CHAPTER 569*

CHILD PROTECTION (ALTERNATIVE CARE) ACT

To replace the Children and Young Persons (Care Orders) Act, the Foster Care Act and the Placing of Minors Regulations, to introduce child protection orders, to provide for appropriate alternative care and protection for children deprived of parental care or at the risk of being so.

†

ACT III of 2017.

Short title, scope and commencement.

1. (1) The short title of this Act is the Child Protection (Alternative Care) Act.

(2) The principal aim of this Act shall be to safeguard, protect and give priority to the best interest of the child in all instances and to guarantee permanency of the children's future in the shortest possible time.

(3) The provisions of this Act shall come into force on such date as the Minister for the Family and Social Solidarity may, by notice in the Gazette, establish, and different dates may be so established for different provisions and for different purposes of this Act.

PRELIMINARY PROVISIONS

Interpretation.

2. In this Act, unless the context otherwise requires:

"the Agency" means the Government agency responsible for the welfare of children in alternative care established in terms of article 31;

"alternative care" means the placement of a child in the care of a person or entity, other than the child's parents, which placement has been ordered by the court or as a result of administrative measures and the term "alternative carer" shall be construed accordingly;

"Board of Appeal" means the Board of Appeal established in terms of article 46;

"care and protection" means that care and protection which a parent may reasonably be expected to give to his child for the purpose of promoting his full potential, taking into account the abilities, natural inclinations and aspirations of the child;

"Care Order" means an order issued in terms of article 18(1)(*a*);

"care plan" means a plan drawn up in accordance with article 12 to promote the development and well-being of the child;

"care review" means the sitting wherein all matters relevant to the well-being of the child, including the care plan of such child, are reviewed, taking into account any significant changes in connection with the child;

*Repealed by Act XXIII of 2019.
† not yet in force.

"Care Standards Authority" means the authority established by virtue of the Care Standards Authority Act;

"central authority" means the authority established by virtue of the Adoption Administration Act; Cap. 495.

"child" means a person who is under the age of eighteen years;

"Children's Advocate" means a lawyer appointed in terms of regulation 3 of the Civil Court (Family Section), the First Hall of the Civil Court and the Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations; S.L. 12.20

"Child Protection Order" means any one of the orders issued in terms of article 18;

"cross-border foster care" means:

(*a*) the care provided by a foster carer who is a Maltese citizen, to a child who is not a Maltese citizen and who is resident in Malta; or

(*b*) the care provided by a foster carer who is not a Maltese citizen and whose approval by a foreign authority is recognised by the central authority, through the Agency, to a child who is resident in Malta;

"Director" means the Director responsible for child welfare;

"Emergency Order" means an order issued in terms of article 19;

"Fostering Board" means the board established in terms of article 33;

"foster care" means the placement of a child in the care of a family, other than the child's own family, which is selected, qualified, approved and monitored for providing such care for a period according to the care plan;

"foster carer" means one or more persons approved by the Fostering Board to foster a child;

"foster care agreement" means an agreement entered into in accordance with article 38;

"key social worker" means the social worker appointed by the Agency to follow the development and well-being of a child in alternative care and to co-ordinate and follow up progress of a care plan in relation to that child;

"Minister" means the Minister responsible for child welfare;

"parent responsibility guidelines" means the guidelines issued in terms of article 11;

"parents" means the mother or the father of the child or any other person who, by an express provision of law, has parental responsibility for such child;

"registered social worker" or "social worker" shall have the meaning assigned to it by article 2 of the Social Work Profession Act; Cap. 468.

"Removal Order" means an order issued in terms of article 18(1)(*e*);

"residential care agreement" means an agreement entered into in accordance with article 43;

"Review Board" means the Child Care Review Board established under article 26;

"Supervision Order" means an order issued in terms of article 18(1)(*b*);

"Training Order" means an order issued in terms of article 18(1)(*d*);

"Treatment Order" means an order issued in terms of article 18(1)(*c*); and

"unaccompanied minor" means a child who arrives in Malta unaccompanied by an adult who by law or custom is responsible for him, and for as long as the child is not effectively taken into care of such an adult and includes any minor who is left unaccompanied after he has entered Malta.

PART I

OF CHILD PROTECTION

TITLE I

Sub-title I

OF THE DIRECTOR RESPONSIBLE FOR CHILD PROTECTION

Director responsible for child protection.

3. (1) There shall be a Director having responsibility to protect children at risk.

(2) There shall also be other officers of the Director who shall exercise and perform all such powers, functions and duties as may be delegated or assigned to them by the Director.

(3) In the exercise and performance of the powers, functions and duties delegated or assigned to them as aforesaid, the officers of the Director shall, unless the contrary intention appears, have the same obligations and enjoy the same protection and privileges as are by law imposed on or given to the Director.

(4) The office of the Director shall be a body corporate having a distinct legal personality and shall be capable of entering into contracts, of employing personnel, of acquiring, holding and disposing of any kind of property for the purposes of its operations and of suing and of being sued and of doing all such things and of entering into all such transactions as are incidental or conducive to the performance of its functions under this Act.

Functions of the Director.

4. Without prejudice to the functions, which may be assigned to it by this Act, or by any other laws or regulations, the function of the Director shall be to investigate any alleged harm or risk of harm to a child and to take such action as may be considered appropriate for the protection of such child. For these purposes the Director shall:

(*a*) act in the best interest of the child at risk;

(*b*) ascertain the views and wishes of the child at risk;

(*c*) collaborate with others involved in the protection of the child at risk;

(*d*) enquire about whether any action taken in relation to the child at risk is appropriate;

(*e*) provide guidance for the parents and the family of the child at risk; and

(*f*) from time to time issue guidelines with respect to what may constitute significant harm or risk of significant harm.

Liaison with Education Department and other entities.

5. (1) The Director shall hold regular meetings at suitable intervals with representatives of the Education Department, the Department of Health, the Police, and of any such other person or entity that the Director deems to have responsibility for the protection of children, or of a child in particular, to discuss any matter, which falls within such responsibility, and together with each department and entity set policies and protocols.

(2) Minutes of such meetings shall be kept and the progress made between one meeting and another shall be monitored by the Director.

(3) Where a meeting is held to discuss the case of a child in particular, the Director may require any person or entity attending the meeting to report on the progress of the child and a copy of such report shall be attached to the records held by the Director in relation to that child.

(4) Every person or entity attending the meeting shall be bound by confidentiality and shall not disclose to any third party any information, which may come to their knowledge during the meetings. These persons or entities shall also not distribute to any third party any document, or any copies thereof, which may have been circulated during the meetings unless, requested or duly authorised to do so by any court of law.

Conduct of the affairs of the office.

6. (1) The affairs and business of the office of the Director, including its administration and organisation, and organisation and administrative control of its officers and employees, shall be the responsibility of the Director.

(2) The Director shall be appointed by the Minister, following a public call, for such period as the Minister may deem appropriate, from among persons having at least eight years professional experience in social work with children and who are in possession of a warrant recognised by the Social Work Profession Board.

Legal representation.

7. The legal and judicial representation of the office of the Director shall vest in the Director.

Sub-title II

OF CHILD PROTECTION

Reporting.

8. (1) Any person who has reason to believe that a child, born or to be born, is suffering or is likely to suffer significant harm, shall report the circumstances on which the belief or suspicion is based to the Director or the Executive Police.

(2) Any person who, in the course of his or her work, whether voluntary or paid, comes in contact with a child and has reason to believe that the child is suffering or is likely to suffer significant harm, shall, with immediate effect report to the Director or the Executive

Police and the report is to be followed in writing within two working days:

Provided that where a report is made to an entity or institution, other than the Director or the Executive Police, that entity or institution shall record in writing the report and shall, without delay, and in no case not later than one working day from receipt of the report, refer the report to the Director or the Executive Police.

(3) Any person who, in the course of his or her work, whether voluntary or paid, comes in contact with a pregnant woman and has reason to believe that the unborn child is suffering or is likely to suffer significant harm, shall, without delay and not later than two days from the day on which significant harm, or risk thereof, is ascertained, report to the Director and the Director shall provide, or make arrangements to provide, such services as are deemed to be necessary to support the woman and child:

Provided that all efforts shall be made to keep the woman and the child together after the birth of the child, unless this is manifestly contrary to the safety and well-being of the child.

(4) Any person referred to in sub-articles (2) and (3) who fails to make a report shall be guilty of an offence and shall be liable on conviction to imprisonment for a term of four months to one year or to a fine (*multa*) not exceeding five thousand euro (€5,000), or to both such fine and imprisonment.

(5) Without prejudice to any other punishment to which the offender may be liable under any other law, any person who maliciously makes a report shall be guilty of an offence and shall be liable on conviction to imprisonment for a term of four months to one year or a fine (*multa*) not exceeding five thousand euro (€5,000), or to both such fine and imprisonment.

(6) For the purposes of this article and of other provisions of this Act "significant harm" includes abuse, neglect, ill treatment, exploitation, abandonment, exposure, and trafficking of any of the persons mentioned in sub-title VIII BIS of Title VIII of Book First of the Criminal Code.

