in any custody other than the custody of his or her parent or guardian in which he or she has lawfully been placed by any authority, the Director-General shall ensure that a report in connection with that child is furnished to the Minister by a social worker on the expiration of the first two years of such custody and biennially thereafter.

(b) The social worker concerned shall in any report referred to in paragraph (a) deal fully with the desirability or otherwise of transferring the child concerned to the custody of his or her parent or guardian.

(2) Whenever the Minister so directs the Director-General shall before the expiration of the said period of two years obtain for the Minister a report similar to the report mentioned in subsection (1).

Amendment of section 39 of Act 74 of 1983:

18. Section 39 of the principal act is hereby amended by the insertion after subsection (2) of the following subsection:

"(2A) If the parent or guardian of a child-

(a) cannot be traced;

(b) cannot grant consent in time;

(c) unreasonably refuses to consent that an operation or medical treatment be conducted;

(d) is incompetent on account of mental disorder to consent that an operation or medical treatment be conducted; or

(e) is deceased; and

a medical superintendent of a hospital or his deputy is not available to give the consent referred to in subsection (2) and a medical practitioner is of opinion that it is necessary to perform an operation upon a child or to submit him or her to any treatment to preserve his or her life or to save him or her from serious and lasting physical injury or disability, a commissioner of child welfare for the district of which he or she is appointed as a magistrate may on the receipt of a written affidavit of the medical practitioner concerned stating that the operation or treatment is urgent, grant the necessary consent that such operation or medical treatment be conducted."

Amendment of section 40 of Act 74 of 1983, as substituted by section 14 of Act 86 of Act 86 of 1991

19. Section 40 of the principal Act is hereby amended by the substitution for section 40 of the following section:

"40. In the application of the provisions of section 10, 15(1)(b), 18 or 34 regard shall be had to the religious and cultural background of the child

concerned and of his or her parents as against that of the person in or to whose custody he or she is to be placed or transferred or of the person who has applied to adopt him or her.".

Amendment of section 52A of Act 74 of 1983, as inserted by section 19 of Act 86 of 1991

20. Section 52A of the principal Act is hereby amended-

(a) by the insertion of the following subsection after subsection (1):

"(1A)(a) Subsection (1) shall not apply to employment or work, as the case may be, -

(i) in connection with the household, business or farming of a parent or legal guardian;

(ii) in connection with household activities in an institution or any other place where a child finds himself;

(iii) in connection with the activities of a school, youth organisation or children's shelter.

(b) The employment or work referred to in paragraph (a) shall be subject to inspection and monitoring as prescribed."

(b) by the substitution for subsections (2), (3), (4) and (5) of the following subsections respectively :

"(2) The Minister may, on conditions determined by him -

[(a)] by notice in the *Gazette* exclude any employment or work from the provisions of subsection (1); and

[(b)] grant any [particular person, or persons generally,] individual employer in the entertainment industry,

exemption from the provisions of subsection (1).

(3) An exemption under subsection 2[(b)] shall -

[(a)] in the case of the exemption of [a particular person] an individual employer in the entertainment industry be granted by issuing to such [person] employer a certificate of exemption in which his name and the conditions of the exemption and the name of the child or a description of the category of children with respect to whom exemption is granted, are specified.

[(b)] in the case of the exemption of persons generally, be granted by the publication in the *Gazette* of a notice in which such persons are described and the conditions of the exemption and a description of the category of children with respect to whom exemption is granted are specified.]

(4) A certificate of exemption contemplated in subsection (3)[(a) and a notice contemplated in subsection (3)(b)] may at any time be amended or withdrawn by the Minister.";

(c) by the insertion after subsection (4) of the following subsections:

"(4A) (a) The circumstances under which and the conditions subject to which a child may be employed or render any service referred to in subsection (1A) or (2) shall be prescribed.

(b) Different regulations may be prescribed in respect of children of different ages and sexes."

(4B) (a) The Minister shall appoint a Commission, which shall assist him in the execution of his powers,

(b) The constitution and powers of the Commission shall be as prescribed.

(4C) (a) The Minister may, subject to the laws governing the public service, appoint so many persons as he or she may consider necessary to be inspectors for the enforcement of this section.

(b) The powers and duties of the inspectors referred to in paragraph (a) shall be as prescribed."

(d) by the substitution for subsection (5) of the following subsection:

"(5) Any person who contravenes any provision of this section shall be guilty of an offence and shall on conviction be liable to a fine of R25 000 or to imprisonment for a period of one year or to both such fine and such imprisonment."

Amendment of section 56 of Act 74 of 1983

21. Section 56 of the principal Act is hereby amended by the addition of the following subsection:

"(2) The Minister may, with the concurrence of the Minister of Finance, out of money appropriated by parliament for the purpose, contribute towards the financing of programs as prescribed to address the needs of children in especially difficult circumstances."

Substitution of section 59 of Act 74 of 1983

22. Section 59 of the principal Act is hereby amended by -

(a) the insertion of the following subsection after subsection (1):

"(1A) The Minister may, subject to the conditions he or she may determine and with the concurrence of the Premier of a Province, delegate to the member of the executive council of the province concerned responsible for welfare matters in the province, all or any of the powers conferred upon him by this Act, except the power conferred under section 60 to make regulations.";

(b) the substitution for subsection (2) of the following subsection:

"(2) The Director-General may, with the consent of the Minister and subject to the conditions he or she may determine and with the concurrence of the Director-General of a provincial administration, assign all or any of the functions entrusted to him by this Act

other than any power in his capacity as accounting officer to any officer of the department of State administered by the Minister or to the Director-General of a provincial administration."

(c) the addition of the following subsection:

"(3) Any power delegated to the Director-General under subsection (2), may be delegated by that Director-General to any officer of the department of State or to the provincial administration in question."

Repeal of Laws, and savings

23. (1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed.

(2) Any regulation, appointment, notice, order, leave of absence, agreement, payment or certificate made, issued, given, granted or entered into and any other action taken under any provision of a law repealed by subsection (1) and which could be made, issued, given, granted, entered into or taken under any provision of the principal shall be deemed to have been made, issued, given, granted, entered into or taken under the corresponding provision of the principal Act, and if the principal Act does not contain any such corresponding provision, shall be proceeded with, disposed of and given effect to in far as the Minister has not provided otherwise.

