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DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 7142

20 February 2026

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)**THE CHILDREN'S COURTS RULES OF SOUTH AFRICA**

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), read with section 52 of the Children's Act, 2005 (Act No. 38 of 2005), with the approval of the Minister of Justice and Constitutional Development, made the rules in the Schedule.

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CHAPTER 1

DEFINITIONS, PURPOSE, APPLICATION AND INTERPRETATION OF RULES

Definitions

1. (1) In these rules and in the forms annexed hereto any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned and, unless the context otherwise indicates—

“affidavit” means a written statement made—

- (a) under oath or affirmation; or
- (b) by solemn or attested declaration;

contemplated in section 7 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963), confirming that the information within the statement is a true and accurate representation of the facts;

“applicant” means a party who applies to the court for assistance or relief as provided for in the Act;

“audio-visual facility” means a facility that enables both audio and visual communications between a witness and persons in a court in real-time as they take place;

“comfort person” means a person who—

- (a) is trusted by the child;
- (b) has a close relationship with the child;
- (c) is not necessarily a party to the proceedings; and
- (d) who will provide reassurance and comfort to the child during the proceedings;

“child” means a person under the age of 18 years and includes—

- (a) a very young child that is three years of age or less, as referred to in section 157(3) of the Act,
- (b) an unaccompanied or separated migrant child,
- (c) a child who is an asylum seeker or refugee as contemplated in the Refugee’s Act, 1998 (Act No. 130 of 1998), and
- (d) undocumented children;

"court" means a children's court established in terms of section 42(1) of the Act and 'court' and 'children's court' are synonymous unless the context indicates otherwise;

"clerk" means a clerk of the children's court appointed or designated in terms of section 67(2) of the Act;

"ex parte application" means an application that is brought in which immediate relief is sought without first giving notice of court proceedings to the person against whom an order is sought;

"general regulations" means the General Regulations regarding Children published under Government Notice R: 261 in Government *Gazette* No. 33076 of 1 April 2010 made by the Minister of Social Development in terms of the Children's Act, 2005, as amended;

"justice regulations" means the Regulations relating to Children's Courts and International Child Abduction published under Government Notice R: 250 in Government *Gazette* No. 33067 of 31 March 2010 made by the Minister of Justice and Constitutional Development in terms of the Children's Act, 2005, as amended;

"legal representative" means an attorney, an advocate or a candidate legal practitioner who is entitled to appear in a court;

"presiding officer" means a presiding officer of a children's court as provided for in section 42 of the Act;

"reasonable accommodation" means the necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

"respondent" means any person against whom relief is sought, or who may be affected by the assistance or relief sought by the applicant, and includes an interested party and a respondent as referred to in the Act; and

"the Act" means the Children's Act, 2005 (Act No. 38 of 2005).

(2) A Saturday, Sunday or public holiday must not, unless the contrary intention appears, be reckoned as part of any period calculated in terms of these rules.

Application, purpose and interpretation of rules

2. (1) These rules are applicable to proceedings in the court and are aimed at establishing uniformity in the processes and procedures in the courts.

(2) The purposes of these rules are to—

- (a) promote access to the court;
- (b) give effect to the objects contained in section 2, and the principles contained in section 6, of the Act;
- (c) ensure that all matters in court are dealt with expeditiously and are prioritised as contemplated in section 6(4)(b) of the Act; and
- (d) enhance the standard of the best interests of the child contemplated in section 7 of the Act.

(3) The court, family advocate, legal practitioner, social worker or other suitably qualified person, having regard to the child's age, maturity and stage of development, as contemplated in section 10 of the Act, must—

- (a) give due consideration to the views expressed by the child; and
- (b) ensure the child's right to participate in an appropriate way.

(4) These rules must be interpreted and applied so as to give effect to the following objectives:

- (a) the child's best interests are of paramount importance;
- (b) the just determination of every court proceeding by ensuring the parties a fair hearing and the recognition and enforcement of their constitutional and other rights under the Act or any other law;
- (c) simplicity and uniformity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay;
- (d) the care, protection and physical and mental development and social well-being of the child; and
- (e) expeditious finalisation of all matters.

CHAPTER 2 GENERAL

Participation of child

3. (1) The court must determine if the child is able to participate in the proceedings and chooses to do so as provided for in the Act, and record the reasons for such determination.

(2) The court must, where it is found that the child is able and chooses to participate—

(a) inform the child of the child's rights and opportunity to participate in an age appropriate manner;

(b) explain the process and procedure of the court in simple language for the child to understand and participate in the process, including requesting breaks when needed;

(c) ensure an informal, child friendly environment as provided for in section 60(3) of the Act;

(d) promote the child's participation in the proceedings, including but not limited to the appointment of an intermediary, an interpreter, a legal representative, allowing a comfort person and conducting the proceedings using an audio-visual facility;

(e) ensure that a child with a disability has an opportunity to actively participate, and that reasonable accommodation is provided where necessary; and

(f) allocate sufficient time for the hearing, taking into consideration the needs and comfort of the child, including time to eat, rest and refresh.

(3) If the child is not present, either in person or through audio-visual facility, the court must enquire why the child is not present and postpone the enquiry in order to ensure that the child is afforded the opportunity to participate, unless circumstances exist why the matter should proceed in the absence of the child, which must be recorded.

(4) When the matter is postponed, the court may make any order as it may deem necessary to afford the child an opportunity to participate in the proceedings.

Reasonable accommodation

4. (1) (a) The court must be accessible to the child and any person with a disability involved in the proceedings to enable them to actively participate in the proceedings.

(b) The court must consider measures including the appointment of an intermediary, an interpreter, conducting the proceedings using an audio-visual facility and any other measure which the presiding officer deems appropriate for the active participation in the proceedings.

(2) The court must ensure that the child or any person with a disability involved in the proceedings is provided with the necessary support to actively participate in the proceedings.