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Action on report.

9. (1) The Director shall keep a register recording therein all reports which he receives in terms of article 8.

(2) The Director shall, within five working days from receipt of the report, determine, on the basis of the information provided, whether there is or not sufficient reason to believe that the child is suffering, or is likely to suffer, significant harm. In the first case, the Director shall make such investigations and assessments as it considers necessary to determine whether the child is in need of care and protection and, in the second case, he shall dismiss the report and state in detail the reasons for the dismissal.

(3) The Director shall be allowed the term of thirty working days to conduct the investigations and assessments referred to in the preceding sub-article, to run from the day of the decision of the Director that the child is suffering, or is likely to suffer, significant harm. The said term may, upon good cause, be extended by the Director to an additional period of sixty working days.

(4) Where the Director determines that the child is in need of care and protection he shall take such action as is necessary to protect such child, which, without prejudice to any other action that the Director considers appropriate to take, may include any one or more of the following:

(*a*) recommends and/or enforces the provision of support services for the child taking into account the particular needs of that child;

(*b*) recommends and/or enforces the provision of support services for the child's parents or to any other person who appears to have responsibility for such child;

(*c*) issues parent responsibility guidelines;

(*d*) applies to the court to make an emergency order;

(*e*) applies to the court to make the appropriate child protection order;

(*f*) submits the report to the Executive Police for further investigations in all cases involving child abuse or neglect; or

(*g*) gives information to the Executive Police of any offence liable to prosecution by the Police in accordance with the relevant provisions of the Criminal Code.

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Investigative powers of the Director.

10. (1) In the exercise of his functions under article 9, the Director may:

(*a*) enter and inspect the premises where the child is being kept;

(*b*) interview the child in the presence of a police officer or any other professional;

(*c*) require any information as may be reasonably required in relation to the investigation;

(*d*) enquire any person who appears to him to be engaged in the care of the child on any matter relating to the investigation; and

(*e*) obtain photographs, films, video recordings or electronic images as necessary evidence:

Provided that the Director may exercise the powers mentioned in paragraphs (*a*) and (*e*) only upon authorisation by the Court of Magistrates.

(2) The aforesaid authorisation shall be given within two days from the date on which the Director files an application requesting such authorisation. The application shall state the grounds for the request and the Director shall give to the Court of Magistrates all such information as is necessary for the Court to decide on the request. Before deciding whether to give authorisation the Court may require the Director to confirm on oath the information supplied by him and the authorisation shall only be given upon the Court being satisfied that sufficient grounds for giving authorisation exist.

(3) The Director shall hand over a copy of the authorisation to any

person occupying the premises where the child at risk is being kept, or to any such other person who appears to the Director to have responsibility for such child.

(4) The Director shall exercise his powers referred to in sub-article (1) only to the extent required for the purpose for which the authorisation was given.

Parental responsibility guidelines.

11. (1) In considering which action to take, the Director shall have regard to the appropriateness of issuing parental responsibility guidelines to resolve a matter concerning a child's need for care and protection without making an application to the Court to make a child protection order.

(2) The guidelines mentioned in the preceding sub-article shall be signed by the Director and the parents of the child and shall take effect upon their signature.

(3) The Director may impose in the guidelines such terms and conditions as he may think fit. In particular, the Director may impose terms and conditions in relation to the following:

(*a*) treatment of substance abuse during the term of the guidelines;

(*b*) treatment for the perpetrator of domestic violence;

(*c*) counselling, or psychological treatment or any other form of medical treatment;

(*d*) substance abuse testing;

(*e*) courses aimed at improving the parenting skills of the parents;

(*f*) support and counselling to the child;

(*g*) educational and medical assistance of the child; and

(*h*) the method of monitoring compliance with the guidelines:

Provided that the guidelines shall specify the period during which such guidelines will be in force and also the circumstances in which a breach thereof will authorise the Director to file an application for any one or more of the orders mentioned in article 18:

Provided further that the guidelines shall not make provision for or with respect to the assignment of parental responsibilities for a child.

(4) Upon signature, the Director shall notify the Agency responsible for child welfare to appoint a social worker to follow the development and well-being of the child in accordance with the guidelines. For this purpose, the social worker shall monitor the compliance of all parties to the guidelines and make periodical reports to the Head of the Agency who shall forward the said reports to the Director.

(5) The Director shall also notify any other agency, which is responsible for the welfare of families, and any such other agency shall appoint a social worker to provide guidance to the parents in accordance with the guidelines. The social worker shall also make

periodical reports to the Director.

(6) The guidelines shall remain in force for the period specified therein unless terminated before the expiry of such period by the Director by causing a notice to be served on the parents of the child.

(7) Where the Director desires to proceed with a variation of any of the terms of the guidelines, the Director may vary any of such terms with the agreement of all parties to the guidelines:

Provided that the varied guidelines shall not have effect unless agreed to in writing by the parents.

(8) The Director shall, at all times, take into account the views of the child, if considered to have sufficient understanding.

Care plan.

12. (1) For the purposes of article 17(4) and article 19(6), the Director shall hold a conference among those involved in the case to establish a care plan.

(2) The care plan referred to in the preceding sub-article shall include the following:

(*a*) the relevant identification particulars concerning the child;

(*b*) the reasons for which a child protection order has been requested and eventually issued;

(*c*) the goals of the care plan, and, where applicable, those of the placement in alternative care;

(*d*) the treatment and assistance that the parents should receive with a view to mitigate or revoke the effects of the child protection order;

(*e*) the place and frequency of contact of the child with his family;

(*f*) where applicable, the place where the child will reside;

(*g*) matters relating to the education, health, maintenance and welfare of the child; and

(*h*) a copy of any decision given by the court.

(3) The care plan shall in all cases be prepared with the participation of the child, if considered as having sufficient understanding, and with the participation of any such other person or entity as the Director may deem appropriate in the circumstances of the case.

(4) The care plan shall be filed in the records of the cause of a child protection order by means of a note and any variations thereto shall not have effect unless a note to that effect is filed in the registry of the said Court of Magistrates.

(5) The care plan shall be subject to reviews by the Review Board in terms of the provisions of this Act.

TITLE II

OF THE COURT OF MAGISTRATES

Sub-title I

OF THE PROCEEDINGS BEFORE THE COURT OF MAGISTRATES

Composition of the court.

13. (1) The Court of Magistrates shall have jurisdiction to try and determine all causes in terms of this Act.

(2) In the proceedings before it, the Court of Magistrates shall be assisted by two assistants, appointed in terms of this article, whom the Court of Magistrates shall consult in any case for its decision:

Provided that the Court of Magistrates may in extraordinary circumstances dispense with consulting the two assistants.

(3) The consultation shall take place with closed doors, unless it appears to the Court of Magistrates that the ends of justice require the consultation to take place in open court. The court shall not be bound to abide by the opinion of the assistants:

Provided that where the Court of Magistrates does not abide by the opinion of the assistants, a record of this fact, together with the reasons therefor, shall be made in the acts of the proceedings.

(4) The two assistants shall be appointed by the Minister responsible for Justice, following a public call for applications, from amongst persons having a minimum of five years of professional experience in child care, child welfare, child development, child protection, child law or child psychology:

Provided that the Minister responsible for Justice may, at any time, appoint more than two persons as assistants of the Court of Magistrates but only two such persons shall assist the Court of Magistrates in any one case:

Provided further that where, at any time, there are more than two assistants, the Court of Magistrates shall retain, as far as possible, the same composition as established at the beginning of the first sitting of the Court of Magistrates.

(5) A person appointed as assistant of the Court of Magistrates shall, at the beginning of the first sitting of the court after his appointment, take in open court an oath to discharge his functions faithfully, impartially and in accordance with this Act.

(6) The assistants of the Court of Magistrates may abstain or be challenged for the same reasons and on the same grounds as, according to law, a magistrate may abstain or be challenged. Any question regarding any cause of abstention or challenge shall be decided by the Magistrate.

(7) The office of an assistant of the court shall become vacant:

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if he is removed from office by the Minister responsible for Justice on the ground that he is unfit to continue in office or has become incapable of, or is not, properly

performing his duties; or

(*c*) he resigns from office:

Provided that an assistant may, on the expiration of his term of office, be appointed to hold office for subsequent terms.

Sittings of the Court of Magistrates.

14. (1) The court shall hold sittings in Malta and in Gozo. The day and time of each sitting shall be determined by the presiding Magistrate.

(2) The Minister responsible for Justice shall, by notice in the Gazette, determine the building or buildings where the court shall sit in Malta and Gozo.

(3) Causes shall be tried with closed doors:

Provided that it shall be lawful for the Court of Magistrates to order that the cause be heard in open court, where the ends of justice so require, in which case the order of the court shall be recorded in the acts of the proceedings.

(4) The judgment shall in all cases be delivered with closed doors, unless the Court of Magistrates determines otherwise where the interests of justice so require.

Accessibility of acts and documents of the Court of Magistrates.

15. The acts and documents of the Court of Magistrates shall not be open to inspection, nor shall copies thereof be given, without the special permission of the Court of Magistrates, except by or to the parties concerned or by or to any advocate or legal procurator authorized by such parties.