Extension of application of Act 74 of 1983

24. The Child Care Act, 1983 (Act No. 74 of 1983), as it was in force immediately prior to the date of commencement of the Child Care Amendment Act, 1995, in the national territory of the Republic excluding the areas which comprised the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the areas which comprised the territories declared under section 26 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), to be self-governing territories shall, from the date of the commencement of the Child Care Amendment Act, 1995, also apply in all the aforesaid areas of the national territory of the Republic.

Short title

25. This Act shall be called the Child Care Amendment Act, 1995.

SCHEDULE

LAWS REPEALED

Number and year of law	Short title	Extent of repeal
Act No. 33 of 1960	(Gazankulu) Children's Act, 1960	The whole
Act No. 33 of 1960	(Lebowa) Children's Act, 1960	The whole
Act No. 33 of 1960	(Venda) Children's Act, 1960	The whole
Act No. 70 of 1983	(Kwandebele) Child Care Act, 1983	The whole
Act No. 12 of 1986	(Transkei) Children's Act, 1986	The whole
Act No. 14 of 1987	(Kwazulu) Kwazulu Child Care Act, 1987	The whole
Act No. 23 of 1988	(Ciskei) Childship Act, 1988	The whole
Act No. 2 of 1992	(Kangwane) Kangwane Child Care Harmonization Act, 1992	The whole
Act No. 12 of 1992	(Qwaqwa) Child Care Act, 1992	The whole
Act No. 39 of 1992	(Bophuthatswana) Children's Act, 1992	The whole

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP KINDERSORG

(Konsep)

(MINISTER VIR WELSYN EN BEVOLKINGSONTWIKKELING)

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

___ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WETSONTWERP

Om die Wet op Kindersorg, 1983, te wysig ten einde sekere teksveranderings aan te bring; om sekere omskrywings te vervang of in te voeg; om voorsiening te maak vir die aanstelling van 'n assistent van die kinderhof; om voorsiening te maak vir regsverteenwoordiging vir kinders; om voorsiening te maak dat die inhoud van 'n verklaring of 'n verslag van 'n maatskaplike werker wat by 'n kinderhof ingedien is aan die gesinsadvokaat openbaar gemaak kan word; om verder voorsiening te maak vir die onderhoud van sekere kinders weg van hulle ouers; om die fokus te verskuif van die ouer wat nie bevoeg of in staat is om sy kind te versorg nie na die sorgbehoewende kind; om die gronde uit te brei waarop 'n hof kan besluit of 'n kind sorgbehoewend is; om pleegsorgbevele en bevele waardeur 'n kind in 'n kinderhuis geplaas word te verleng; om die voorwaardes vir aanneming van kinders uit te brei; om voorsiening te maak vir bepeking van die terugtrekking van toestemming van 'n ouer tot aanneming; om die omstandighede uit te brei waaronder afgesien kan word van toestemming tot aanneming; om verder die aanhouding en bring van 'n kind voor die kinderhof te reël; om die inspeksie van kinderhuise en versorgingsoorde uit te brei; om voorsiening te maak vir vrylating met vergunning van 'n leerling; om voorsiening te maak dat 'n kommissaris van kindersorg toestemming tot 'n operasie of mediese behandeling kan verleen; om voorsiening te maak vir die uitsluiting van sekere werk of diens van die verbod op die indiensneming van kinders en om sodanige werk te reguleer; om strawwe voor te skryf ten opsigte van die indiensneming van sekere kinders; om voorsiening te maak vir die instelling van 'n kommissie om die Minister behulpzaam te wees in die uitvoering van sy bevoegdhede ten opsigte van die indiensneming van sekere kinders; om voorsiening te maak vir die delegasie van bevoegdhede aan die provinsies; en om vir bykomstige aangeleenthede voorsiening te maak.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg -

Wysiging van artikel 1 van Wet 74 van 1983, soos gewysig deur artikel 2 van Wet 34 van 1986 en artikel 1 van Wet 86 van 1991

1. Artikel 1 van die Wet op Kindersorg, 1983 (hieronder die Hoofwet genoem), word hierby gewysig -

(a) deur na die omskrywing van "geneesheer" die volgende omskrywing in te voeg:

"'getroude persoon" enige persoon wat in die eg verbind is by wyse van 'n verbintenis wat ingevolge enige wet of gewoontereg 'n huwelik is:'";

(b) deur na die omskrywing van "kind" die volgende omskrywing in te voeg:

"'kinders in besondere moeilike omstandighede' kinders in omstandighede wat hulle mees basiese mense regte ontken soos kinders wat op die straat woon, verlate kinders, verwaarloosde en mishandelde kinders en kinders wat blootgestel is aan gewapende konflik, geweld of natuurrampe:'";

(c) deur na die omskrywing van "respondent" die volgende omskrywings in te voeg:

"'skuiling' a fasiliteit wat tydelik voorsien in die behoeftes van 'n kind wat geen woonplek of waarneembare beataansmiddele het nie;

'sorgbehoewende kind' 'n kind soos bedoel in artikel 14(4);';

(d) deur die omskrywing van "Swarte" te skrap.

(e) deur na die omskrywing van "verbeteringskool" die volgende omskrywing in te voeg:

"'vermaaklikheidsbedryf' die bedryf waar 'n speler of spelers 'n vertoning lewer aan die publiek of aan 'n groep persone welke vertoning gemik is op ontspanning, opvoeding of inligting ongeag of die speler vergoed word of nie en sluit, sonder om afbreek te doen aan die algemeenheid van bogenoemde, vertonings in die musiek-, film-, teater-, uitsaai-, modellerings- of advertensiebedrywe sowel as straatvertonings in;".

Wysiging van artikel 7 van Wet 74 van 1983

2. Artikel 7 van die Hoofwet word hierby gewysig -

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Beampte wat aangestel is deur die Prokureur-Generaal om namens hom of haar op te tree en te vervolg in strafsake in 'n landdroshof van enige distrik is *ex-officio* 'n assistent van enige kinderhof gehou in daardie distrik."

