

Child Protection Register - Part B

Department of Health

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1. Purpose of Part B

Keeps record of persons found unsuitable to work with children to protect them (children) from abuse.

2. Introduction

- The National CPR was established in terms of the Child Care Act, (No. 74 of 1984) which is repealed by the Children's Act (No. 38 of 2005).
 - The Children's Act requires that the National Department of Social Development to keep and maintain the Register.
- The National CPR consists of Part A and **Part B** as provided for by s111 of the Children's Act 38 of 2005.
- Part A and B Register are linked through the reporting of child abuse.
- The abused child is linked with the person who is unsuitable to work with children.
- The Register prohibits unsuitable person from working with children.

3. Legislation

- The Children's Act No 38 of 2005, brings South Africa's legislative framework for child care and protection in line with the Constitution and International Law.

Reporting on the register is also required in terms of other key legislative mandates include:

- The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007).
- Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013).
- Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- Child Justice Act (75 of 2008).
- Domestic Violence Act (Act No. 116 of 1998).

4. Findings of unsuitability

A finding that a person is unsuitable to work with children may be made by-

- a children's court;
- any other court in any criminal or civil proceedings in which that person is involved; or
- any forum established or recognised by law in any disciplinary proceedings concerning the conduct of that person relating to a child.

4. Finding of unsuitability – cont...

- A finding may be made by a court or a forum in its own volition or on application by-
 - an organ of state involved in the implementation of this Act;
 - a prosecutor, if the finding is sought in criminal proceedings; or
 - a person having a sufficient interest in the protection of children.

4. Finding of unsuitability - cont..

- A finding that a person is unsuitable to work with children is not dependent upon a finding of **guilty or innocent** in the criminal trial of that person.
- Forums are also required to submit information of unsuitability following disciplinary proceedings.
- The information regarding a person unsuitable to work with children must be forwarded to the Director-General of DSD within 21 working days of a finding that a person is unsuitable to work with children.
- The information regarding unsuitability must be forwarded in a prescribed **Form 28**.

5. Establishment of Information (Inquiries)

- **Inquiry by employer (Form 29):** Any person managing an institution, or school, must establish whether the name of any person who works with or has access to children at the institution or school appears in Part B of the Register.
- **Inquiry by Individual (Form 30):** Any person who intent to provide services to children, e.g. a foster or adoptive parent, supervisor of a child-headed household must establish whether the name of any person who works with or has access to children at the institution or school appears in Part B of the Register.

6. Disputes concerning findings

- The person in respect of whom a finding in terms of section 120 has been made may-
 - a) appeal against the finding to a higher court, if the finding was made by a court, or
 - b) have the finding reviewed by a court, if the finding was made by a forum.

7. Removal of name from the Register

- ❑ A person whose name appears in Part B of the Register may apply for the removal of his or her name and any information relating to that person from the Register.
- ❑ Application for the removal of a name and particulars from the Register may be made:
 - to any court, including a children's court;
 - to the Director-General, if the entry was made in error; or
 - to the High Court if the Director-General refuses an application.

7. Removal of name from the Register (Cont...)

- ❑ An application to remove a person's name and particulars from Part B of the Register on the ground that the affected person has been rehabilitated, may only be made after at least five years have lapsed since the entry was made and after considering the prescribed criteria.
- ❑ The name and particulars of a person convicted more than once of an offence with regard to a child may not be removed from Part B of the Register.

8. Conclusion

No person whose name appears in Part B of the Register may (Section 123(1) -

1. manage or operate, or participate or assist in managing or operating, an institution providing welfare services to children, including a school or association providing services to children;
2. work with or have access to children at an institution providing welfare services to children, including a school or association providing services to children, either as an employee, volunteer or in any other capacity;
3. be permitted to become the foster parent or adoptive parent of a child;
 - a. work in any unit of the South African Police Service tasked with child protection;

8. Conclusion (cont..)

No person whose name appears in Part B of the Register may (Section 123(1)

- b. be employed in terms of the Public Service Act in a position where that person works with or has access to children;
- c. be employed in terms of the Municipal Systems Act in a position where that person works with or has access to children; or
- d. work in any other form of employment or activity as may be prescribed, such as:
 - i. be permitted to supervise a child headed household;
 - ii. be permitted to work in a children's ward within the hospital or clinic.

8. Conclusion (cont..

If the name of a person is entered in Part B of the Register and that person works with or has access to children at an institution providing services to children:

- i. that person **must disclose** that fact to the person who manages or operates the institution;
- ii. a person who **fails** to disclose the fact that his or her name is entered in Part B of the Register **is guilty** of misconduct and his or her services may be terminated as a result thereof.
- iii. A person who discloses the information that his/her name appears on the register, must be removed to a position that will not allow contact with

THANKS