Conduct of court.

16. (1) Where in any proceedings affecting the child, the Court of Magistrates considers the child to have sufficient understanding, it shall before taking a decision:

(*a*) ensure that the child has received all relevant information, including but not limited to information in relation to procedures that have been, or are to be, taken with respect to the child and the reasons thereof;

(*b*) consult with the child in a manner appropriate to his understanding, unless this would be manifestly contrary to the best interests of the child;

(*c*) allow the child to express his views:

Provided that the Court of Magistrates shall in all cases give due consideration to the views expressed by the child.

(2) Where the Court of Magistrates does not itself consult the child, it shall ensure that the person consulting the child has received appropriate training to make such consultations, and in the case of unaccompanied minors, the court shall also ensure that the person consulting such minors has the appropriate linguistic and cultural sensitivity.

(3) The ascertained or ascertainable views of the child or, where the views of the child cannot be ascertained, the reasons thereof, shall be recorded in the acts of the case by the Court of Magistrates or by the

person consulting the child.

(4) The views of the child shall be ascertained with sensitivity and in a manner that does not cause unnecessary harm to the child.

(5) In any proceedings before the court, the court shall take into account:

(*a*) the views of the child, if the child is considered to have sufficient understanding;

(*b*) the physical, emotional and educational needs of the child and the capability of the parents, or other appropriate persons, of contributing towards those needs;

(*c*) the effect that any change in circumstances may have on the child;

(*d*) the age, background and characteristics of the child that the Court of Magistrates deems relevant;

(*e*) the harm that the child has suffered or may suffer; and

(*f*) any other relevant matter.

(6) The court shall appoint the time at which the child is to be heard. The court shall also, whenever it deems it in the best interests of the child so to act, hear such child at a place equipped with audio and video recording facilities.

Sub-title II

OF CHILD PROTECTION ORDERS

Application.

17. (1) The demand for the issue of any child protection order shall be made by the Director by means of an application to the Court of Magistrates.

(2) The application referred to in sub-article (1) shall, besides the relevant identification particulars of the child and, where applicable, of the parents of the child, contain a clear statement of the facts of the case, a report containing the findings of the investigations and assessments, an indication of any available alternative form of care, and such other documents as may be necessary in support of such application.

(3) Upon receipt of any such application, the Court shall appoint a Children's Advocate for the child. The court shall then appoint the application for hearing within five working days and shall forthwith notify the Director, the parents of the child, the Children's Advocate, the Agency and, where applicable, the special guardian, of the date of such hearing.

(4) The Court of Magistrates shall, during the first sitting, hear the application of the Director, the evidence in support of that application, the parents of the child, the child, the Children's Advocate and, where applicable, the special guardian. Where the Court of Magistrates is satisfied that the application is *prima facie* justified, the court shall adjourn the case for another date, being a date not later than two months from the date of the adjournment, and the Director shall within that period prepare a care plan:

Provided that where the application is for a care order, the

Court of Magistrates shall, following consultations with the Agency, prescribe the place in which the child is to reside pending preparation of the care plan.

(5) Where the Court of Magistrates is satisfied that the care plan is appropriate in the circumstances of the case it shall make the relative order, subject to such other conditions as the court may deem appropriate to impose, including the assignment of parental responsibilities to any person assigned with the responsibility to look after the well-being of the child and shall refer the case to the Review Board.

Child protection orders.

18. (1) In any proceedings instituted by the Director for the making of a child protection order, the Court of Magistrates may make any one or more of the following orders:

(*a*) a care order providing for the placement of the child, in need of care and protection, in some alternative care and, whenever deemed necessary, for the assignment of parental responsibilities to the Review Board, or the guardian, or the alternative carer, or to any such other person or persons as the court may deem appropriate;

(*b*) a supervision order putting the child under the supervision of the Agency for a time to be specified in the order and under those conditions which it may deem appropriate to impose, including, the allocation of parental responsibility, or any aspects of it, to such person or persons as the court may deem appropriate;

(*c*) a treatment order ordering the parents of the child to receive treatment for substance abuse or domestic violence, or psychiatric or psychological treatment;

(*d*) a removal order removing the perpetrator of significant harm to the child from the place of residence of such child and to provide protection to the child, and this without prejudice to the provisions of the Criminal Code and the provisions of the Civil Code.

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(2) Without prejudice to any other relevant matter, which the court may consider for the purposes of determining which order to make, the Court of Magistrates shall take into account:

(*a*) the views of the child, when considered as having sufficient understanding;

(*b*) the views of the parents;

(*c*) where applicable, the views of the guardian;

(*d*) the capacity of the parents to safeguard the well-being and harmonious development of the child;

(*e*) the nature and quality of the child's attachment to his family;

(*f*) the length of time during which the family of the child had been receiving support and treatment services;

(*g*) the degree of harm suffered by the child;

(*h*) the degree of vulnerability of the child;

(*i*) the child's cultural, linguistic and religious background; and

(*j*) the child's relationships with his siblings.

(3) For the purposes of sub-article (1)(*a*), the Court of Magistrates shall take into account:

(*a*) whether there are deficiencies in the everyday care received by the child, or deficiencies in terms of the personal contact and security needed by a child of his or her age and development;

(*b*) whether the child who is ill, disabled or in special need of assistance is receiving the treatment and specialized care that the child requires;

(*c*) whether the child is at risk of being abandoned; and

(*d*) whether, generally, the child is at risk of suffering significant harm.

(4) In all cases where provision is made for the assignment of any parental responsibilities to any person other than the parents of the child the Court of Magistrates shall give preference to the family of the child, unless it is manifestly contrary to the best interests of the child.

(5) In all cases where an application for an order is made under this article, the Court of Magistrates shall appoint a Children's Advocate to represent the interests of the child.

(6) Save for special and exceptional reasons, in any proceedings for an order under sub-article (1), the Court of Magistrates shall hear all evidence tendered by the child in one sitting:

Provided that the Court of Magistrates may, where it deems it proper so to do, appoint a child expert or experts to hear such evidence.

Emergency order.

19. (1) Where the Director determines that a child is at immediate risk of significant harm, he shall file an application according to the prescribed form to the Court of Magistrates for an emergency order to immediately remove the child from such place of risk:

Provided that where the child is suffering significant harm, the Director may, with the assistance of the Executive Police, proceed with the immediate removal of the child from such place of significant harm without an order, but shall within twenty-four hours from the time of removal, apply to the Court for such an order:

Provided further that the provisions of article 133 of the Civil Code shall apply *mutatis mutandis* where the Director deems that an order authorizing the child to leave the parental house is in the circumstances appropriate or expedient.

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(2) The application shall contain a brief but clear statement of the facts of the case and a request for the immediate removal of the child from the place of harm. The Court of Magistrates shall appoint the application for hearing not later than three working days from the date of filing of the application and shall give its decision on the application on the same day.

(3) The Court of Magistrates shall determine whether or not sufficient grounds exist for the immediate removal of the child. In the first case, the Court shall make an emergency order and, in the second case, it shall dismiss the application. In any case, the Court of Magistrates shall direct the Director to make such further investigations to determine which action to take to safeguard and promote the welfare of the child.

(4) The order shall be served by not later than the next day from the date of the order on the Director, the Executive Police, the Children's Advocate, the parents of the child and, where applicable, the special guardian. The order shall also be served on the Agency to place the child in alternative care pending further investigations in accordance with article 9.

(5) The investigations shall be concluded within the term of thirty working days from the date of the order, or dismissal of the application, as the case may be:

Provided that, upon good cause being shown, such term may be extended for another period of ten working days upon a demand in writing to the court.

(6) On the conclusion of the investigation, the Director shall make a report to the Court of Magistrates stating therein which action needs to be taken in relation to the child and the reasons for its decision. The Director shall, in addition to the report, also prepare a care plan.

(7) The Court of Magistrates shall, upon receipt of the report and care plan, appoint a date, not later than three working days from the date of receipt of the report and care plan, for hearing the Director, the parents of the child, the child, the Children's Advocate, the special guardian, where applicable, and any such other person or persons as the court may deem appropriate. The said court shall thereupon determine the appropriate order for the care and protection of the child, subject to such conditions as the court may deem appropriate to impose, including the assignment of parental responsibilities to any person having the responsibility to look after the well-being of the child. The Court of Magistrates shall then refer the case to the Review Board.

Unaccompanied children.

20. (1) Any person who comes in contact with an unaccompanied child shall refer that child to the Director. The Director shall thereupon notify the Principal Immigration Officer for him to register such child and to issue in relation to that child an identification document.

(2) The Director shall immediately upon the child's registration and identification also apply to the Court of Magistrates for temporary tutorship:

Provided that where, among the relatives of the said child, there are competent persons, the court shall appoint one of such persons, preference being given, subject always to the best interests of the child, to the nearest relative by consanguinity.