(b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Indien 'n assistent van die kinderhof om die een of ander rede nie in staat is om as sodanig op te tree nie [of indien geen assistent vir 'n kinderhof kragtens subartikel (2) aangestel is nie], kan die betrokke kommissaris 'n bevoegde beampte in die Staatsdiens aanwys om as assistent van die kinderhof op te tree so lank as genoemde assistent

van die kinderhof nie in staat is om aldus op te tree nie [of totdat 'n assistent van die kinderhof kragtens subartikel (2) aangestel word, na gelang van die geval]."

Invoeging van artikel 8A in Wet 74 van 1983

3. Die volgende artikel word hierby in die Hoofwet na artikel 8 ingevoeg:

"Regsverteenwoordiging

8A. (1) 'n Kind mag gedurende enige stadium van verrigtinge kragtens hierdie Hoofstuk regsverteenwoordiging hê.

(2) Waar 'n kind nie regsverteenwoordiging het vir 'n verrigting kragtens hierdie Hoofstuk nie -

(a) moet die kinderhof so gou as prakties moontlik na die aanvang van verrigtinge; of

(b) kan die kinderhof gedurende enige later stadium in die verrigtinge;

bepaal of regsverteenwoordiging wenslik is om die kind se belange te beskerm.

(3) (a) Waar die kinderhof bepaal dat regsverteenwoordiging wenslik is om die kind se belange te beskerm moet die kinderhof gelas dat regsverteenwoordiging, op staatskoste indien nodig, aan die kind voorsien moet word.

(b) Die klerk van die kinderhof moet toesien dat uitvoering gegee word aan die lasgewing van die kinderhof betreffende regsverteenwoordiging bedoel in paragraaf (a).

- (4) Waar die kinderhof bepaal dat regsverteenvoording nie nodig is om 'n kind se belange te beskerm nie moet die redes vir sodanige besluit in die notule van die hofverrigtinge aangeteken word."

Wysiging van artikel 9 van Wet 74 van 1983, soos vervang deur artikel 2 van Wet 34 van 1986

4. Artikel 9 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die inhoud van 'n verklaring of 'n verslag van 'n maatskaplike werker wat by 'n kinderhof ingedien is, mag nie vir die doeleindes van 'n siviele geding openbaar gemaak word nie, behalwe vir die doel van 'n ondersoek deur 'n gesinsadvokaat ingevolge die Wet op Bemiddeling in Sekere Egskeidingsaangeleenthede, 1987 (Wet No. 24 van 1987), of op las van 'n hof, aan 'n hof, as bedoelde bekendmaking in belang van 'n kind wat in die verslag vermeld word, sal wees."

Wysiging van artikel 10 van Wet 74 van 1983

4. Artikel 10 van die Hoofwet word hierby gewysig -

- (a) deur subartikel (1) deur die volgende subartikel te vervang:

"10(1)(a) Geen persoon behalwe die bestuurders van 'n kraaminrigting, 'n hospitaal, 'n veiligheidsplek [of], 'n kinderhuis of 'n persoon bedoel in subartikel (1B)(a) mag -

[(a)] 'n [buite-egtelike] kind onder die leeftyd van sewe jaar, [of]

[(b) 'n kind met die doel om hom aan te neem of te laat

aanneem] ontvang en hom of haar vir 'n langer tydperk as 14 dae weg van sy of haar ouers af onderhou nie, tensy sodanige persoon [-

(i) ingevolge artikel 18 om die aanneming van die kind aansoek gedoen het; of

(ii) die skriftelike toestemming van die kommissaris van die distrik waarin die kind woonagtig was onmiddellik voordat hy ontvang is, verkry het.";

(b) 'n Persoon wat 'n kind ontvang met die doel om hom of haar aan te neem moet binne 'n periode van 14 dae nadat die toestemming bedoel in paragraaf (a) verkry is, ingevolge artikel 18 aansoek doen vir die aanneming van sodanige kind.";

(b) deur na subartikel (1) die volgende subartikels in te voeg:

"(1A) 'n Ouer of persoo wat die bewaring van 'n kind onder die ouderdom van sewe jaar het en wat daardie kind aan iemand, behalwe die bestuurders van 'n hospitaal, 'n veiligheidsplek, 'n kinderhuis of 'n persoon bedoel subartikel (1B)(a), besorg om vir 'n tydperk langer as 14 dae weg van sy ouers onderhou te word binne sewe dae kennis gee in die voorgeskrewe vorm van sodanige besorging aan die kommissaris van die distrik waarin die plek geleë is waar daardie kind onderhou sal word.

(1B) Die bepalings van subartikel (1) is nie van toepassing op die ontvangs van 'n kind deur 'n grootvader, grootmoeder, broer, suster, oom of tante van die kind of die eggenoot of eggenote of wewenaar of weduwee van so 'n bloedverwant van die kind.

(1C) Die pligte van 'n kraaminrigting, 'n hospitaal, 'n veiligheidsplek of 'n kinderhuis betreffende die ontvangs of besorging van 'n kind onder die ouderdom van sewe jaar is soos voorgeskryf.".

(c) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) 'n Toestemming in subartikel (1)[(i)] vermeld, is onderworpe aan die voorgeskrewe voorwaardes en die ander voorwaardes wat die kommissaris in 'n besondere geval bepaal.";

(d) deur die volgende subartikel by te voeg:

"(4) 'n Persoon wat 'n bepaling van hierdie artikel oortree is aan 'n misdryf skuldig."

Wysiging van artikel 11 van Wet 74 van 1983

6. Artikel 11 van die Hoofwet word hierby gewysig -

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Indien dit vir 'n hof in die loop van verrigtings voor daardie hof blyk dat enige kind [geen ouer of voog het nie] 'n sorgbehoewende kind is of dat dit in die belang van die veiligheid en welsyn van enige kind is dat hy of sy na 'n veiligheidsplek geneem word, kan daardie hof gelas dat die kind na 'n veiligheidsplek geneem word en dat hy so spoedig daarna as [as doenlik] wat prakties moontlik is voor 'n kindertehof gebring word.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien dit vir 'n kommissaris van kindersorg op grond van enigiemand se beëdigde verklaring blyk dat daar redelike gronde bestaan om te glo dat 'n kind wat in sy of haar regsgebied is [geen ouer of voog het nie] 'n sorgbehoewende kind is of dat dit in die belang van die veiligheid en welsyn van 'n kind wat in sy of haar regsgebied is, is dat hy of sy na 'n veiligheidsplek geneem word, kan daardie kommissaris 'n lasbrief uitreik waarin 'n polisiebeampte of maatskaplike werker of 'n ander persoon gemagtig word om die kind op te spoor en hom of haar na 'n veiligheidsplek te neem om daar aangehou te word totdat hy of sy voor 'n kinderhof gebring kan word."