(3) Reasonable accommodation needed for a child or any person with disability involved in the proceedings must include but not be limited to—

- (a) suitable waiting and ablution facilities;
- (b) adequate and comfortable seating;
- (c) a facility to allow the child or any person to testify from where they are seated; and
- (d) allowing the parent, guardian, or any person present to provide any other form of seating to ensure that the child or other person is comfortable.

(4) (a) The court must on request by any party or of its own accord, at any time, enquire whether reasonable accommodation is necessary.

(b) Where facilities are inadequate, any party may request for additional arrangements to be made to accommodate the specific needs of the child or such other person.

(5) The court may invoke the provisions of section 51(4) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), pertaining to infrastructure and operational needs.

Questioning techniques for children

5. (1) All questions to children during proceedings must—

- (a) be in plain and age-appropriate language, taking into consideration the child's age, maturity and stage of development;
- (b) not be complex and be easy to understand;
- (c) not consist of more than one question at a time;
- (d) not be posed in the negative;
- (e) not contain legal terminology; and
- (f) not be intimidating or aggressive.

(2) The court must disallow questions which are misleading, irrelevant, ambiguous, annoying, harassing, inappropriate, intimidating, offensive, aggressive and repetitive or is in a form that is not likely to be understood by the child, including any other question which in the view of the court is unsuitable or inappropriate.

(3) The court must, where the child is not testifying through an intermediary, order that—

- (a) questions must be put through the court, and
- (b) the court may rephrase the questions to convey the general purport of the question to the child, where necessary.

(4) Where there is no separate audio-visual facility in order that the child may not see any person who is involved in the proceedings, the court may—

- (a) allow the child to participate from behind a screen; or
- (b) in any other manner as directed by the court.

(5) Where a child is unable to participate and respond, the court may allow the child to do so in any suitable manner, including—

- (a) gestures;
- (b) drawing or painting;
- (c) writing;
- (d) electronic devices in any format;
- (e) picture or symbol cards;
- (f) toys;
- (g) demonstrations; and
- (h) any other manner the court considers suitable.

(6) A suitably qualified expert may be allowed by the court to interpret and explain the meaning of responses in sub-rules (4) and (5).

(7) The child must be allowed time to consider a question before responding.

(8) The child should be questioned for the shortest time possible and where necessary the court should adjourn to allow the child to rest.

(9) The court may rephrase any question to the child—

- (a) where the child experiences difficulty in testifying due to fear, timidity, embarrassment, confusion or reluctance to testify, or
- (b) where the question is not understood or not likely to be understood by the child.

(10) The provisions of this rule apply, with the necessary changes, to children in general, children with intellectual or psychiatric difficulties, hearing or other physical disabilities which complicate communication, to traumatised children and very young children.

Additional questioning techniques for very young children in terms of section 52(2)(a)(iv) of the Act

6. (1) The court may—

- (a) use any mode of communication to facilitate the participation of a very young child; and
- (b) request a suitably qualified expert to assist the court with the observations and conclusion from such communication before the court evaluates and considers the non-verbal communication.

(2) When a very young child is unable to respond orally, the court may allow the child to do so in any other manner, including—

- (a) play;
- (b) body language;
- (c) facial expression;
- (d) drawing or painting;
- (e) gestures;
- (f) demonstrations; or
- (g) picture or symbol cards.

**CHAPTER 3
CLERK**

Additional functions, powers and duties of clerk

7. (1) In addition to the functions provided for in the justice regulations, a clerk must inform a party that—

- (a) if not represented by a legal practitioner, such party is entitled to be legally represented;
- (b) if unable to afford legal representation, such party may approach Legal Aid South Africa, a law clinic, or the Legal Practice Council for *pro bono* legal representation;
- (c) such party may apply for reasonable accommodation if needed as provided for in rule 4;
- (d) such party may request that an interpreter be arranged as provided for in sub-rule (7) of this rule; and
- (e) such party may apply to appear using an audio-visual facility.

(2) The clerk must accept and submit all applications to the presiding officer and may not refuse to accept an application for any reason.

(3) The offices of the clerk are open during 07h45 to 16h15 every day of the week except on a Saturday, Sunday or public holiday.

(4) The clerk who attends the proceedings as contemplated in section 73 of the Act may not participate in the proceedings, except to render administrative support to the court.

(5) Where any party will be appearing using an audio-visual facility, the clerk must arrange for the link to be created and forwarded to the relevant party at least three days prior to the date of the hearing, unless a shorter period is agreed to with such party.

(6) The clerk must, on the direction of the court, summons a suitably qualified intermediary to attend the hearing.

(7) The clerk must, on the direction of the court, arrange for an interpreter, including a sign language or tactile sign language interpreter, if required, to attend the hearing.

CHAPTER 4 COURT PROCEEDINGS

Forms of proceedings

8. (1) Except where otherwise provided for in these rules, proceedings must be brought on notice, substantially corresponding with Form 2 of the justice regulations: Provided that Form 2 shall not be required in any subsequent proceedings in the same matter.

(2) An application, including subsequent applications in the same matter, may be brought substantially in accordance with Form A of the Annexure, if the nature of the application does not favour the use of Form 2 of the justice regulations.

(3) Every application using Form A of the Annexure must be accompanied by an affidavit setting out the nature of the application, the grounds upon which the application is based and the relief sought, and where available, attach all documents and reports relevant to the application.

(4) Every application must contain—

- (a) the full names, residential address, work address, cell phone or telephone number of the applicant, including electronic mail address, if available;
- (b) the preferred address, including electronic mail address, at which further documents in the application may be served on the applicant;

- (c) the names, gender, date of birth, residential address and name of school or preschool of the child in respect of whom the application relates, if available;
- (d) the full names, residential address, work address, cell phone or telephone number of the parents, guardians or caregivers of the child, including email address, if available;
- (e) the full names, residential address, work address, cell phone or telephone number of the respondent, including electronic mail address, if known;
- (f) an averment as to whether the family advocate, social worker, psychologist or other professional person or body is involved;
- (g) the particulars of any pending matter or previous order of any court, either interim or final, relating to the child or parties involved;
- (h) if there is an existing court order which is sought to be varied or suspended the grounds upon which relief is sought to change the existing order are based;
- (i) any other relevant factor that may assist the court in considering the application; and
- (j) all necessary supporting documents including court orders if such documents are available.