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(3) The provisions of articles 161, 163 to 166, 168, 169, 171 to 173 and 175 to 187 of the Civil Code shall *mutatis mutandis* apply and without prejudice to the powers, functions and duties, which are

assigned to the tutor under those provisions or to such other powers, functions and duties as may be assigned to him by the court, or by any other law, the tutor shall be responsible to assist and support the unaccompanied child and in particular to:

(*a*) identify the persons or entities that need to be involved to care for and protect the child;

(*b*) co-ordinate the efforts of all such identified persons or entities;

(*c*) ensure that the child is offered suitable care, accommodation, education and health care;

(*d*) ensure that the child has suitable legal representation to deal with his residence status, asylum claim, or any other legal or administrative procedure; and

(*e*) ensure that all decisions in relation to the child are taken in his best interests.

(4) The Director shall refer the unaccompanied child to the competent authorities for them to make such investigations and assessments as they may consider necessary to determine whether the claimant is, or is not, in effect an unaccompanied child. The Director shall, pending such investigations and assessments, file an application to the Court of Magistrates to make a temporary assessment order.

(5) Upon receiving the findings of the investigations and assessments by the competent authorities, determining that the claimant is in effect an unaccompanied child, the tutor shall file an application to the Court of Magistrates to make a care order.

(6) Upon receipt of any such application, the Court of Magistrates shall appoint a Children's Advocate for the unaccompanied child. The court shall then appoint the application for hearing within five working days and shall forthwith notify the Agency, or such other competent authorities or entities responsible for the well-being of international protection seekers, as the case may be, of the date of such hearing.

(7) The Court of Magistrates shall during the first hearing, hear the application, the evidence in support of the application, the unaccompanied child, the tutor and the Children's Advocate. Where the Court of Magistrates is satisfied that the claimant is in effect an unaccompanied child, the Court shall adjourn the case to another date, being a date not later than one month from the date of the adjournment, and the Agency, or such other competent authority or entity, shall within that period prepare a care plan and the provisions of article 12 shall apply *mutatis mutandis*.

(8) Where the Court of Magistrates is satisfied that the care plan is appropriate in the circumstances of the case it shall make a care order, subject to such other conditions as the court may deem adequate to impose, including the assignment of parental responsibilities to the Agency, or to such other competent authority or entity as the court deems appropriate. The court shall then refer the case to the Review Board for review in accordance with the provisions of this Act.

Special guardianship order.

21. (1) Without prejudice to the power of the court to make a child protection order, the court may also, on the application of the

relatives of that child, or of any one of the professionals assisting the child, or of the alternative carers, or of any such other person close to such child, make a special guardianship order in relation to the child:

Provided that, where among the persons applying for special guardianship there are relatives of the child, and the court determines that such relatives are competent persons, the court shall give preference to those relatives, subject always to the best interests of the child.

(2) The following persons cannot be appointed special guardians:

(*a*) persons who have not attained majority;

(*b*) undischarged bankrupts;

(*c*) persons who have been sentenced to the punishment of imprisonment for a term exceeding one year, or to any punishment for an offence affecting the good order of families, or for fraud;

(*d*) persons who are of a notoriously bad character, or manifestly untrustworthy or negligent;

(*e*) any other person as the court may consider not appropriate in the circumstances of the case.

(3) Before making an order in accordance with sub-article (1), the court shall notify the Agency and the said Agency shall prepare a report to the court on the suitability or otherwise of the applicants to be special guardians.

(4) The court may allocate to the special guardian such parental rights and responsibilities, which it considers necessary for the care of the child. The court shall also determine whether such rights and responsibilities shall be exercised solely by the special guardian to the exclusion of the parents.

(5) In case of disagreement between the parents and the special guardian on matters of particular importance, the parents or the special guardian may apply to the court indicating those directions which he or she considers appropriate in the circumstances. The court, after hearing the parents, the special guardian and the child, if the latter is considered as having sufficient understanding, shall decide upon the issue. In the case of an imminent danger or serious prejudice to the child the special guardian may take such measures which are urgent and cannot be postponed.

(6) It shall be lawful for the court to appoint more than one special guardian for the child. In such case, the court may, either of its own motion or on the demand of one or more of the special guardians, specify the parental responsibilities of each special guardian in relation to the child. The court may also determine whether a special guardian shall have the right to exercise the parental responsibilities assigned to him to the exclusion of all others having parental responsibilities for the child.

(7) Any special guardian so appointed in accordance with this article shall be entitled to such support services as the Minister shall from time to time determine by means of regulations.

(8) The court may suspend or remove a special guardian from his

office on any of the grounds mentioned in sub-article (2), or for failure to render an account in due time, or for unfaithfulness in the account rendered, or for any other just cause.

(9) In all cases the court shall chiefly consider the interest of the minor.

Validity of child protection orders.

22. (1) A child protection order shall remain in force until the child attains the age of eighteen years, or the Court of Magistrates revokes it.

(2) The Court of Magistrates may revoke a protection order upon receipt of a recommendation to that effect, and the reasons thereof, by the Review Board made in terms of article 28(5). The Court of Magistrates shall before revoking such order take into account:

(*a*) the recommendation to that effect, and the reasons thereof, of the Review Board;

(*b*) the views of the child, if considered to have sufficient understanding;

(*c*) the views of the Children's Advocate;

(*d*) the views of the parents of the child;

(*e*) the views of the key social worker;

(f) the views of the alternative carer;

(*g*) where applicable, the views of the guardian; and

(*h*) the views of any such other person as it may deem appropriate.

(3) Where the Court of Magistrates determines that sufficient grounds exist for the revocation of a protection order it shall refer the matter to the Review Board to prepare a reintegration plan and the provisions of article 30 shall apply.

(4) Where the Court of Magistrates determines that no sufficient grounds exist for the revocation of a protection order, it shall make a decree ordering the continuance of reviews before the Review Board and shall provide the reasons thereof.

(5) For the purposes of the preceding sub-articles (3) and (4), the court shall take into account:

(*a*) the age of the child;

(*b*) the wishes of the child and the weight to be given to those wishes in accordance with the child's age and maturity;

(*c*) the length of time the child has been in the care of the current alternative carers;

(*d*) the strength of the child's attachments to his parents and the current alternative carers;

(*e*) the capacity of the parents of the child to provide an adequate standard of care for the child; and

(*f*) the risk of psychological harm that the child may suffer if present care arrangements are varied or revoked.

Alternative permanency plan.

23. (1) The court may decree that an alternative permanency plan is, in the circumstances of the case, in the best interests of the child. The court may make such a decree either on the application of the Director, made together with an application for a child protection order, or otherwise on the recommendation of the Review Board in accordance with article 28(6).

(2) Before making the said decree, the court shall ascertain the views and wishes of the child, if considered as having sufficient understanding, and of any such other person or entity, which it may deem relevant for the purpose of ascertaining such views and wishes.

(3) Where the Court makes a decree in accordance with this article, it may also allocate parental responsibilities to the alternative carers, particularly in relation to matters of education, health and overseas travel. The court may also impose any such other condition as it may deem appropriate to impose in the circumstances of the case.

(4) Any review of the alternative permanency plan shall take place at least once every year by means of a report drawn up by the key social worker, which report shall be presented to the Review Board. The said board shall, whenever it deems it proper so to do, summon any person or entity to appear before it and require them to produce any document, which it may require:

Provided that the Review Board shall have the power to hear the child at any time during which the alternative permanency plan is in effect to ascertain the well-being of such child.

A decree to free the child in care for adoption.

24. (1) In accordance with the provisions of this article, the court may on the application of the Agency decree that a child under a care order be freed for adoption.

(2) The application mentioned in the preceding sub-article shall, besides the relevant identification particulars of the child and, where applicable, of the parents of such child, also contain detailed reasons for the request. Where the prospective adoptive parents have been identified, the application shall also contain their identification particulars:

Provided that where among the persons identified as prospective adoptive parents there are the alternative carers, the Agency may in the application give preference to such carers, subject always to the best interests of the child.

(3) The application shall be served on the parents of the child who shall have twenty days within which to file a reply. The parties shall then be notified with the date for the hearing of the application.

(4) Before making a decree freeing the child in care for adoption, the court shall:

(*a*) hear and ascertain the views and wishes of the child, if considered as having sufficient understanding;

(*b*) hear any person who has been entrusted with the care and custody of the child to be freed for adoption;

(*c*) hear the parents of such child;

(*d*) hear the Children's Advocate, the key social worker and

any such other person, whom it deems relevant;

(*e*) take into account whether the freeing for adoption would be in the best interests of the child;

(*f*) take into account whether there are any reasonable prospects for the parents to become able to care for the child; and

(*g*) take into account the consent of the parents to the freeing for the adoption:

Provided that the absence of consent of the parents shall not, of itself, be a bar to the freeing of the child for adoption.

(5) Where the court makes a decree to free the child for adoption, it shall state the reasons for its decision. In all cases where the Agency has in the application also identified the prospective adoptive parents, the court shall refer the decree, together with the application, to the competent court, which by law has power to make adoption decrees and the provisions of the Civil Code in relation to adoptions shall apply. Cap. 16.

Sub-title III

OF THE CHILDREN'S ADVOCATE

Children's Advocate.