Wysiging van artikel 13 van Wet 74 van 1983, soos gewysig deur artikel 4 van Wet 86 van 1991

7. Artikel 13 van die Hoofwet word hierby gewysig -

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Kind met betrekking tot wie 'n assistent van 'n kinderhof van oordeel is dat hy [geen ouer of voog het nie, of 'n ouer of voog het wat nie opgespoor kan word nie, of 'n ouer of voog het of in die bewaring van 'n persoon is wat ingevolge artikel 14(4) nie in staat of geskik is om die bewaring van hom te hê nie] of sy 'n sorgbehoewende kind is, kan deur 'n polisiebeampte, maatskaplike werker of gemagtigde beampte of deur 'n ouer of voog of ander persoon in wie se bewaring die kind is, gebring word voor die kinderhof van die distrik waarin die kind woonagtig is of hom of haar bevind.";

(b) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die kinderhof waarvoor 'n kind ingevolge subartikel (1) of (2) gebring word, moet op die voorgeskrewe wyse ondersoek instel of die kind [geen ouer of voog het nie, of 'n ouer of voog het wat nie opgespoor kan word nie, of 'n ouer of voog het of in die bewaring van 'n persoon is wat nie in staat of geskik is om die bewaring van daardie kind te hê nie] 'n sorgbehoewende kind is. Met dien verstande dat as die kind gewoonlik woonagtig is in die distrik van 'n ander kinderhof, eersgenoemde hof die ondersoek na die kinderhof van die ander distrik kan verwys."

Wysiging van artikel 14 van Wet 74 van 1983

8. Artikel 14 van die Hoofwet word hierby gewysig -

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Kinderhof wat ingevolge artikel 13(3) ondersoek instel, kan te eniger tyd gedurende die ondersoek enige mediese beampte gelas om die betrokke kind en/of sy of haar ouers te ondersoek en aan die hof daaromtrent verslag te doen.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die kommissaris wat voorsit in 'n kinderhof wat genoemde ondersoek instel, [kan te eniger tyd] moet gedurende daardie ondersoek enige maatskaplike werker versoek om 'n verslag te verstrek oor enige aangeleentheid rakende die betrokke kind of sy of haar ouers of voog of die persoon in wie se bewaring daardie kind is.";

(c) deur die woorde wat paragraaf (a) van subartikel (4) voorafgaan deur die volgende woorde te vervang:

"By genoemde ondersoek moet die kinderhof bepaal of 'n kind sorgbehoewend is deurdat -";

(d) deur na paragraaf (aA) van subartikel (4) die volgende paragraaf in te voeg:

"(aB) die kind -

- (i) verlaat is of geen waarneembare bestaansmiddele het nie; of
- (ii) gedrag openbaar wat nie beheer kan word deur sy of haar ouers of die persoon in wie se bewaring hy of sy is nie; of
- (iii) onderhou word in omstandighede wat vir hom of haar nadelig is; of
- (iv) fisies of geestelik verwaarloos is; of
- (v) nie die nodige mediese ontvang waar sodanige mediese behandeling nodig is nie; of
- (vi) fisies, emosioneel of seksueel deur sy of haar ouer of voog of die persoon in wie se bewaring hy of sy is, misbruik of mishandel is.";

(d) deur in subartikel (4) subparagraaf (iii) van paragraaf (b) deur die volgende subparagraaf te vervang;

"(b) die kind 'n ouer of voog het of in die bewaring van 'n persoon is wat [nie in staat of geskik is om die bewaring van die kind te hê nie deurdat hy] -

- [(i) dermate geestelik ongesteld is dat hy nie in staat is om vir die liggaamlike, verstandelike of maatskaplike welsyn van die kind voorsiening te maak nie;
- (ii) die kind aangerand of mishandel het of toegelaat het dat hy mishandel of aangerand word;]
- (iii) die verleiding, ontvoering, of [prostitusie van] 'n seksuele misdryf teen die kind of die pleging deur die kind van onsedelike handelinge veroorsaak of in die hand gewerk het;
- [(iv) gewoontes of gedrag openbaar wat die liggaamlike, verstandelike of maatskaplike welsyn van die kind ernstig kan benadeel;
- (v) versuim om die kind toereikend te onderhou;
- (vi) die kind verwaarloos of toelaat dat hy verwaarloos word;]
- (vii) die kind in stryd met artikel 10 onderhou;
- [(viii) die kind nie behoorlik kan beheer nie ten einde behoorlike gedrag, soos gereelde skoolbywoning, te verseker;
- (ix) die kind verlaat het;] of
- [(x) geen waarneembare bestaansmiddele het nie]
- (xi) wat bekend is daarvoor dat hy of sy een of meer ander kinders fisies aangerand het of seksueel of emosioneel misbruik het en nie positief gereageer het op vorige pogings tot behandeling of rehabilitasie nie.".

Wysiging van artikel 15 van Wet 74 van 1983, soos gewysig deur artikel 6 van Wet 86 van 1991

9. Artikel 15 van die Hoofwet word hierby gewysig -

- (a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

"'n Kinderhof wat na ondersoek ingevolge artikel 13 oortuig is dat die betrokke kind [geen ouer of voog het nie, of 'n ouer of voog het wat nie opgespoor kan word nie, of 'n ouer of voog het of in die bewaring van 'n persoon is wat nie in staat of geskik is om die bewaring van die kind te hê nie] 'n sorgbehoewende kind is, kan - ";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien aan 'n vereiste in subartikel (1)(a) van hierdie artikel vermeld, na die oordeel van die betrokke maatskaplike werker nie voldoen word nie, of ander omstandighede ontstaan of aan die lig gekom het wat volgens die maatskaplike werker se mening ernstig teenstrydig is met die belange van die kind, kan die betrokke kind deur daardie maatskaplike werker gebring word voor die kinderhof van die distrik waarin die kind woonagtig is, hetsy dit die kinderhof is wat die bevel kragtens subartikel (1)(a) van hierdie artikel uitgereik het al dan nie, en wat 'n ondersoek ingevolge artikel 13(3) moet instel, waarna die hof genoemde bevel kan verander of 'n nuwe bevel kragtens subartikel (1) van hierdie artikel kan uitreik."