(5) Every application must be served on the parent, guardian or care-giver of the child in accordance with the provisions of rule 11 or 12, whichever is applicable.

- (6) (a) A person against whom an order is sought—
 - (i) may oppose the application; and
 - (ii) file within 10 days after receiving the application, an answering affidavit setting out the grounds upon which the application is opposed.
- (b) Any other person affected by the relief sought—
 - (i) may oppose or support the application; and
 - (ii) file within 10 days after receiving the application, an affidavit setting out the grounds upon which the application is supported or opposed.

(7) An application may be brought outside ordinary court hours or on a day which is not an ordinary court day in accordance with the provisions of rule 10.

- (8) (a) A party must attach a confirmatory affidavit where applicable.
- (b) A party may attach a supporting affidavit of any person who has knowledge of the matter concerned.

(9) The application and affidavits must be lodged with the clerk who must immediately submit the application and affidavits to the court.

(10) The court must as soon as is reasonably possible consider an application submitted to it, and may, for that purpose—

(a) receive such additional evidence as it deems fit, including oral evidence, which must form part of the record of the proceedings; and

(b) direct whether the child must attend the hearing, including whether in person or through audio-visual link, taking into consideration the child's age, health and personal circumstances.

(11) The court may make any other order provided for in the Act, including—

(a) an investigation in terms of section 62 of the Act; or

(b) such other order as it deems necessary to safeguard the best interest of a child.

(12) A court order may be made on a form corresponding substantially with Form B of the Annexure.

Applications to enforce rights

9. (1) (a) (i) This rule applies whenever a person intends to enforce rights referred to in section 15 of the Act.

(ii) An application referred to in sub-paragraph (i) must be made on a form corresponding substantially with Form A of the Annexure and must be supported by an affidavit.

(b) The affidavit in support of the application must, in addition to setting out every factor in support of the application, include the—

(i) particulars of the person whose rights have been infringed;

(ii) alleged rights which have been infringed or threatened;

(iii) manner in which the minor child has been impacted and the factors that impact on the best interest of the minor child;

(iv) facts upon which the person relies;

(v) relief sought, including a declaration of rights; and

(vi) particulars of interested persons against whom or in whose favour the relief or declaration will operate.

(2) (a) Any party affected by the application must be cited and given notice.

(b) (i) Any affected party wishing to oppose the application must file an answering affidavit at least 10 days after receipt of the application.

(ii) The answering affidavit must set out the grounds on which the application is opposed.

(c) The applicant may file a replying affidavit within five days of receipt of the answering affidavit.

(d) In *ex parte* or urgent matters, the provisions of rule 10 will apply.

(3) The application must be lodged with the clerk who must immediately submit the application to the court.

(4) The court may direct that notice must be given to any other affected party.

(5) The court must direct whether—

(a) the child must attend the hearing taking into consideration the child's age, health and personal circumstances;

(b) a legal representative for the child must be appointed if it is in the best interests of the child; and

(c) a report on the best interest of the minor child is required.

(6) The clerk must, not later than 10 days before the date of the hearing, or such other period as the court may direct, notify the parties of such date in the manner prescribed in the justice regulations.

(7) The court may grant such relief as may be appropriate including interim relief.

(8) A court order may be made on a form corresponding substantially with Form B of the Annexure.

***Ex parte* and urgent applications**

10. (1) (a) An *ex parte* application may be made—

(i) where no notice is required to be given to any party; and

(ii) must be on a form corresponding substantially with Form A of the Annexure, supported by an affidavit.

(b) The affidavit in support of an *ex parte* application must set out every factor in support of the application.

(2) An urgent application may be considered if the court is satisfied that the—

(a) if the court is satisfied that the child may suffer imminent harm to that child's physical, mental or social well-being if the application is not dealt with immediately; or

(b) the degree of urgency is so great that it is in the best interest of the child to dispense with the giving of notice of the application.

(3) In urgent applications—

- (a) the court may dispense with the giving of notice of the application to the person against whom the order is sought if the giving of notice would defeat the purpose of the application;
- (b) an order made against a party on an urgent basis is of an interim nature and must call upon the party against whom it is made to appear before the court on a specified return date to show cause why the interim order should not be made final; and
- (c) a copy of the interim order and the urgent application on which it was made must be served on the respondent in accordance with the provisions of rule 11.

(4) (a) Any person against whom an urgent order is granted or a person who is affected by the order granted may anticipate the return day upon not less than 24 hours' notice service of the notice on the applicant and all other parties and filing with the clerk.

(b) The party anticipating the return date must file an answering affidavit together with the notice referred to in paragraph (a).

(5) (a) Where cause is shown against any order made on urgent basis against a party or a person who is affected by the order, the court may order the applicant or respondent or the deponent to any affidavit to appear and to testify orally, in person or through audio-visual link.

(b) The court may make any other order which it deems appropriate.

(6) The interim order may be confirmed, discharged or varied by the court on good cause shown by any party or other person affected thereby, and on such terms as the court may deem appropriate.

(7) A court order may be made on a form corresponding substantially with Form B of the Annexure.

(8) If the matter is not finally disposed of, the presiding officer must direct the further conduct of the matter as provided for in rule 15.

Service of applications, affidavits, notices, documents and orders of court

11. (1) All applications, affidavits, notices, documents and orders of court must be served in one or other of the following manners—

- (a) personally on the person affected thereby, by a sheriff, or the clerk, or a person authorised by the court;
- (b) in any other manner as authorised by the court, including an electronic mail address, or any other electronic manner:

Provided that—

- (i) if the service is effected by electronic mail the person sending the document by electronic mail must file a delivery report as to whether the document was successfully transmitted to the electronic mail address of the other person; or
- (ii) if effected in any other electronic manner, a screenshot or delivery report of such electronic transmission.