25. (1) Without prejudice to the functions of the Children's Advocate arising from any other law, the Children's Advocate shall:

(*a*) provide legal advice and assistance to the child;

(*b*) establish and present the views of the child before any court of law or any administrative authority;

(*c*) provide explanations to the child concerning the possible consequences in the case of compliance with his or her views; and

(*d*) provide the child with all relevant information:

Provided that the Children's Advocate shall provide to the child the explanations and all the relevant information as mentioned in paragraphs (b) and (c) only where the child is considered as having sufficient understanding.

(2) The Children's Advocate shall receive such relevant training as from time to time may be prescribed by regulations made by the Minister responsible for Justice to effectively represent and ascertain the views and wishes of the child.

TITLE III

OF THE CHILD CARE REVIEW BOARD

Child Care Review Board.

26. (1) There shall be set up in accordance with the provisions of this Act, a board known as the Child Care Review Board, which shall be composed of five members as follows:

(*a*) four members shall be appointed by the Minister of whom:

(i) one person shall be a Chairperson holding a warrant of advocate and having at least five years

of professional experience in family or child law;

(ii) one person shall be qualified in any one of the mental health professions, preference being given to persons having at least five years of professional experience;

(iii) one person shall be qualified in the medical profession, preference being given to persons having at least five years of professional experience; and

(iv) one person shall be qualified in family therapy, preference being given to persons having at least five years of professional experience; and

(*b*) one person shall be a registered social worker and having at least five years of professional experience in social work appointed by the Commissioner for Children.

(2) The members of the Board shall hold office for a period of four years from the date of appointment and a member shall, on ceasing to be such a member, be eligible for re-appointment.

(3) A member of the Board may be removed from the office by the Minister if such member is unfit to continue in office or has become incapable of, or is not, properly performing his duties or in the event of any of the circumstances which disqualify such person from remaining a member of the Board.

(4) The appointment of any person as a member of the Board and the termination of office or resignation of any such person, as well as any other additional functions assigned to the Board by the Minister, shall be notified in the Gazette, and it shall have effect forthwith:

Provided that failure to publish the appointment or termination, as the case may be, shall not prejudice the validity of such appointment or termination.

Functions and powers of the Board.

27. (1) The Board shall have such functions and powers as are assigned to it under this Act or under any other law, or as may be assigned to it from time to time by the Minister.

(2) Without prejudice to its other powers and functions arising under this Act or under any other law, the powers and functions of the Board shall include:

(*a*) to hold periodical reviews of the care plan;

(*b*) to examine reports drawn up by the key social worker;

(*c*) to make recommendations to the Court of Magistrates on the child's and family's situation, including the family's actual and potential capacity to care for the child, to decide whether reintegration of the child in the family is possible and in the best interests of the child;

(*d*) to make recommendations to the Court of Magistrates on the appropriateness of the child protection order from time to time;

(*e*) to vary the care plan where and when necessary;

(*f*) in case of disagreement on matters of particular

importance, to take decisions which it deems in the best interest of the child; and

(*g*) exercise general supervision over the child.

(3) Subject to the provisions of this Act and to such regulations as may be made under this Act, the Board shall regulate its own procedure.

(4) For the purposes of carrying out its functions under this Act, the Board shall have the power to access all relevant documentation by whomsoever held and to request the help of any person, by specifying the action which is required from any such person, whenever the Board deems that such action can help it in the exercise of any of its functions.

Reviews.

28. (1) The first review of the care plan shall take place before the Board not later than four months from the date of the child protection order, and any subsequent reviews shall take place at least once every six months:

Provided that the key social worker or guardian of the child, as the case may be, may apply to the Board to review the case before the expiration of the six month period on the grounds that the child is suffering, or is likely to suffer, significant harm in the placement or as a result of the care plan. In either case, the Board shall appoint the application for hearing not later than five days from the filing of the application and shall, after hearing all parties concerned, give its decision on the application with urgency.

(2) The key social worker shall, during the first review present to the Review Board a concurrent plan for the child. The said plan shall simultaneously define the requirements which the parents need to satisfy, for the purposes of reintegration or reunification of the child with such parents, and establish an alternative permanency plan:

Provided that the key social worker shall make all reasonable efforts to reintegrate or reunify the child with the parents, subject always to the best interests of the child.

(3) The Review Board shall, on the day appointed for every other subsequent review, hear the parents of the child, the key social worker, the alternative carer and, where applicable, the guardian, to determine whether progress is, or is not, being made in accordance with the care plan:

Provided that the Review Board may, whenever it deems it in the best interests of the child so to do, or whenever the child expresses his wish to be heard by the Review Board, hear such child and, for this purpose, may also appoint an alternative date, time or place, which is different from such date, time or place that is appointed for the review.

(4) The Board may also consult with such professionals, or other persons, as it may deem appropriate. For such purpose, the Board may invite any such professional or other person to attend meetings of the Board.

(5) Where the Review Board determines that sufficient progress has been made, justifying the revocation of a child protection order, it shall make a recommendation to the court to that effect for a final

judgment.

(6) Where the Review Board determines that no sufficient progress has been made, justifying the revocation of a child protection, and two years have lapsed from the date on which a concurrent plan was presented to the Review Board by the key social worker, the said Board shall proceed to determine whether there are or not any reasonable prospects for reintegration or reunification of the child with his parents. In the first case the Review Board shall continue with the periodical reviews, subject to any variations to the care plan, which it deems necessary in the circumstances of the case and, in the second case, the Review Board may recommend to the court that the alternative permanency plan should have effect:

Provided that the Review Board may recommend to the court that the alternative permanency plan should have effect at any time during which the child is under a care order in all cases where this is considered in the best interests of the child so to do:

Provided further that where it is in the best interests of the child that the alternative permanency plan has effect immediately upon the making of the orders mentioned in the preceding proviso, the recommendation to that effect shall be made by the Director.

(7) Before delivering its final decision, the court shall hear the views of any person, which it deems relevant, and in particular the views of the child, if considered to have sufficient understanding.

(8) The key social worker, the parents of the child, or where applicable, the guardian, may, within seven working days from the Review Board's decision that no sufficient progress has been made, which justifies a recommendation to the court for the revocation of an order, apply to the Court of Magistrates for it to review the decision of the said Board:

Provided that, without prejudice to any other sanction arising from the provisions of this or any other law, where the application for such revision is evidently frivolous or vexatious, it shall be lawful for the Court of Magistrates to condemn the applicant besides to the payment of costs, to the penalty of not less than two hundred and fifty euro (€250) but not exceeding two thousand and five hundred euro (€2,500):

Provided further that where the Court of Magistrates confirms that no sufficient grounds exist for the revocation of a child protection order, any subsequent application for a review of the decision of the Review Board shall only be allowed after the lapse of twelve months from the day on which such determination is made:

Provided further that no application or further applications shall be entertained by the Court of Magistrates following a decree that an alternative permanency plan is in the best interests of the child.

Variations of the care plan.

29. (1) Without prejudice to the provisions of article 23, where the key social worker, the parents of the child, the alternative carer or, where applicable, the guardian request a variation of the care plan, the Board shall determine the necessity or otherwise in doing so. The Board shall, after hearing all the persons concerned, determine the manner in which the care plan is to be varied and shall order the key

social worker to make such established variations to the care plan.

(2) Where the Board determines that a variation to the care plan is necessary, as mentioned in the preceding sub-article, it shall submit the reasons for its decision in a report.

Reintegration.

30. (1) For the purposes of article 22(3), the Review Board shall, by agreement with the key social worker, the parents of the child, the alternative carer, and where applicable, the guardian, set out in writing the aims of the reintegration plan and the method by which the child is to be reintegrated with his family.

(2) Where the Review Board determines that the aims of the reintegration plan have been fulfilled, it shall make a note to that effect in the records of the case, and transmit the records to the Court of Magistrates.

(3) If, upon receipt of the records, the Court of Magistrates is satisfied that the aims have been fulfilled, it shall revoke the child protection order, subject to such conditions as it deems appropriate to impose, but may before proceeding to make such revocation hear any person or persons as it may consider appropriate in the circumstances of the case:

Provided that the court shall in all cases hear the child if considered to have sufficient understanding.

PART II

OF ALTERNATIVE CARE

TITLE I

OF THE AGENCY RESPONSIBLE FOR CHILDREN IN ALTERNATIVE CARE

Establishment and functions of the Agency.

31. (1) There shall be established an Agency to promote the development and well-being of children in alternative care.

(2) Without prejudice to any other function, which may be assigned to the Agency under this Act or any other law, the Agency shall perform such functions and carry out such duties as the Minister shall from time to time by regulations under this article assign to it.

TITLE II

OF THE CARE STANDARDS AUTHORITY

Responsibilities of the Care Standards Authority.