Wysiging van artikel 16 van Wet 74 van 1983

10. Artikel 16 van die Hoofwet word hierby gewysig -

(a) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Die Minister kan, ten einde 'n leerling of kind in staat te stel om sy of haar onderrig en opleiding te voltooi of indien hy of sy dit vir enige ander rede nodig ag, gelas dat 'n vorige leerling van of 'n leerling in 'n nywerheidsskool of 'n pleegkind, of 'n kind in 'n

kinderhuis wie se tydperk van aanhouding verstryk het of op die punt staan om te verstryk, na die nywerheidskool, pleegsorg of kinderhuis moet terugkeer of daarin moet aanbly vir die verdere tydperk wat hy of sy vasstel, en hy of sy kan daardie tydperk van tyd tot tyd verleng: Met dien verstande dat so 'n lasgewing of verlenging nie die tydperk van aanhouding van 'n leerling of kind verleng tot na die einde van die jaar waarin daardie leerling of kind die leeftyd van 21 jaar bereik nie.";

"(b) deur die volgende subartikel na subartikel (3) by te voeg:

"(4) Wanneer die Minister ingevolge subartikel (3) 'n bevel gemaak het wysig sodanige bevel 'n bevel wat deur enige hof ingevolge hierdie gemaak is."

Vervanging van artikel 17 van Wet 74 van 1993

11. Artikel 17 van die Hoofwet word hierby deur die volgende artikel vervang:

"17. 'n Kind kan aangeneem word -

(a) deur 'n man en sy vrou gesamentlik;

(b) deur 'n wewenaar of weduwee of 'n ongetroude of geskeide persoon;

(c) deur 'n getroude persoon wie se gade die ouer van die kind is:

Met dien verstande dat elke sodanige persoon deur 'n maatskaplike werker in diens of gekontrakteer deur 'n welsynorganisasie of 'n departement onder die beheer van die Minister gekeur is as 'n geskikte aanneemouer."

Wysiging van artikel 18 van Wet 74 of 1983

12. Artikel 18 van die Hoofwet word hierby gewysig -

(a) deur paragraaf (a) van subartikel 4 deur die volgende paragraaf te vervang:

"(a) dat die aansoeker of dat beide aansoekers bevoeg is om die kind ingevolge artikel 17 aan te neem [en oor **genoegsame middele beskik om die kind te onderhou en op te voed**]; en";

(b) deur paragraaf (g) van subartikel (4) te skrap;

(c) deur die volgende subartikels na subartikel (7) by te voeg:

"(8)(a) Ondanks die bepalings van enige ander wet, het die ouer van 'n kind wat sy geskrewe toestemming ten opsigte van die aanneming van sodanige kind voor 'n kommissaris van kindersorg verleen het, die reg om sodanige toestemming voor die verstryking van 30 dae nadat sodanige toestemming verleen is, terug te trek.

(b) Toestemming tot 'n aanneming kan nie na die verstryking van die tydperk bedoel in paragraaf (a) teruggetrek word nie.

(c) Die terugtrekking van toestemming tot aanneming bedoel in paragraaf (a) moet skriftelik voor 'n kommissaris van kindersorg gedoen word.

(9) Die kommissaris wat die toestemming bedoel in subartikel (5) attesteer, moet die persoon wat die toestemming verleen inlig dat hy of sy nie geregtig is om by die oorweging van die aannemingsaansoek ten opsigte van die betrokke kind aanwesig te wees nie tensy sy of haar aanwesigheid nodig is vir die verrigtinge van die hof."

Wysiging van artikel 19 van Wet 74 of 1983

13. Artikel 19 van die Hoofwet word hierby gewysig deur die volgende subparagraawe na subparagraaf (vi) van paragraaf (b) by te voeg:

"(vii) wat versuim of nie in staat is nie om die kind te onderhou, hetsy 'n behoefte of noodsaaklikheid vir sodanige onderhoud bestaan al dan nie, of wie nalaat om gereelde betalings ingevolge 'n kontribusie order uitgereik ingevolge artikel 43 van hierdie Wet of artikel 62 van die Kinderwet, 1960 (Wet No. 33 van 1960) of ingevolge 'n wet wat by artikel 20 van die Wysigingswet op Kindersorg, 1995, herroep is, te maak: Met dien verstande dat totdat die teendeel bewys is, word 'n ouer geag in staat te wees om sodanige kind met voldoende voedsel, klere, verblyf en mediese hulp te voorsien of 'n bedrag soos verskuldig ingevolge 'n kontribusie order te kan betaal; of

(viii) wat 'n tydperk van 2 jaar of meer gevangenisstraf uitdien vir enige oortreding en die kinderhof tevrede is dat die beëindiging van sodanige ouer se reg, noodsaaklik is om die welsyn van die kind te verseker."

Skrapping van artikel 27 van Wet 74 van 1983

14. Artikel 27 van die Hoofwet word hierby geskrap.

Wysiging van artikel 31 van Wet 74 van 1983

15. Artikel 31 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Maatskaplike werker, 'n verpleegkundige, of enige ander persoon, enige kommissaris, kan, en moet indien die Minister aldus gelas, enige kinderhuis of versorgingsoord [**behalwe 'n kinderhuis of versorgingsoord wat deur die Staat in stand gehou en beheer word**], betree en daardie kinderhuis of versorgingsoord en die boeke en dokumente wat daarop betrekking het inspekteer, asook enige kind daarin [inspekteer] besigtig, of sodanige kind deur 'n mediese beampte of psigiater laat ondersoek."

Wysiging van artikel 34 van Wet 74 van 1983, soos gewysig deur artikel 10 van Wet 86 van 1991

16. Artikel 34 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1A) deur die volgende paragraaf te vervang:

"(b) Indien daar na die oordeel van die betrokke maatskaplike werker nie voldoen word aan 'n vereiste in paragraaf (a) bedoel nie, of ander omstandighede ontstaan het of na vore gekom het wat volgens die maatskaplike werker se mening teenstrydig is met die belange van die kind, kan die betrokke kind deur daardie maatskaplike werker

gebring word voor die kinderhof van die distrik waarin die kind woonagtig is, wat 'n ondersoek ingevolge artikel 13(3) moet instel, waarna die hof die bevel deur die Minister uitgereik, kan verander of 'n nuwe bevel kragtens artikel 15(1) kan uitreik."

