

IN EXERCISE of the powers conferred by section 92 of the Children Act, 2020 the Cabinet Secretary, in consultation with the National Council for Children's Services, makes the following Regulations:

The Children (Care and Protection) Regulations, 2020

Arrangement of Regulations

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Citation and Commencement	1. These Regulations may be cited as The Children (Care and Protection) Regulations, 2020 and shall come into force on such date as the Cabinet Secretary may, by notice in the Gazette, appoint.

Interpretation	<p>2. In these Regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it and, unless the context otherwise requires –</p> <p>“Act” means the Children Act, 2020;</p> <p>“authorised officer” has the meaning assigned to it under section 2 of the Act;</p> <p>“Cabinet Secretary” has the meaning assigned to it under section 2 of the Act;</p> <p>“child “ has the meaning assigned to it under Article 260 of the Constitution;</p> <p>“children rescue centre” means a children rescue centre established in accordance with section 64(1) of the Act;</p> <p>“Court” has the meaning assigned to it under section 2 of the Act;</p> <p>“Director” has the meaning assigned to it under section 2 of the Act;</p> <p>“home” has the meaning assigned to it under section 2 of the Act.</p>
Guiding Principles	<p>3. In providing care and protection of children under the Act and in accordance with these Regulations, the relevant State and non-state agencies shall be guided by the following</p>

	<p>principles, namely –</p> <p>(a) the use of institutional care, other than a place of safety or child protection unit, for the purpose of child protection shall be limited and only as a matter of last resort, and children below the age of three years shall, so far as is reasonably practicable, be placed in family-based care;</p> <p>(b) the process of providing care and protection to a child shall be participatory, in the best interest and wellbeing of the child, and in accordance with their evolving capacities;</p> <p>(c) the placement of a child in a place of safety or other alternative care shall be appropriate to the child’s personal needs, having regard to their growth and development; and</p> <p>(d) the measures taken for the care and protection of a child shall aim at safeguarding the child from abuse, violence or other harmful conduct or exploitation.</p>
<p>Procedure where Child Takes Refuge in Place of Safety</p>	<p>4. (1) Where a child presents themselves at a place of safety, the person receiving the child shall inquire from the child as to –</p> <p>(a) the name and age of the child;</p> <p>(b) the name of the child’s parent, guardian, relative, family friend or other person connected with the child and, if known to the child, their telephone contact, or where any of them could be found;</p>

(c) the physical address of the place where the child resides and nearest landmark/physical feature; and

(d) the reason or reasons why the child is not at home or in the company of a relative, parent, guardian, friend or other person connected with the child.

(2) Where the child cannot speak or is otherwise unable to provide any information as to their identity or the identity of any person known to the child, the person receiving the child shall, within twenty-four hours, present the child to an authorised officer at the nearest child protection unit.

(3) Upon receipt of the child, the person receiving the child, and the authorized officer, shall provide –

(a) age appropriate assistance to the child; and

(b) in the case of a child with disability, such assistance as is required to meet the special needs of the child in accordance with section 24(5) of the Act.

(4) Upon receipt of the relevant information specified in sub-regulation (1), the person receiving the child shall, within twenty-four hours, present the child to an authorised officer at the nearest child protection unit.

(5) On receiving the child, the authorised officer shall take charge of the child and forthwith make a record of –

	<p>(a) the name, address and telephone contact of the person who presented the child at the child protection unit;</p> <p>(b) the circumstances under which the child came into the person's custody; and</p> <p>(c) where known or disclosed by the child or by the person presenting the child at the child protection unit, or by other person accompanying them –</p> <p>(i) the name, sex and age of the child and, where not known, the apparent age of the child;</p> <p>(ii) the name of the child's parent, guardian, relative, family friend or other person connected with the child, and their telephone contact;</p> <p>(iii) where known, the physical address of the place, or a description of the place where the child resides;</p> <p>(iv) the circumstances under which the person came to be in custody of the child; and</p> <p>(v) any other information which the authorised officer considers necessary for identification and reunification of the child with the child's parent or guardian.</p>
<p>Authorised Officer to Notify Director</p>	<p>5. (1) Upon taking charge of the child, the authorised officer shall prepare a report containing the matters specified in regulation 4(3) and, within twenty-four hours of receiving the child, notify the Director in Form No. CCP1 set out in the Schedule and forthwith –</p>

	<p>(a) take the child to the Director, or to a person or place designated by the Director;</p> <p>(b) with the approval of the Director –</p> <p>(i) return the child to the child’s parent or guardian (if known), and if doing so would be in the best intrest of the child; or</p> <p>(ii) take the child to a person designated by a parent or guardian of the child.</p> <p>(2) Where the child is taken to the Director, or to a person or place designated by the Director, the Director may take charge of the child for a period not exceeding twenty-four hours and shall –</p> <p>(a) make reasonable efforts to trace and notify the child’s parent or guardian of the child’s whereabouts;</p> <p>(b) investigate the circumstances under which the child was considered to be in need of care and protection; and</p> <p>(c) take appropriate steps to ensure proper care and protection of the child.</p>
<p>Placement of a Child in a Rescue Centre</p>	<p>6. (1) Where the parent or guardian of the child have not been traced or, in the considered opinion of the Director, are not traceable, the Director may place the child in a children rescue</p>

centre temporarily for a period not exceeding one year pending arrangements for alternative care or other intervention under the Act.