32. Without prejudice to any functions, duties and responsibilities specified in the Care Standards Authority Act, or in any other law or regulations, the Authority shall, for the purposes of this Act, have the responsibility:

(*a*) to receive and acknowledge applications for a licence to establish, operate and maintain a child residential care service;

(*b*) to grant or refuse an application for a licence, or to revoke or suspend the licence of a child residential care service provider;

(*c*) to receive, acknowledge, investigate and take any necessary action in relation to any complaints against the

Agency, or any organisation purporting to act as such, and against any child residential care service provider;

(*d*) to impose such conditions for licensing as it may, from time to time, by means of regulations, determine to be necessary;

(*e*) to take any measures deemed necessary in the circumstances if a placement, whether local or cross-border, is in breach of the provisions of this Act;

(*f*) to monitor and inspect the support services being offered by the Agency to the child and the alternative carers;

(*g*) to inspect those premises where the child is being accommodated, or any premises where it is proposed to accommodate such child; and

(*h*) to monitor and inspect the services being offered by residential carers to the children in their care.

TITLE III

OF THE FOSTERING BOARD

Establishment of the Fostering Board.

33. (1) There shall be a Board, to be known as the Fostering Board, appointed by the Minister, which shall consist of five members as follows:

(*a*) one person shall be a Chairperson and shall have at least seven years professional experience of practice in foster care;

(*b*) one person who has at least five years of professional experience in any one of the mental health professions;

(*c*) one person who is, or was, a foster carer for a period of at least three years; and

(*d*) two persons who, in the opinion of the Minister, have adequate knowledge and are proficient in the area of foster care and that at least one of the persons is a social worker.

(2) The members referred to in the foregoing sub-article may be appointed at any time during the term of office of the Fostering Board.

(3) The members of the Fostering Board shall be appointed by the Minister for a period of two years and shall on the expiration of their term of office be eligible to be re-appointed as members.

(4) Any member of the Fostering Board may be removed from office by the Minister if, in his opinion, such member is unfit to continue in office, or has become incapable of, or is not, properly performing his duties as a member.

(5) In the event that any member of the Fostering Board vacates his office before completing his term, the member appointed in his stead shall be so appointed for the unexpired period of the original appointment.

(6) Subject to the provisions of this Act and to any regulations made thereunder, the Fostering Board shall regulate its own procedure.

(7) In every case, the number of members needed at a meeting to

form a quorum shall be three. The Chairperson shall have an original vote and, in the case of equality of votes, a casting vote.

(8) The Minister shall designate a person to act as Secretary to the Fostering Board and such person shall, as part of his duties, be responsible for the keeping of the relevant records and shall carry out such other work related to the functions of the Fostering Board as may be instructed by the Chairperson. The Secretary to the Board shall have no vote.

(9) The Fostering Board shall meet as and when necessary, provided it meets at least once a month. In the case of a written request by the Minister or the Agency, which request shall be transmitted through the Secretary of the Board, such Board shall meet by not later than forty-eight hours following the request.

(10) In the exercise of its functions under this Act, the Fostering Board may consult with professionals or other persons as it may deem appropriate. For such purpose, the Fostering Board may invite any such professional or other person to attend meetings of the Board.

(11) The members of the Fostering Board, the Secretary to such Board and any person involved in the proceedings before the Fostering Board shall be bound by confidentiality.

(12) The acts and documents of the Fostering Board shall not be open to inspection, nor shall copies thereof be given, except by or to the Director, by or to the parties concerned or by or to any advocate or legal procurator authorised by such parties.

(13) The Fostering Board shall submit to the Minister bi-annual reports of all its activities during the preceding six months by not later than fifteen days of the following month.

Functions of the Fostering Board.

34. (1) The functions of the Fostering Board shall include:

(*a*) determining whether a prospective foster carer is suitable to be a foster carer;

(*b*) determining whether a foster carer should continue to act as such;

(*c*) specifying the type or types of foster care that each foster carer may provide;

(*d*) keeping an updated register of foster carers;

(*e*) providing foster carers with official documentation that identifies them as such and an official letter identifying the children in their care;

(*f*) reviewing reports compiled by the Agency, following a complaint against a foster carer, and taking any action as deemed fit in the circumstances;

(*g*) making recommendations to the Minister on the parameters to be established for the organisation of training programmes, assessments, counselling sessions for prospective foster carers as well as monitoring of, and support structures for, foster carers; and

(*h*) making recommendations to the Minister for the more effective implementation of the provisions of this Act and

any regulations made thereunder.

(2) The Fostering Board shall have access to all documentation deemed relevant to the foster care procedure and it shall be unlawful for any person to hinder it in the carrying out of any of its functions.

Decisions of the Fostering Board.

35. (1) In making a decision under article 34(1)(*a*), (*b*), (*c*) and (*f*), the Fostering Board shall have regard to the Home Study Reports and Review Reports drawn up and passed to it by a social worker of the Agency and to any other relevant documentation as the Board may deem appropriate. The Fostering Board shall also hear the prospective foster carer, or the foster carer, as the case may be, the child, if considered to have sufficient understanding, and any such other person as the Board may deem fit in the circumstances.

(2) Any decision made in terms of sub-article (1), and the reasons thereof, shall be recorded in writing and shall be communicated in writing to the prospective foster carer, or the foster carer, as the case may be, to the Agency and, where applicable, to the Review Board, the guardian and the child if considered to have sufficient understanding, by means of registered mail within five working days from the date of such decision.

(3) The Fostering Board shall decide on an application by not later than six weeks from the date of the filing of the application, unless in the opinion of the Chairperson a longer period is necessary for a valid reason which must be stated and registered in the proceedings of the case.

(4) The foster carer or prospective foster carer, as applicable, may appeal from a decision delivered by the Fostering Board, by filing an application before the Board of Appeal by not later than eight working days from the date of service of the decision by registered mail.

TITLE IV

OF FOSTER CARE

Assessment of prospective foster carers.

36. (1) Upon receiving an application from a prospective foster carer the Agency shall:

(*a*) provide training to the prospective foster carer;

(*b*) assess the suitability or otherwise of the prospective foster carer; and

(*c*) draw up a report, to be known as the Home Study Report, on the situation of the prospective foster carer, including any recommendations, and forward it to the Fostering Board.

(2) For the purposes of drawing up the Home Study Report, the social worker appointed by the Agency shall carry out the necessary home visits. The visits shall be unannounced and the prospective foster carer shall not refuse entry, shall co-operate with the social worker and shall provide correct information to the best of his knowledge.

(3) Without prejudice to any other provision under this Act or under any other provision of law, the Home Study Report shall include the following:

(*a*) a good conduct certificate issued by the Commissioner of Police;

(*b*) a report by a licensed medical practitioner on the state of health of the prospective foster carer;

(*c*) a log of the interventions carried out with the family;

(*d*) the frequency of home visits carried out by the social worker;

(*e*) a recommendation by the social worker regarding the suitability or otherwise of the prospective foster carer and the reasons thereof; and

(*f*) such other information as the Board may reasonably require.

Matching of foster carers with children.

37. For the purposes of matching a foster carer with a child, the Agency shall:

(*a*) take into account the individual needs of the child;

(*b*) take into account the abilities and experience of the foster carer to attend to the particular needs of the child;

(*c*) subject to paragraph (*a*), make all reasonable attempts to keep siblings in the same foster home;

(*d*) subject to paragraph (*a*), make all reasonable attempts to keep a parent under the age of eighteen years and his or her child in the same foster home;

(*e*) take into account the study report made by the key social worker;

(*f*) take into account the competence of any relatives of the child to foster such child.

Foster care agreement.

38. (1) Foster care shall take place subsequent to an agreement entered into between the Agency and the foster carers.

(2) The child protection order and the care plan, including any reviews thereof, shall be attached to the agreement and shall be read and construed as part of such agreement.

(3) The agreement shall be signed by the key social worker and the foster carers and a copy thereof, together with the relevant part of this Act, providing for the duties and entitlements of foster carers and the rights of the child in foster care, shall be furnished to the foster carers. A copy of the agreement shall also be furnished to the Review Board and the parents of the child:

Provided that a copy of the agreement shall not be furnished to the parents of the child, unless it is determined that it is in the best interests of the child to do so.

(4) No amendments to the agreement shall be made unless approved in writing by the Review Board.

(5) Any rights and duties pertaining to the foster carer in accordance with the foster care agreement, shall not be perceived to be seen as a permanent right or duty.

(6) The agreement may be terminated by the Agency or the foster

carers, as the case may be, for any one of the following reasons:

(*a*) the foster carers do not conform with the foster care agreement; or

(*b*) the Fostering Board decides that the foster carer is no longer suitable to provide foster care; or

(*c*) the foster care placement is no longer in the best interest of the child; or

(*d*) where circumstances make it difficult for the foster carers to continue with the care of the child in their care.

Monitoring of foster care placement.

39. (1) During a foster care placement the Agency shall designate a social worker to monitor a foster carer registered with it.

(2) The social worker shall draw up a Review Report at least once every two years so that it may determine whether the foster carer is fulfilling the obligations in accordance with the provisions of this Act and the foster care agreement and whether such carer should be allowed to continue caring for the child. This report shall be drawn up before the two year period has elapsed if the foster carer needs to be assessed before the expiration of this period.