(2) All subsequent applications, affidavits, notices, documents and orders may be served by a party personally, or by the sheriff, a clerk, a person authorised by the court or in any electronic manner agreed between the parties or authorised by the court.

(3) Where service is effected by electronic mail, the provisions of Chapter III, Part 2 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002), apply.

(4) The court may, if there is reason to doubt whether the application, affidavit, notice, document or order served has come to the actual knowledge of the person to be served, and in the absence of satisfactory evidence, order such further steps to be taken as it deems appropriate.

(5) Unless otherwise authorised by the court, an application, affidavit, notice, document or order—

- (a) shall not be served on a Saturday, Sunday or public holiday; and
- (b) shall be served as near as possible between the hours of 7:00 and 19:00.

(6) (a) No application, affidavit, notice, document or order shall be served in a foreign country without leave of the court.

(b) Any person wishing to obtain leave to effect service in a foreign country may apply for such leave to the court, on a form substantially corresponding with Form A of the Annexure, and which shall be supported by an affidavit.

(c) The court must authorise the manner of service in the foreign country and be satisfied that such manner of service will ensure that the application, affidavit, notice, document or order will come to the knowledge of the person to be served.

Substituted service

12. If service of any application, affidavit, notice, document or order cannot be effected in any manner prescribed in rule 11, the court may authorise service in any other manner, if satisfied that such manner of service will ensure that the application, affidavit, notice, document or order will come to the knowledge of the person to be served.

(6) The notice referred to in sub-rule (5) must be served as provided for in rule 11.

(7) The clerk must make the necessary arrangements to ensure that all steps are taken to facilitate the audio-visual hearing, where such hearing has been directed.

(8) The court, when conducting a judicial case management hearing may—

(a) consider information and make such order as the court deems necessary for the progress of the application;

(b) determine who has to be present at the hearing;

(c) deal with interim applications and orders;

(d) give such orders, instructions or directions to the clerk, social worker, designated social worker or other suitably qualified persons as the court deems necessary; and

(e) where, necessary, issue timelines for the taking of further steps in order that the matter be finalised speedily.

(9) The court must at the judicial case management hearing consider and give further directions in respect of—

(a) legal representation of any party or the child;

(b) the appointment of a curator *ad litem* for any party in accordance with the provisions of section 33 of the Magistrates' Courts Act, 1944;

(c) the need for—

(i) an interpreter to be appointed;

(ii) an intermediary to be appointed;

(iii) a comfort person to be with the child during the proceedings;

(iv) reasonable accommodation;

(v) audio-visual testimony;

(d) investigation and report by social worker, designated social worker, family advocate as well as other suitably qualified persons;

(e) submission of reports, affidavits and supporting documents;

(f) attendance of any other person at the hearing;

(g) exchange of reports and documents;

(h) where there are multiple professional reports, may direct a joint meeting of experts and furnishing of a joint report on such issues as required;

(i) whether to order a pre-hearing conference, cause a family group conference or refer the matter to a lay forum as provided for in sections 69, 70 and 71 of the Act: Provided that the court may not order a pre-hearing conference or refer the matter to a lay forum in a matter involving the alleged abuse or sexual abuse of a child;

- (j) whether there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other aspect; or
- (k) any other aspect relating to the conduct of the matter.

(10) The presiding officer may postpone the judicial case management hearing on good cause shown, for periods not exceeding 30 calendar days at a time as provided for in section 64(1) of the Act in order to monitor compliance with court orders and directives.

(11) If there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, whether by the court on its own accord or on application by any party, the court may make an order directing the disposal of such question in such manner as it may deem fit.

(12) Upon finalising the judicial case management process, the presiding officer must certify that the matter is ready for a hearing and allocate a date for the hearing.

Hearing

15. (1) (a) Upon allocation of a date for the hearing the clerk must cause a notice corresponding substantially with Form 4 of the justice regulations to be served on the parties or any other person to the proceedings informing them of the date of hearing, where the hearing has to be attended in person: Provided that where the parties or any person have been informed by the court to attend, such notice is not required.

(b) The parties or any other person may be informed of the hearing electronically;

(2) If the court has directed that the hearing can be attended virtually, or that any witnesses can testify using an audio-visual facility, the clerk must make the necessary arrangements for the audio-visual hearing or testimony.

(3) Unless the court directs otherwise the hearing must—

- (a) take place as provided for in section 42(8) of the Act;
- (b) be conducted *in camera* as provided for in section 56 of the Act; and
- (c) be conducted in the manner provided for in section 60(3) of the Act.

(4) (a) The court must explain the nature and purpose of the hearing, how it will be conducted, including the right of the child to participate.

(b) A witness who is not a party to the hearing must be ordered by the court to—

- (i) leave the courtroom until he or she is called to give evidence; or
- (ii) to remain present outside the courtroom until his or her evidence has been given and he or she had been excused by the court.

Audio-visual evidence

13. (1) Subject to the provisions of section 51C of the Magistrates Court Act, 1944, any party may make an application for evidence to be given by means of audio-visual facility.

(2) A court making an order in terms of sub-rule (1) may give such directions which it considers appropriate for the taking and recording of such evidence.

(3) An application to give evidence through audio-visual facility in terms of sub-rule (1) must be in accordance with Form H of the Annexure and supported by an affidavit.

Judicial case management

14. (1) The objectives of judicial case management are—

- (a) to protect and act in the best interests of the child;
- (b) to address all causes of delays; and
- (c) to expedite the finalisation of cases.

(2) The presiding officer controls the conduct of the proceedings and must ensure that all cases are dealt with judiciously and expeditiously.

(3) The same presiding officer must, where reasonably possible, deal with all pending matters in respect of a specific child.

(4) If the presiding officer determines that a judicial case management hearing is necessary, the presiding officer must—

- (a) allocate a date and inform the clerk of such date;
- (b) indicate whether the judicial case management hearing is to be held in person or using an audio-visual facility;
- (c) indicate who, in addition to the parties, should attend the judicial case management hearing, and
- (d) give any other directions, as deemed appropriate.