Invoeging van artikels 35A, 35B en 35C in Wet 74 van 1983

17. Die volgende artikels word hierby na artikel 35 van die Hoofwet ingevoeg:

"Leerling van inrigting kan met vergunning vrygelaat word

35A.(1)(a) Die bestuur van 'n inrigting kan aan 'n leerling van die inrigting skriftelik vergunning verleen om in die bewaring van 'n geskikte persoon of in 'n opleidingsinrigting te gaan woon op die voorwaardes en vir die tydperk waarop ooreengekom word tussen sodanige persoon of die bestuurders van die opleidingsinrigting en die bestuur van die inrigting of vir enige langer tydperk waarop van tyd tot tyd aldus ooreengekom word: Met dien verstande -

(i) dat die oorspronklike tydperk van vergunning waarop ooreengekom word nie twee jaar mag oorskry nie; en

(ii) dat 'n tydperk van vergunning slegs met die toestemming van die Minister verleng kan word om twee jaar te oorskry; en

(iii) dat die tydperk van vergunning nie later as die einde van die tydperk waarvoor die leerling onder beskerming van die bestuur van die inrigting staan, mag verstryk nie.

(b) By verlening van sodanige vergunning moet die bestuur van die inrigting die in artikel 40 genoemde aangeleenthede vir sover toepaslik in ag neem.

(2) Die bestuur van 'n inrigting kan in so 'n vergunning bepaal dat die leerling, solank hy of sy in die bewaring van die persoon of in die opleidingsinrigting is wat in die vergunning genoem word onder die toesig sal staan van 'n maatskaplike werker.

(3) Die bestuur van 'n inrigting wat 'n vergunning verleen het kan na raadpleging met die toesighouer bedoel in subartikel (2), te eniger tyd by skriftelike kennisgewing gerig aan die persoon in wie se bewaring die betrokke leerling is of die bestuurders van die opleidingsinrigting waarin die leerling is, die vergunning intrek en aan bedoelde persoon of bestuurders opdrag gee om die leerling na die inrigting waaruit hy of sy vrygelaat is, terug te bring of terug te stuur: Met dien verstande dat 'n belanghebbende persoon hom of haar binne een maand vanaf die datum van die kennisgewing op die Minister kan beroep teen die intrekking van die vergunning en dat die Minister nadat hy of sy die saak na die bestuur van die inrigting verwys het en behoorlike ondersoek ingestel het, of die intrekking van die vergunning kan bevestig of die vergunning kan herstel: Met dien verstande voorts dat 'n vergunning wat met die toestemming van die Minister verleng is nie sonder die toestemming van die Minister ingetrek kan word nie.

(4) As die tydperk waarvoor 'n vergunning aan 'n leerling verleen is, voor die verstryking van die tydperk wat die leerling onder beskerming van die inrigting is, verstryk, moet die bestuur van die inrigting na raadpleging met die toesighouer bedoel in subartikel (2) -

- (a) die leerling aansê om na die inrigting waaruit hy of sy vrygelaat is, terug te keer; of
- (b) die vergunning vir 'n verdere tydperk verleng; of
- (c) aan die leerling vergunning verleen om in die bewaring van 'n ander geskikte persoon of in 'n ander opleidingsinrigting te woon; of
- (d) by die Minister aanbeveel -
 - (i) dat die leerling ingevolge artikel 36(1) oorgeplaas word; of
 - (ii) dat die leerling ingevolge artikel 37 ontslaan word;

Met dien verstande dat waar 'n vergunning met die toestemming van die Minister verleng is die betrokke leerling nie sonder die toestemming van die Minister aangesê kan word om na die inrigting terug te keer nie, en 'n vergunning nie sonder die toestemming van die Minister aan die betrokke leerling verleen kan word om in die bewaring van 'n ander persoon of in 'n ander opleidingsinrigting te gaan woon nie.

(5) As 'n leerling, ten tyde van sy of haar terugkeer na 'n inrigting as gevolg van die intrekking van sy of haar vergunning, so 'n leeftyd bereik het dat hy of sy nie meer in die inrigting aangehou kan word nie, moet hy of sy weer, so spoedig moontlik en nie later nie as 'n dag drie maande na sy of haar terugkeer, deur die betrokke bestuur met vergunning uitgeplaas word.

(6) 'n Bestuur wat 'n vergunning kragtens subartikel (3) ingetrek het, moet die intrekking en die rede daarvoor onmiddellik aan die Minister rapporteer, en wanneer 'n leerling, wie se vergunning aldus ingetrek is, weer met vergunning uitgeplaas word ooreenkomstig subartikel (5), moet die bestuur die Minister onmiddellik daarvan in kennis stel.

(7)(a) Die Minister kan te eniger tyd, by skriftelike bevel, 'n vergunning wat aan 'n leerling verleen is, intrek, as hy of sy dit in belang van die leerling nodig ag, en beveel dat die leerling na die inrigting waarvan die bestuur die vergunning verleen het, moet terugkeer, of dat hy of sy na 'n ander inrigting wat in die bevel vermeld word, moet gaan.

(b) Indien 'n leerling beveel is om na 'n ander inrigting te gaan as dié waaruit hy of sy met vergunning vrygelaat is, hou hy of sy vanaf die datum van die Minister se bevel op om 'n leerling te wees van laasbedoelde inrigting en word hy of sy 'n leerling van die inrigting waarheen hy of sy beveel is om te gaan.

(8) Indien 'n leerling se vergunning ingetrek word of 'n leerling by die verstryking van sy of haar tydperk van vergunning aangesê word om na die inrigting waaruit hy of sy vrygelaat is, terug te keer of 'n leerling deur die Minister beveel word om na 'n ander inrigting as die inrigting waaruit hy of sy vrygelaat is, te gaan, kan daar by die toepassing van hierdie artikel, maar behoudens die bepalinge van subartikels (5) en (6), met hom of haar gehandel word asof hy of sy vir die eerste keer in 'n inrigting opgeneem word.