(3) For the purposes of drawing up the Review Report, the social worker shall carry out the necessary home visits. The visits may be unannounced and the foster carer shall not refuse entry, shall cooperate with the social worker and shall provide correct information to the best of his knowledge. The social worker carrying out the visit shall be entitled to be assisted by a member of the Police Force in case of any hindrance or obstruction in the exercise of such duty.

Duties and entitlements of foster carers.

40. The duties and entitlements of foster carers listed in the foster care agreement shall in all cases include the following:

(*a*) to facilitate contact between the child and his family and any other person that the Review Board may deem necessary in the best interests of the child;

(*b*) to receive any relevant information, including medical information, about the child being placed in their care and ensure that any such information is kept confidential;

(*c*) to receive such financial assistance as may be required for the care and upbringing of the child;

(*d*) to receive adequate support services;

(*e*) to co-operate with all entities and individuals concerned and to furnish them with such information as they may reasonably require;

(*f*) to ensure that the child attends to any treatment, which the Review Board may determine is necessary for the well-being of the child;

(*g*) to attend together with the child to the reviews before the Review Board and shall keep such Board updated on the progress that the child is making and of any other significant events;

(*h*) to give the Agency and the Review Board at least two

months' prior notice of any intended change in their normal place of residence;

(*i*) to apply to the Review Board for permission to travel with the child in their care;

(*j*) to ensure that such child is brought up in an environment which is conducive to psychological security as well as to physical well-being;

(*k*) to provide to the child a balanced diet and maintain standards of hygiene to the satisfaction of the Care Standards Authority;

(*l*) to respect and facilitate his right to practice the religion of his choice;

(*m*) to report all incidents, accidents, abscondments, incidents of truancy, injury, sickness or death immediately as they occur to the Agency and the Review Board;

(*n*) to participate in on-going training; and

(*o*) to comply with any other duty as may be imposed on them under this Act or any other law or regulation.

TITLE V

OF RESIDENTIAL CARE

Residential care.

41. (1) Where the placement of a child in foster care is not in the best interest of the child, such child shall be accommodated in a residential home.

(2) A residential home shall have the responsibility to promote the development and well-being of the child placed under its care.

Duties of residential homes.

42. Without prejudice to any other duties and responsibilities arising from this Act or from any other law or regulation, residential homes shall be responsible to:

(*a*) ensure that the placement into residential care is effected in the most desirable manner for the child;

(*b*) ensure that the child under its care receives all those rights pertaining to all children in the pursuit of his well-being and development and in the attainment of his aspirations;

(*c*) adequately cater for the needs of the child, including the provision of food, clothing, medical services, space and privacy commensurate with the child's age and stage of development;

(*d*) collaborate with the social worker assigned for the child;

(*e*) report to the key social worker and the Review Board of all incidents, which may have a bearing on the care plan of the child;

(*f*) develop individual case records, which shall include periodic reports relating to the development of the child;

(*g*) facilitate contact between the child and his family according to the family plan or decision by the Revision

Board;

(*h*) provide residential services according to the standards, criteria and procedures established by the Care Standards Authority in regulations to this effect;

(*i*) keep a register of children placed under its care;

(*j*) provide initial and on-going training to its staff;

(*k*) notify the Agency of any requests made directly to it for the placement of a child in its care; and

(*l*) develop, maintain, update and execute written policies, procedures and manuals.

Residential care placement agreement.

43. A residential care placement shall only take place subsequent to an agreement entered into between the Agency and the Head of the residential home.

TITLE VI

OF THE RIGHTS OF THE CHILD IN ALTERNATIVE CARE

Rights of the child in alternative care.

44. (1) A child in relation to whom the provisions of this Act apply shall be cared for, maintained, instructed and educated according to the child's abilities, aspirations and natural inclinations. The child shall at any time also have access to the social worker who is taking care of the placement in alternative care.

(2) Without prejudice to the generality of the rights referred to in sub-article (1), and to any such other right or rights to which the child may be entitled, the said child shall in particular also have the following rights:

(*a*) to be consulted in all decisions affecting him in a manner appropriate to his age and understanding;

(*b*) to have access to information on the situation of his family members in the absence of contact with them;

(*c*) to maintain personal relations and direct contact with his parents, and with any such other person close to him, unless it is contrary to the child's best interests;

(*d*) to receive nutrition in accordance with the relevant dietary standards, as well as with the child's religious beliefs;

(*e*) to receive appropriate medical care and psychological support;

(*f*) to have access to education;

(*g*) to have his specific safety, health, nutritional, developmental and other needs catered for;

(*h*) to freely decide which religion to pursue and to have his religious and spiritual needs satisfied accordingly;

(*i*) to have his privacy respected; and

(*j*) to have a positive, safe and nurturing relationship with his alternative carers.

(3) The Minister shall from time to time by regulations update the

rights mentioned in this article. The Minister shall also ensure that a copy of the said rights, and any updated versions thereof, is written in a language that children understand and that such a copy is immediately given to the child in relation to whom the provisions of this Act apply.

PART III

OF APPEALS

TITLE I

OF THE COURT OF APPEAL

Appeals from decisions of the court.

45. (1) Subject to the provisions of this article, any party to the proceedings who feels aggrieved by any decision of the Court of Magistrates may appeal to the Court of Appeal, in its inferior jurisdiction.

(2) The appeal shall be brought before the Court of Appeal by an application to be filed within ten working days from the day on which the decision was delivered.

(3) The appellant shall indicate in the application of appeal the parties against whom the appeal is directed. The application shall be served on all the parties and such parties shall, within the period of eight working days, file their respective reply containing the reasons why the appeal should be dismissed.

(4) The Court of Appeal shall appoint a day, not later than thirty days from the date of service of the application, for hearing the parties, and final judgment shall be delivered within sixty days from the appointment of the day for hearing.

(5) The Court of Appeal may confirm or revoke the decision of the court, and impose such other measures as it may deem fit, and shall, upon delivering its final judgment, send all proceedings back to the Court of Magistrates to deal with the case in accordance with articles 22, 23 or 24, as the case may be.

(6) No further appeals shall lie from any decision made in accordance with article 23(4).

(7) An appeal made under this article shall not stay the execution of the decision appealed from.

(8) Save as otherwise provided in this Act, the provisions contained in the Code of Organization and Civil Procedure concerning the Court of Appeal shall be applicable to the Court of Appeal when hearing appeals from a decision of the Court of Magistrates: Cap. 12.

Provided that causes shall always be tried with closed doors, in which case the order of the Court of Appeal shall be recorded.

TITLE II

OF THE BOARD OF APPEAL

Establishment of Board of Appeal.

46. (1) There shall be a Board of Appeal which shall consist of three members as follows:

(*a*) one person shall be a Chairperson who shall have a

warrant to practise the profession of advocate in Malta for at least five years; and

(*b*) two persons who shall have at least five years of professional experience in child welfare.

(2) The members of the Board of Appeal shall be appointed by the Minister for a period of three years, and may be removed from office by the Minister on grounds of proved inability to perform the functions of their office or of proved misbehaviour.

(3) A member of the Board of Appeal may be challenged or may abstain for any of the reasons for which a judge may be challenged or may abstain in accordance with article 734 of the Code of Organization and Civil Procedure. In any such case, the Minister shall appoint another person to sit as a member on the Board of Appeal in substitution of the said member for the duration of the appeal in question.

Cap. 12.

(4) A person shall not be qualified to be appointed or continue to hold office as a member of the Board of Appeal if that person is a Judge, a Magistrate, a member of the House or of a Local Council, or a candidate for election to the House or a Local Council.

Jurisdiction and powers of Board of Appeal.

47. (1) The Board of Appeal shall be competent to:

(*a*) review decisions of the Fostering Board upon an appeal filed in accordance with article 34(1)(*a*), (*b*), (*c*) and (*f*);

(*b*) review decisions of the Care Standards Authority refusing, revoking or suspending registration; and

(*c*) undertake any other function as the Minister may designate by regulations made by virtue of this Act.

(2) In order to carry out its duties, the Board of Appeal shall have access to all documentation pertaining to the foster care procedure and it shall be unlawful for any person to hinder it in the carrying out of its functions.

(3) The Board of Appeal shall have such powers as are, by the Code of Organization and Civil Procedure, vested in the Civil Court, First Hall.

Cap. 12.

(4) Without prejudice to sub-article (3), in the exercise of its functions, the Board of Appeal may summon any person to give evidence and produce the necessary documentation. For this purpose the Chairperson shall have the power to administer the oath.

(5) The Board of Appeal shall decide an application for appeal by not later than six weeks from the date of the filing of the application, unless in the opinion of the Chairperson a longer period is necessary for a valid reason, which must be stated and registered in the proceedings of the case.

(6) A decision given by the Fostering Board or by the Care Standards Authority shall have immediate effect unless the Board of Appeal decides to suspend it until it has given the final judgment.

(7) The decision, and the reasons thereof, of the Board of Appeal shall be recorded in writing and shall be communicated in writing to the applicants, the Fostering Board and the Care Standards Authority

by means of registered mail within five working days from the date of such decision.