(5) The clerk must within 5 days after such determination, notify the parties and any other person directed by the court on a notice corresponding substantially with Form C of the Annexure—

- (a) to attend the judicial case management hearing on the specified date;
- (b) whether to attend in person or using an audio-visual facility; or
- (c) any other directions given by the court.

(c) The court must ensure compliance with the provisions of rule 3 regarding participation of the child.

(5) The court may, before proceeding to hear evidence, require the parties to state shortly the issues of fact or questions of law which are in dispute and may record the issues so stated.

(6) If, in any pending matter, it appears to the court, that there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, the court may make an order directing the disposal of such question in such manner as it may deem fit, and the court must at the request of any party make such order unless it appears that the questions cannot conveniently be decided separately.

(7) If the question in dispute is a question of law and the parties are agreed upon the facts, the facts may be admitted in court, either orally or by written statement, by the parties and recorded by the court and judgment may be given thereon without further evidence.

(8) When questions of law and issues of fact arise in the same case and the court is of the opinion that the case may be disposed of upon the questions of law only, the court may—

- (a) require the parties to argue upon those questions only;
- (b) give its decision thereon before taking evidence as to the issues of fact; and
- (c) give final judgment without dealing with the issues of fact.

(9) All parties to the proceedings, including the child may adduce evidence, call witnesses, question witnesses, cross-examine witnesses and address the court as provided for in sections 58, 60 and 63(3)(b) of the Act.

CHAPTER 5

CHILD IN NEED OF CARE AND PROTECTION

Review of removal of child to temporary safe care

16. (1) Upon receiving Form 36 of the general regulation and any other supporting documentation, the clerk must submit the form, other supporting documentation, report, or affidavit as provided for in sections 151 and 152 of the Act to the presiding officer without delay.

(2) The court must, before the expiry of the next court day, review whether it was necessary to remove and place a child in temporary safe care.

(3) Where the review is not submitted to the court within the prescribed time limit, the court must record the reasons for the failure and act in the best interests of the child as provided for in section 6(2)(a) of the Act by reviewing the decision to remove the child.

(4) (a) When reviewing the decision to remove the child, the court must consider—

- (i) whether reasonable grounds existed at the time to believe that the child may be in need of care or protection;
- (ii) whether the removal was necessary to secure the child's safety and well-being; and
- (iii) the best interest of the child at the time of the removal.

(b) The court must consider all available evidence, including the report of the social worker, the submissions by the parent, guardian or care-giver of the child, if present, and any other relevant information.

(c) If it is in the best interests of the child, the court may postpone the matter for the shortest period of time to call for further evidence or for the purpose of giving notice to any other person whose attendance at the proceedings is necessary.

(d) If the review proceeding is postponed, the court must make an appropriate order as to the placement of the child.

(5) After reviewing the decision to remove the child, the court may—

(a) confirm the removal of the child and—

- (i) confirm the placement of the child at the place of temporary safe care;
- (ii) place the child in any other approved temporary safe care; or
- (iii) make any other order regarding the placement or care of the child that would be in the best interests of the child;

(b) set aside the removal of the child and—

- (i) order the return of the child to the care of the person from whose care the child has been removed; and
- (ii) make any other order the court deems fit that would be in the best interests of the child; and

(c) where appropriate, make any additional orders as provided for in section 50 of the Act.

(6) The court must, whether the removal of the child was confirmed or set aside, order that the question whether the child is in need of care and protection be referred to a designated social worker for an investigation as contemplated in section 155(2) of the Act.

(7) The court may, on application and where appropriate, amend or vary any order, made in terms of this rule.

Extension of alternative care order

17. (1) Subject to the provisions of section 159(2A) of the Act, the report and supporting documents for the extension of an alternative care order must be submitted to the clerk before the order lapses: Provided that if the order has already lapsed, the report and supporting documents must be accompanied by the grounds indicating good cause as to why the request for extension was not made timeously.

(2) Where the alternative care order was made by a court other than the court deciding the request for the extension of the foster care order, the clerk where the order was made must upon request submit a certified copy of the court order to the designated social worker of the other court.

(3) Where the court previously made a finding that the child has been abandoned or orphaned, it will not be necessary for a further notice to be placed on the notice board or published on the website of the provincial department of social development or designated child protection organisation prior to the request for extension of the foster care order to court.

CHAPTER 6 APPLICATION FOR ADOPTION

Freeing order

18. (1) An application for a freeing order must be made on a form substantially complying with Form A in the Annexure.

(2) The clerk must immediately submit the application to the court.

(3) The court order granted must be recorded on Form D of the Annexure.

Notice of proposed adoption

19. (1) The notice informing each person whose consent to the adoption is required must be given on a form corresponding substantially with Form E of the Annexure.

(2) The notice must be served personally by the sheriff.

(3) Where the person to be served is outside the Republic, the notice must be served as provided for in rule 12.

(4) The response to the notice must be in writing.

Consent to adoption

20. (1) The consent to adoption may be given before a presiding officer at any court notwithstanding that the application for adoption is pending before another court.

(2) When a parent, guardian or child approaches the court to consent to the proposed adoption of the child, the clerk must arrange that the parent, guardian or child appears immediately, or as soon as possible, before the presiding officer.

(3) The record of the consent proceedings and consent form must be submitted to the court dealing with the proposed adoption.

(4) The presiding officer must—

- (a) verify the identity of the parent or guardian as prescribed in the general regulations;
- (b) explain the parent's or guardian's right to legal representation;
- (c) confirm that the parent, guardian and child, where applicable, has been counseled on the decision to make the child available for adoption; and
- (d) consider the appointment of a legal representative for the child.