(9) Enige polisiebeampte, maatskaplike werker of 'n daartoe gemagtigde amptenaar wat rede het om te vermoed dat 'n vergunning wat aan 'n leerling verleen is, ingetrek gaan word, kan die leerling na 'n veiligheidsplek of 'n plek van bewaring neem vir aanhouding tot tyd en wyl 'n besluit met betrekking tot bedoelde leerling geneem is en 'n kommissaris kan beveel dat 'n leerling wie se vergunning ingetrek is in 'n veiligheidsplek of 'n plek van bewaring aangehou moet word totdat hy of sy na die inrigting waarin hy of sy opgeneem moet word, kan gaan of totdat daar uitvoering gegee kan word aan enige bevel wat kragtens artikel 36 of 37 ten opsigte van hom of haar uitgereik mag word.

Vergunning mag gewysig word

35B. Die bestuur van 'n inrigting wat aan 'n leerling 'n vergunning verleen het om in die bewaring van een of ander persoon of in 'n opleidingsinrigting te woon, kan te eniger tyd, met die toestemming van bedoelde persoon of die bestuurders van die opleidingsinrigting, die voorwaardes van die vergunning wysig of daarin die naam van bedoelde persoon of opleidingsinrigting deur die naam van 'n ander geskikte persoon of opleidingsinrigting vervang.

Verslae oor leerlinge aan Minister

35C.(1) Die raad van 'n nywerheidskool of die bestuurders van 'n kinderskool moet, by die voltooiing deur 'n leerling in 'n nywerheidskool of 'n kind in 'n kinderskool van die eerste twee jaar van sy tydperk van aanhouding in so 'n nywerheidskool of kinderskool, en by die voltooiing van elke daaropvolgende tweede jaar van sy of haar tydperk van aanhouding, aan die Minister verslag doen waarom die leerling nie met vergunning uitgeplaas of vir ontslag aanbeveel is nie, en as die raad of bestuurders meen dat die verdere aanhouding van die leerling wenslik is, ook die gronde waarop daardie mening berus.

(2) As die Minister dit gelas, moet die bestuur van 'n inrigting aan die Minister 'n verslag soortgelyk aan dié in subartikel (1) bedoel, verstrek omtrent een of ander deur die Minister aangeduide leerling of groep van leerlinge in daardie inrigting, wat nie twee jaar van sy of haar of hulle tydperk van aanhouding voltooi het nie.

Verslae oor sekere kinders

35D.(1)(a) Terwyl 'n kind in enige bewaring is waarin hy of sy wettiglik deur die een of ander gesag geplaas is, behalwe die bewaring van sy of haar ouer of voog, moet die Direkteur-generaal toesien dat 'n verslag in verband met daardie kind deur 'n maatskaplike werker aan die Minister verstrek word by die verstryking van die eerste twee jaar van sodanige bewaring en by die verstryking van elke daaropvolgende tweede jaar van sodanige bewaring.

(b) Die betrokke maatskaplike werker moet in die verslag bedoel in paragraaf (a) volledig handel met die wenslikheid of andersins om die betrokke kind na die bewaring van sy of haar ouer of voog oor te plaas.

(2) Indien die Minister aldus gelas, moet die Direkteur-generaal, voor die verstryking van genoemde tydperk van twee jaar, 'n verslag soortgelyk aan die in subartikel (1) bedoel vir die Minister verkry."

Wysiging van artikel 39 van Wet 74 van 1983

16. Artikel 39 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (2) in te voeg:

"2A Indien die ouer of voog van 'n kind-

(a) nie opgespoor kan word nie;

(b) nie betyds toestemming kan verleen nie;

(c) onredelik weier om toe te stem tot 'n operasie of mediese behandeling;

(d) weens geestesongesteldheid onbevoeg is om tot 'n operasie of mediese behandeling toe te stem; of

(e) oorlede is; en

'n mediese superintendent van 'n hospitaal of sy verteenwoordiger nie beskikbaar is om die toestemming bedoel in subartikel (2) te verleen nie en 'n geneesheer van oordeel is dat dit nodig is dat 'n kind 'n operasie moet ondergaan, of mediese behandeling moet ondergaan wat noodsaaklik is om sy of haar lewe te red of om hom of haar van 'n ernstige of blywende liggaamlike letsel of gebrek te vrywaar, moet 'n kommissaris van kindersorg vir die distrik waarvan hy of sy as landdros aangestel is, na ontvangs van 'n skriftelike beëdigde verklaring van die betrokke geneesheer dat die operasie of behandeling noodsaaklik is, die nodige toestemming verleen dat so 'n operasie of mediese behandeling uitgevoer word."

Wysiging van artikel 40 van Wet 74 van 1983, soos vervang deur artikel 14 van Wet 86 van 1991

17. Artikel 40 van die Hoofwet word hierby gewysig deur artikel 40 deur die volgende artikel te vervang:

"40. By die toepassing van die bepalings van artikel 10, 15(1)(b), 18 of 34 moet die geloofsverband en kultuurverband van die betrokke kind en van sy of haar ouers teenoor die van die persoon in wie se bewaring of na wie se bewaring hy of sy geplaas of oorgeplaas gaan word, of die persoon wat aansoek gedoen het om hom of haar aan te neem in ag geneem word."

Wysiging van artikel 52A van Wet 74 van 1983, soos ingevoeg deur artikel 19 van Wet 86 van 1991

18. Artikel 52A van die Hoofwet word hierby gewysig -

(a) deur die volgende subartikel na subartikel (1) in te voeg:

"(1A)(a) Subartikel (1) is nie van toepassing op 'n diens of werk, na gelang van die geval, -

(i) wat verband hou met die huishouding, besigheids-
onderneming of boerdery van die ouer of wettige voog van die
kind;

(ii) wat verband hou met huishoudelike aktiwiteite van 'n
inrigting of ander plek waar die kind hom of haar bevind;

(iii) wat verband hou met die aktiwiteit van 'n skool,
jeugorganisasie of skooling."

(b) deur subartikels (2), (3) en (4) deur die volgende subartikels onderskeidelik te vervang:

"(2) Die Minister kan op die voorwaardes wat hy bepaal -

[(a) by kennisgewing in die Staatskoerant 'n diens of werk
uitsluit van die bepalings van subartikel (1); en

(b)] aan 'n [bepaalde persoon, of persone in die algemeen,]
individuele werkgewer in die vermaaklikheidsbedryf

vrystelling verleen van die bepalings van subartikel (1).