(2) For the purposes of sub-regulation (1), children rescue centres include –

(a) the rescue centres established under section 64 of the Act; and

(b) such children institutions as the Cabinet Secretary may designate as children rescue centres pursuant to section 64(3) of the Act.

(3) Where the Director places a child in a rescue centre otherwise than under an order of the Court, the Director shall ensure that –

(a) a preliminary assessment of the child is made within thirty days of placement setting out –

(i) the immediate needs of the child;

(ii) where determinable in the circumstances, whether the child is likely to be returned home;

(iii) the child's legal status, including whether the child has been abandoned or is otherwise in need of care and protection within the meaning of section 146 of the Act; and

	<p>(iv) any other information that, in the opinion of the Director, is necessary to facilitate reasonable care and protection; and</p> <p>(b) the immediate objectives of the placement are determined, having regard to the developmental, emotional, social, medical, spiritual, cultural and educational needs of the child.</p>
Abandoned, or Lost and Found Children	7. Regulations 4, 5 and 6 apply, with necessary modifications, to abandoned children or children who are lost and found, by reason of which they are in need of care and protection within the meaning of section 146 of the Act.
Procedure Where Parent or Guardian are Untraceable	<p>8. (1) Where the Director has exhausted all efforts to trace the parent or guardian of a child, the Director shall apply to the Court for a care order pursuant to section 155 of the Act.</p> <p>(2) Where the child is placed by the Director with a charitable children institution in accordance with regulation 6, the charitable children institution shall apply for a care order pursuant to section 73 (1) of the Act.</p> <p>(3) A care order made under this regulation shall be in Form No. CCP2, directing that the care , control and possession of the child be entrusted to –</p> <p>(a) a fit person other than the parent, guardian or custodian of the child;</p> <p>(b) a prospective foster parent registered on application pursuant to section 175 of the Act; or</p>

	(c) an institution appointed by the Court, including a charitable children institution duly registered under the Act.
<p>Procedure and Form of Application for Care Order</p>	<p>9. (1) An application for a care order under regulation 8 shall be made orally by –</p> <p>(a) the Director;</p> <p>(b) an institution, including a charitable children’s institution; or</p> <p>(c) an authorised officer pursuant to section 147(1) of the Act.</p> <p>(2) In considering an application made under this regulation, the Court shall have regard to –</p> <p>(a) the matters set out in the Notice of Placement given to the Director in accordance with regulation 5(1);</p> <p>(b) the family and social background of the child;</p> <p>(c) the views of the child, if ascertainable;</p> <p>(d) the circumstances surrounding the child’s placement;</p> <p>(e) recommendations by the Director; and</p>

	<p>(f) any other matter which the Court considers to be in the best interest of the child.</p> <p>(3) A person making an application for a care order under these Regulations shall produce the child before the Court.</p>
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Regulation 5(1)

Form No CCP 1

NOTICE OF PLACEMENT OF CHILD

TO: The Director

Particulars of the Child

Name of child.....

Age (if know) Sex

Particulars of Parent or Guardian

Name of Parent/Guardian or other person connected with the child (if known)

Telephone contact..... Physical Address (if know)

City/Town..... County Sub – County

Ward..... Location

Sub-location.....Village.....

Particulars of the person by whom the child was presented

Name Telephone Contact.....

Date presented Time presented

Name of Child Protection Unit/ Police Station.....

Occurrence Book Number/ Reference Number.....

Reasons why the child is in need of care and protection

Abandoned Lost and found Found begging Truant Other (explain)

County Sub – County

Location Village.....

Name of Authorised Officer.....

Signature

Date Time

Regulation 8(3)

Form No. CCP 2

THE REPUBLIC OF KENYA

IN THE CHILDREN'S COURT AT.....

CARE & PROTECTION CASE NO.....OF 20.....

IN THE MATTER OF

BETWEEN

AB _____ APPLICANT

AND

CD _____ CHILD

CARE ORDER

To:.....

WHEREAS on the.....day of.....20.....the above named.....was brought before this Court under the provisions of section 146 of Children Act, 2020 as being in need of Care & Protection AND WHEREAS in accordance with the Court's finding the said.....is a child aged.....years.

AND WHEREAS this Court on the.....day of.....20....., having been satisfied that the said child is in need of Care and Protection under Section 146 of the said Act, order that the said.....be committed to the care/custody of.....

THIS IS TO AUTHORISE AND REQUIRE YOU THE SAID.....to receive the said.....into your care/custody and keep him or her for a period of.....

GIVEN Under my hand and Seal of the Court at.....this.....day of.....20...

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MAGISTRATE