(5) The presiding officer must inform the person giving the consent of the—

- (a) effect of an adoption order as set out in section 242 of the Act;
- (b) prohibited considerations as provided for in section 249 of the Act;
- (c) right to withdraw the consent, within 60 days of such consent;
- (d) alternative placement options;
- (e) freeing orders; and
- (f) right to apply for a post adoptive agreement.

(6) The presiding officer must record the reason for the parent's or guardian's refusal to consent to the proposed adoption.

Consideration of adoption application

21. (1) The clerk must, upon the direction of the presiding officer, notify the prospective adoptive parent, the parent who has not consented to the proposed adoption, the adoption social worker or any other person whose attendance is necessary to attend the adoption proceedings: Provided that where the person was warned by the court, no further notice will be required.

(2) The court must record the proceedings.

(3) The following documents, if applicable, must be submitted and considered by the court—

- (a) Form 60 of the general regulations;
- (b) the original identity document or birth certificate of the child or, where not available, a sworn statement to that effect by the adoption social worker;
- (c) a certified copy of the identity document or passport of the prospective adoptive parent;
- (d) a certified copy of the marriage certificate of the prospective adoptive parent;
- (e) a certified copy of the divorce order or death certificate of the spouse;
- (f) in the case where a child has been abandoned or orphaned, proof that the notice was placed on the noticeboard and published on the website of the relevant provincial department of social development or designated child protection organisation as provided for in the general regulations, or that an advertisement was published in a newspaper as provided for in the general regulations;
- (g) an affidavit by the adoption social worker setting out the steps taken to trace the parent or guardian;
- (h) an affidavit by a person, that the child had no contact with the parent or guardian for a period of at least three months;
- (i) a certified copy of death certificate of the parent;
- (j) the court order placing the child in the care of the prospective adoptive parent;
- (k) the certificate from the National Register for Sex Offenders in terms of section 48 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
- (l) a certified copy of a formal response to an enquiry in terms of section 126(3) of the Act to establish whether or not the name of the prospective adoptive parent appears in Part B of the National Child Protection Register, and if so, the reasons for entry of his or her name in such a Register;
- (m) a post adoption agreement;

- (n) the report of an accredited adoption social worker;
- (o) a letter by the head of the provincial department of social development recommending the adoption of the child;
- (p) any reports from other suitably qualified persons;
- (q) the consent of the child;
- (r) the consent of the parent;
- (s) the consent of the guardian;
- (t) the record of consent proceedings;
- (u) the written statement of the foster parent;
- (v) any information established by the clerk with regard to the request of a person who has consented to the adoption and who wants the court to dispense with the consent of another person;
- (w) the written response of a person who has been requested to indicate why the court should not dispense with such person's consent;
- (x) any other relevant document; and
- (y) the report by the clerk on any failure to respond to the requests.

(4) (a) The court must, in considering the adoption application, have regard to all the relevant factors and record findings in respect of the following:

- (i) whether the child is adoptable in terms of section 230(3) of the Act;
- (ii) whether the prospective adoptive parent is fit and proper to be entrusted with the full parental responsibilities and rights in respect of the child as provided for in section 231(2)(a) of the Act;
- (iii) whether the prospective adoptive parent is willing and able to undertake, exercise and maintain those responsibilities and rights as provided for in section 231(2)(b) of the Act;
- (iv) whether the prospective adoptive parent is over the age of 18 years as provided for in section 231(2)(c) of the Act;
- (v) whether the prospective adoptive parent was properly assessed by an adoption social worker for compliance with section 231(2)(a) and (b) of the Act;
- (vi) whether the religious and cultural background and preferences of the child, the child's parent and the prospective adoptive parent have been taken into account as provided for in section 240(1)(a) of the Act;
- (vii) all reasonable preferences expressed by a parent and stated in the consent as provided for in section 240(1)(b) of the Act;
- (viii) the written statement of the foster parent if the child is adopted by a person who is not the foster parent, if applicable; and

- (ix) whether the proposed adoption is in the best interests of the child as provided for in section 240(2)(a).
- (b) The court must be satisfied and record the finding that consent—
 - (i) to the adoption has been given as provided for in section 233 of the Act, and that such consent has not been withdrawn;
 - (ii) is not required as provided for in section 236 of the Act; or
 - (iii) has unreasonably been withheld and the adoption is in the best interests of the child as provided for in section 241(1)(a) and (b) of the Act.
- (5) The adoption order must be made on Form F of the Annexure.
- (6) Where the adoption order does not terminate parental responsibilities and rights, when an adoption order is granted in favour of the spouse or permanent domestic life partner of a parent, the adoption order must be made on Form G of the Annexure.
- (7) The court must record the time and date that the adoption order was made.

CHAPTER 7 GENERAL MATTERS

Appointment of intermediary

22. (1) If the court finds that it would be in the best interests of the child who is a party or a witness, for an intermediary referred to in section 61(2) of the Act to be appointed, the court must appoint a competent person as an intermediary.

(2) Notwithstanding sub-rule (1), a court may on application by any party or of its own accord, appoint a competent person as an intermediary for a witness as referred to section 51A of the Magistrates' Court Act, 1944.

Costs of proceedings

23. The court, in making an appropriate order for costs, must indicate the scale, as set out in Annexure 2 of the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa, on which such costs will be taxed and allowed.

Appeals

24. The Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa, pertaining to civil appeals shall apply with the necessary changes.

Short title and commencement

25. These Rules are called the Children's Courts Rules of South Africa, and commence on **20 March 2026**.

ANNEXURE**FORMS**

Form.

- A** — Notice of Application (under rules 8, 9, 10, 11 and 18)
- B** — Court Order (under rules 8, 9 and 10)
- C** — Judicial Case Management Notice (under rule 14)
- D** — Freeing Order (under rule 18)
- E** — Notice of proposed Adoption (under rule 19)
- F** — Adoption Order (under rule 21)
- G** — Adoption Order not terminating parental responsibilities and rights (under rule 21)
- H** — Application to give evidence through audio-visual facility (under rule 13)

A — Notice of Application (under rules 8, 9, 10, 11 and 18)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

In the matter between:

..... Applicant

and

..... Respondent

TAKE NOTICE that application will be made to the above-mentioned Court on a date to be allocated for an order in the following terms:

- (1) _____
- (2) _____
- (3) _____

The attached affidavit will be used in support of the application.