(3) 'n Vrystelling kragtens subartikel (2)[(b)] word -

[(a)] in die geval van die vrystelling van 'n [bepaalde persoon]

individuele werkgewer in die vermaaklikheidsbedryf
verleen deur die uitreiking aan sodanige [persoon]
wergewer van 'n vrystellingsertifikaat waarin sy naam
en die voorwaardes van die vrystelling en die naam van
die kind of 'n beskrywing van die kategorie kinders met
betrekking tot wie vrystelling verleen word, vermeld word;

[(b) in die geval van die vrystelling van persone in die
algemeen, verleen deur die publikasie van 'n
kennisgewing in die staatskoerant waarin sodanige
persone beskryf en die voorwaardes van die vrystelling en
'n beskrywing van die kategorie kinders met betrekking
tot wie vrystelling verleen word, vermeld word].";

(4) 'n Vrystellingsertifikaat beoog in subartikel (3)[(a) en 'n
kennisgewing beoog in subartikel (3)(b)] kan te eniger tyd deur
die Minister gewysig of ingetrek word.;"

(c) deur die volgende subartikels na subartikel (4) in te voeg:

"(4A) (a) Die omstandighede waaronder en die voorwaardes waarop 'n
kind 'n werk of diens bedoel in subartikel (2) mag verrig,
word voorgeskryf.

(b) Verskillende regulasies kan ingevolge paragraaf (a) voor-
geskryf word ten opsigte van kinders van verskillende
ouderdomme en geslagte en ook verskillende plekke en vorme
van diens en werk.

(4B) (a) Die Minister moet 'n kommissie aanstel om hom in die
uitvoering van sy bevoegdhede in hierdie artikel vermeld, by
te staan.".

(b) Die samestelling en bevoegdhede van die kommissie is soos

voorgeskryf.

(4C) (a) Die Minister kan, behoudens die bepalings van die wette wat
betrekking het op die Staatsdiens, soveel persone as wat hy
nodig ag aanstel as inspekteurs vir die uitvoering van hierdie
artikel.

(b) Die bevoegdhede en pligte van die inspekteurs bedoel in
paragraaf (a) is soos voorgeskryf.;

(d) subartikel (5) deur die volgende subartikel te vervang:

"(5) Iemand wat 'n bepaling van hierdie artikel oortree, is aan
'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete
van R25 000 of gevangenisstraf vir 'n tydperk van een jaar of
met sodanige boete sowel as sodanige gevangenisstraf."

Wysiging van artikel 56 van Wet 74

Artikel 56 van die hoofwet word hierby gewysig deur die
 volgende subartikel by te voeg:

(2) Die Minister kan, met die instemming van die Minister van
Finansies, uit geld wat vir die doel deur die Parlement bewillig is
en op die voorwaardes wat voorgeskryf is, bydrae tot
voorgeskrewe programme om die behoeftes van kinders in
besonder moeilike omstandighede aan te spreek."

Wysiging van artikel 59 van Wet 74 van 1983

22. Artikel 59 van die Hoofwet word hierby gewysig deur:

(a) die volgende subartikel na subartikel (1) in te voeg:

"(1A) Die Minister kan, behoudens die voorwaardes wat hy of sy bepaal en met die instemming van die Premier van 'n Provinsie, aan die lid van die uitvoerende komitee van die betrokke provinsie verantwoordelik vir welsynsaangeleenthede in die provinsie, al die bevoegdhede wat hierdie Wet aan hom verleen, of een of meer daarvan, met die uitsondering van die bevoegdheid om kragtens artikel 60 regulasies uit te vaardig, delegeer.

(b) subartikel (2) deur die volgende subartikel te vervang:

"(2) Die Direkteur-generaal kan met die instemming van die Minister of die Premier, na gelang van die geval, die werksaamhede wat hierdie Wet aan hom toevertrou, of een of meer daarvan, aan 'n beampste in die Staatsdepartement wat deur die Minister geadministreer word of in die Provinsiale Administrasie wat deur die betrokke Premier geadministreer word, opdra."

Herroeping van wette, en voorbehoude

23. (1) Behoudens die bepalings van subartikel (2) word die wette in die Bylae vermeld hierby herroep in die mate in die derde kolom van die Bylae uiteengesit.

(2) Enige regulasie, aanstelling, kennisgewing, bevel, afwesigheidsverlof, ooreenkoms, betaling of sertifikaat uitgevaardig, gedoen, uitgereik, gegee, verleen of aangegaan en 'n ander stappe wat gedoen is kragtens 'n bepaling van 'n wet wat by subartikel (1) herroep word en wat kragtens 'n bepaling van die Hoofwet uitgevaardig, gedoen, uitgereik, gegee, verleen of aangegaan of gedoen te gewees het, en indien die Hoofwet geen ooreenstemmende bepaling bevat nie, word daarmee voortgegaan en word dit afgehandel en daaraan gevolg gegee vir sover die Minister nie anders bepaal het nie.

Kort titel

24. Hierdie Wet heet die Wysigingswet op Kindersorg, 1995.

BYLAE

WETTE HERROEP

Nommer en jaar van wet	Kort titel	In hoeverre herroep
Wet No. 33 van 1960	(Gazankulu) Children's Act, 1960	Die geheel
Wet No. 33 van 1960	(Lebowa) Children's Act, 1960	Die geheel
Wet No. 33 van 1960	(Venda) Children's Act, 1960	Die geheel
Wet No. 70 van 1983	(Kwandebele) Child Care Act, 1983	Die geheel
Wet No. 12 van 1986	(Transkei) Children's Act, 1986	Die geheel
Wet No. 14 van 1987	(Kwazulu) Kwazulu Child Care Act, 1987	Die geheel
Wet No. 23 van 1988	(Ciskei) Childship Act, 1988	Die geheel
Wet No. 2 van 1992	(Kangwane) Kangwane Child Care Harmonization Act, 1992	Die geheel
Wet No. 12 van 1992	(Qwaqwa) Child Care Act, 1992	Die geheel
Wet No. 39 van 1992	(Bophuthatswana) Children's Act, 1992	Die geheel

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