This application is brought on an **ex parte / urgent* basis as indicated in the attached affidavit.

**Delete what is not applicable*

DATED at this day of 20

.....
Applicant / Applicant's legal representative
(Physical address)

.....
(Telephone / cell phone number)

.....
(E-mail address)

TO: (1) The Clerk of the above-named Court

(2)
Respondent / Respondent's legal representative
(Physical address)

.....
(Telephone / cell phone number)

.....
(E-mail address)

B — Court Order (under rules 8, 9 and 10)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

In the matter between:

..... Applicant

and

..... Respondent

COURT ORDER

Date: _____

Presiding Officer: _____

Having considered the application, the court makes the following orders:

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

The Respondent is called upon to provide reasons on affidavit on or before.....
..... (date) why this order should not be made final.

SIGNED: PRESIDING OFFICER OF THE CHILDREN'S COURT

DATE STAMP:

C — Judicial Case Management Notice (under rule 14)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

In the matter between:

..... Applicant

and

..... Respondent

NOTICE OF JUDICIAL CASE MANAGEMENT HEARING IN TERMS OF RULE 14 OF THE CHILDREN'S COURTS RULES**TO: (state parties as well as any additional persons to attend)**

Applicant / Legal Representative: _____

Respondent / Legal Representative: _____

Other persons: _____

You are hereby directed to attend a judicial case management hearing to be held *in person / through audio-visual link before the Presiding Officer in the Children's Court at..... on the day of 20, at (time) to:

**Delete what is not applicable*

- (1) consider information and make such order as the court deems necessary for the progress of the application;
- (2) determine who has to be present at the hearing;
- (3) deal with interim applications and orders;
- (4) consider whether to give such orders, instructions or directions to the clerk, social worker, designated social worker or other suitably qualified persons as the court deems necessary;
- (5) were, necessary, issue timelines for the taking of further steps in order that it be finalised speedily;

- (6) consider and give further direction in respect of—
 - (a) legal representation of the applicant, respondent and child;
 - (b) the appointment of a curator *ad litem* for any party in accordance with the provision of section 33 of the Magistrates’ Court Act, 1944;
 - (c) *the need for—
 - (i) an interpreter to be appointed;
 - (ii) an intermediary to be appointed;
 - (iii) a comfort person to be with the child during the proceedings;
 - (iv) reasonable accommodation;
 - (v) audio-visual testimony;
 - (vi) investigation and report by social worker, designated social worker as well as other suitably qualified persons;
 - (vii) submission of reports, affidavits and supporting documents;
 - (viii) attendance of any other person at the hearing;
 - (ix) exchange of reports and documents;
 - (x) where there are multiple professional reports, may direct a joint meeting of experts and furnishing of a joint report on such issues as required; and
 - (xi) whether to order a pre-hearing conference, cause a family group conference or refer the matter to a lay forum as provided for in sections 69, 70 and 71 of the Act; or
 - (xii) whether there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other aspect; or
 - (xiii) any other aspect relating to the conduct of the matter namely:

.....

**Delete what is not applicable*

DATED at on the day of 20

SIGNED: PRESIDING OFFICER OF THE CHILDREN’S COURT

DATE STAMP:

TO:

Applicant / Legal Representative: _____

Telephone / cell phone number: _____

E-Mail address: _____

Respondent / Legal Representative: _____

Telephone / cell phone number: _____

E-Mail address: _____

Other Persons:

(1) _____

Telephone / cell phone number: _____

E-Mail address: _____

(2) _____

Telephone / cell phone number: _____

E-Mail address: _____

(Attach delivery or read receipt to copy of notice and file on file)

D — Freeing Order (under rule 18)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

In the *ex parte* application of:

..... Applicant

(For freeing of (name)

from parental responsibilities and rights of the child

..... in terms of section 235 of the Children's Act, 2005)

ORDERS GRANTED

Whereas *the Department of Social Development / a Provincial Department of Social Development a child protection organisation accredited in terms of section 251 of the Children's Act, 2005 (Act No 38 of 2005) / adoption social worker has applied to provide adoption services pending the adoption of.....

..... (name of child)

And whereas.....

(name of parents / parent / guardian / guardians) whose consent to the adoption is / are required, have / has consented to the adoption, the following orders are made:

(1) (name of CPO / other person) is authorised to exercise parental rights and responsibilities in terms of section 18 of the Children's Act, 2005 over (name of child), pending the adoption of the said child.

(2) (name of parent / guardian) is freed from parental rights and responsibilities, in terms of section 235 of the Children's Act, 2005.

(3) (name of parent / guardian) *is / are relieved / not relieved from the duty to *maintain / contribute to the maintenance of..... pending the adoption of

**Delete what is not applicable*

SIGNED: PRESIDING OFFICER OF THE CHILDREN'S COURT

DATE: _____

E — Notice of proposed adoption (under rule 19)**NOTICE OF PROPOSED ADOPTION: SECTION 238 OF THE CHILDREN'S ACT, ACT 38 OF 2005**

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No:

In the adoption application before this Court in respect of the following children:

TO: _____

Kindly take notice that:

- (1) The abovementioned child has become available for adoption.
- (2) An application for the adoption of the abovementioned child has been lodged at this court.
- (3) You are requested either to consent to or to indicate your intention to withhold your consent to the proposed adoption of your child.
- (4) Note further that if the biological father of the child was not married to the mother, he may consent to, or indicate his intention to withhold consent, or apply in terms of section 239 for the adoption of the child.
- (5) Kindly inform the Presiding Officer at the above court in writing within 30 days after service of this notice upon you whether—
 - (a) you consent to the adoption of the child; or
 - (b) indicate your intention to withhold your consent to the proposed adoption of the child; or
 - (c) file an application for adoption of the child in terms of section 239 of the Act.

IMPORTANT NOTICE:

If you fail to comply with the abovementioned request within a period of 30 days after the service upon you of this notice, you will be regarded as having consented to the adoption of the abovementioned child.

DATED at this day of 20

SIGNED: PRESIDING OFFICER OF THE CHILDREN'S COURT

Address: _____

Telephone number: _____

Email address: _____

F — Adoption Order (under rule 21)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

Registrar's No:

IN THE APPLICATION FOR THE ADOPTION OF:

(Full Names of Child)

.....

(ID of Child)

.....

On the day of 20

Before:

.....

(Presiding Officer of the Children's Court)

IT IS ORDERED THAT:

(1) (Full names of Child)

a..... child, (state gender) born on the day of the month
of in the year be and is hereby adopted by

..... (Full Names)

born on

Identity Number

AND

..... (Full Names)

born on

Identity Number

(2) In terms of the provisions of section 242(2)(a) of Act 38 of 2005, this adoption order confers full parental responsibilities and the rights in respect of the adopted child upon the adoptive parents.

(3) In terms of the provisions of section 242(2)(b) of Act 38 of 2005, this adoption order:

*(a) confers the surname of the adoptive parents, namely.....
.....
on the adoptive child; or

*(b) the child shall retain his/her surname notwithstanding this adoption being granted.

(4) *In terms of section 234(4) of Act 38 of 2005, the Post Adoption Agreement is hereby confirmed and made an order of Court.

(5) *The following provisions are accordingly applicable:

(a) Sections 234(6)(b)(i) and (ii) of Act 38 of 2005 which stipulate that this Post Adoption Agreement may be amended or terminated only by an order of court on application by a party to the agreement or the adopted child.

(b) General Regulations 103(2) of Act 38 of 2005 which obligates a party to the agreement to inform the other parties of any change of any of the particulars contained in the Post Adoption Agreement on Form 33 within seven days of such change.

****Delete what is not applicable***

PRESIDING OFFICER OF THE CHILDREN’S COURT_____

IN THE DISTRICT OF _____

DATE: _____ **TIME:** _____

(1) Date of registration of adoption:

(2) Adoption register number:

(3) Amendment of the Births Register in terms of section 245 of the Children's Act, 2005 (Act No. 38 of 2005), may proceed.

.....
Adoption Registrar

Date:

G — Adoption order not terminating parental responsibilities and rights of parent
(under rule 21)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

Registrar's No:

IN THE APPLICATION FOR THE ADOPTION OF:

(Full Names of Child)

.....

(ID of Child)

.....

On the day of 20

Before:

.....

(Presiding Officer of the Children's Court)

IT IS ORDERED THAT:

(1) (Full names of Child)
a..... child, (state gender) born on the..... day of the month of
in the year.....be and is hereby adopted by.....
..... (Full Names)
born on
Identity Number

AND
..... (Full Names)
born on
Identity Number

(2) In terms of the provisions of section 242(2)(b) of Act 38 of 2005, this adoption order:

*(a) confers the surname of the adoptive parents, namely.....
.....
on the adoptive child; or

*(b) the child shall retain his/her surname notwithstanding this adoption being granted.

- (3) *In terms of section 242(1) *read with* section 242(2)(e) of Act 38 of 2005, the parent,.....

 with ID No
 retains full parental responsibilities and rights as envisaged in sections 18 and 19 of Act 38 of 2005, notwithstanding him / her having given consent for the adoption of his / her child by applicant as the applicant is the spouse or permanent domestic life-partner of the said parent.
- (4) *In terms of section 234(4) of Act 38 of 2005, the Post Adoption Agreement is hereby confirmed and made an order of Court.
- (5) *The following provisions are accordingly applicable:
 - (a) Sections 234(6)(b)(i) and (ii) of Act 38 of 2005 which stipulate that this Post Adoption Agreement may be amended or terminated only by an order of court on application by a party to the agreement or the adopted child.
 - (b) General Regulations 103(2) of Act 38 of 2005 which obligates a party to the agreement to inform the other parties of any change of any of the particulars contained in the Post Adoption Agreement on Form 33 within seven days of such change.

****Delete what is not applicable***

PRESIDING OFFICER OF THE CHILDREN’S COURT _____
IN THE DISTRICT OF _____
DATE: _____ **TIME:** _____

- (1) Date of registration of adoption:
- (2) Adoption register number:
- (3) Amendment of the Births Register in terms of section 245 of the Children's Act, 2005 (Act No. 38 of 2005), may proceed.

.....
Adoption Registrar

Date:

H — Application to give evidence through audio-visual facility (under rule 13)

IN THE CHILDREN'S COURT FOR THE DISTRICT OF.....

Held at: Case No: of 20

In the matter between:

..... Applicant

and

..... Respondent

TAKE NOTICE that an application will be made to the above-mentioned Court on a date to be allocated for an order in the following terms:

(1) The applicant / witness to the applicant's case (state the name of the witness) is permitted to adduce evidence by way of audio-visual facility / link on a date and time to be arranged by the parties and presiding officer in the following manner:

(2) The applicant / witness to the applicant's case (state the name of the witness) will give evidence at (state the address of the premises from where evidence will be given).

(3) The respondent may have a legal representative present when the applicant / witness to the applicant's case (state the name of the witness) gives evidence at..... (state the address of the premises from where evidence will be given).

(4) The applicant's / witnesses' evidence will be transmitted through audio-visual facility / link to (state the address of the premises to where the evidence will be transmitted by audio-visual facility / link) or any other place as the court may order.

The attached affidavit will be used in support of the application.

DATED at this day of 20

.....
Applicant / Applicant's legal representative
(Physical address)
.....

(Telephone / cell phone number)
.....

(E-mail address)
.....

TO: (1) The Clerk of the above-named Court
.....

(2)
Respondent / Respondent's legal representative
(Physical address)
.....

(Telephone / cell phone number)
.....

(E-mail address)
.....