(8) In cases falling under the jurisdiction of the Board of Appeal in accordance with sub-article (1), there shall be a right of appeal on a point of law. Such appeal shall be made by an application to the Court of Appeal constituted in accordance with article 41(9) of the Code of Organization and Civil Procedure. Such application shall be filed by not later than fifteen working days from the date of the decision of the Board of Appeal. Cap. 12.

PART IV

OF CHILD SOCIAL WORK

Key social worker.

48. (1) Where the court makes in respect of a child any of the orders mentioned in articles 18 and 19 it shall notify the Agency of such order and the Agency shall appoint a key social worker.

(2) Without prejudice to any other duties arising under this Act, or any other law or regulations, the duties of the key social worker shall include:

(*a*) to maintain with the child an interpersonal relationship;

(*b*) to visit the child at regular intervals;

(*c*) to monitor the child's placement and assess his well-being;

(*d*) to co-ordinate and follow up progress of the care plan;

(*e*) to keep detailed records on each looked after child;

(*f*) to participate in any review of the child's case and report to the Review Board as to the well-being of the child;

(*g*) to appear before, and report and make recommendations to, the Review Board on matters relating to the child including the possibility of reintegrating the child with his family or, otherwise, on the suitability of the form of alternative care selected for the child and on the development and implementation of the care plan;

(*h*) to report to the Director, and to such other competent authorities, cases of alleged abuse, if any, in relation to the child and any other serious incidents relating to his well-being; and

(*i*) to fulfil the conditions of the care plan concerning the provision of support services to the child, or of any other service as set out in the care plan.

Voluntary placements.

49. (1) Where the parents of a child make arrangements to place such child in the care and custody of another person or entity, such other person or entity shall give notice of the arrangements to the Agency.

(2) Upon notification in terms of sub-article (1) the Agency shall appoint a social worker to visit and examine the premises in which the child is about to be kept and to determine whether the person or entity that is about to receive such child is fit to have his care. For this purpose, the social worker shall draw up a report and shall thereupon

give notice of the arrangements, together with the report, to the Review Board.

(3) Where the Review Board is satisfied that the person or entity that is about to receive the child is fit to have his care and that the premises in which such child is about to be kept are adequate for his needs, the board shall direct the social worker to prepare a care plan and the provisions of article 12(1), (2) and (5) shall *mutatis mutandis* apply.

(4) The care plan shall in all cases be prepared with the participation of the child, if considered as having sufficient understanding, and with the participation of any such other person or entity as the Agency may deem appropriate in the circumstances of the case.

(5) The Review Board shall review the said care plan at least once every six months. The Board shall hear at regular intervals all professionals involved, the child, if considered as having sufficient understanding, the parents of such child, the person or entity that has received the child in its care, and any such other person as it may deem appropriate to hear in the circumstances of the case.

(6) The social worker shall, in relation to the child, be subject to the same duties as provided in article 48(2).

PART V

OF OFFENCES

Arrangements for foster care.

50. (1) Any unauthorised person or any unauthorised organisation that makes an arrangement for the placement of a child in foster care shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six months and not exceeding three years or to a fine (*multa*) of not less than two thousand euro (€2,000) but not more than five thousand euro (€5,000), or to both such fine and imprisonment.

(2) For the purposes of sub-article (1), a person or organisation shall be deemed to make arrangements for the placement of a child in foster care if it enters into any agreement or makes any arrangements for facilitating the fostering of a child.

Unauthorised provision of residential care.

51. Any person or organisation that establishes, operates or maintains a residential home, or provides, directly or indirectly, residential care without the written approval of the Care Standards Authority shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than twelve months and not exceeding four years or to a fine (*multa*) of not less than five thousand euro (€5,000) but not more than ten thousand euro (€10,000), or to both such fine and imprisonment.

Prohibition of payment.

52. (1) Any person who makes or gives, or agrees or offers to make or give, or receives or agrees to receive, or attempts to obtain any payment or other reward for or in consideration of any arrangements for a foster care placement shall be guilty of an offence and shall, on conviction be liable to imprisonment for a term of not less than three months and not exceeding six months or to a fine

(*multa*) of not less than one thousand and two hundred euro (€1,200) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment, in addition to any order deemed fit in the circumstances in order to protect the child in respect of whom the offence was committed.

(2) For the purposes of this article, the making of any arrangements for the placement of a child in foster care shall not include any payments made for the maintenance of the child or remuneration to professionals for services rendered by them.

Prohibition of publication.

53. (1) Without prejudice to any regulations made under this Act, a person shall not publish or cause to be published in any newspaper, periodical or any other printed matter or by means of broadcasting, television, public exhibition or by any other means or medium, any advertisement, news item or other matter indicated, whether or not in relation to a particular child, born or unborn, that:

(*a*) a child may be placed in alternative care;

(*b*) a person intends to care for a child placed in alternative care; or

(*c*) a person intends to make arrangements for the placement of a child in alternative care.

(2) Without prejudice to any regulations made under this Act, a person shall not publish or cause to be published in any newspaper, periodical, any other printed matter or by means of broadcasting, television, public exhibition or by any other means or medium:

(*a*) the name of an alternative carer where the history of the child who is or will be placed in alternative care can lead to the child's history to be revealed;

(*b*) the name of a child who is or will be placed in alternative care;

(*c*) the name of a parent, curator or tutor of the child who is or will be placed in alternative care; or

(*d*) any matter likely to enable any of the persons mentioned in paragraphs (*a*), (*b*) and (*c*) to be identified.

(3) Any person who acts in breach of this article shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months and not exceeding six months or to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment, without prejudice to any payment of damages that are deemed fit in the circumstances.

Use of force.

54. A person shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than three months and not exceeding six months or to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment, if such person:

(*a*) threatens or forces any authorised or approved alternative care provider to give up a child placed in their care;

(*b*) takes the child away from any authorised or approved alternative care provider without the approval in writing of the board, or the court, or the agency or any other relevant authority, as the case may be;

(*c*) threatens or forces any authorised or approved alternative care provider to give up to any order issued by any court of law or issued by virtue of this Act;

(*d*) threatens or forces any authorised or approved alternative care provider to act in breach of the provisions of this Act;

(*e*) threatens or causes any type of damage to any authorised or approved alternative care provider; or

(*f*) forces entry into the premises of any authorised or approved alternative care provider.

Hindrance.

55. Any person who in any way hinders or obstructs any of the boards, authorities, agencies or other entities established or licensed under this Act in the performance of any of their functions shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six months and not exceeding one year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Abscondment.

56. (1) If any child, in relation to whom any child protection order is made, absconds from the premises at which he is required to live, or is absent from such premises at a time when he is not permitted to be so absent, he may be apprehended without warrant by any member of the Police and taken back to such premises.

(2) Any person who knowingly compels, incites or assists or in any way aids or abets any such child to abscond or to become or continue to be absent as mentioned in sub-article (1) shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term of not less than six months and not exceeding one year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Other offences.

57. Where any person acts in breach of any provision of this Act or any regulations made thereunder, and a specific penalty is not provided for the offence under this Act or any regulations made thereunder, such person shall, on conviction, be liable to a fine (*multa*) of not less than two hundred and fifty euro (€250) but not more than two thousand and five hundred euro (€2,500).

PART VI

OF REGULATIONS

Regulations.

58. The Minister may make regulations:

(*a*) for the protection, supervision and control of children placed in alternative care;

(*b*) for the registration, monitoring and control of alternative

care services and for the refusal or revocation of such accreditation;

(*c*) for the agreement for the placement of a child in alternative care;

(*d*) to provide for any rights and duties pertaining to alternative carers;

(*e*) to provide for the rights of children;

(*f*) to establish the services which a residential home is required to provide;

(*g*) to regulate the different types of alternative care;

(*h*) to establish penalties for breach of the provisions of this Act;

(*i*) to establish the procedure to be followed by the boards established under this Act and to lay down the rules on their powers;

(*j*) to establish the conduct of affairs of the Agency responsible for the development and well-being of children;

(*k*) to provide for any after-care services;

(*l*) for any incidental and supplementary matter, which the Minister considers expedient to provide for, for the effective implementation of the provisions of this Act.

PART VII

FINANCIAL PROVISIONS

Expenses to be a charge on the Consolidated Fund.

59. (1) The expenses required by the Director and the Agency to exercise their respective functions under this Act and other laws, as may be fixed by the Minister in accordance with this Act, shall be a charge on the Consolidated Fund without the need of any further appropriation other than this Act.

(2) Where during the course of any financial year the sum fixed by the House of Representatives is, in the opinion of the said entities, insufficient to enable them to efficiently fulfil their functions, such entities shall each prepare supplementary estimates for consideration by the House of Representatives.

(3) The said entities shall cause to be prepared in every financial year, and shall not later than six weeks after the end of each such year adopt, estimates of the income and expenditure of such entities for the next following financial year:

Provided that the estimates for the first financial year of the said entities shall be prepared and adopted within such time as the Minister may by notice in writing to such entities specify.

(4) A copy of the estimates shall, upon their adoption by the respective entities, be sent forthwith by them to the Minister and to the Minister responsible for Finance.

(5) The Minister shall at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the entities, approve the same with or without amendment after

consultation with the Minister responsible for Finance.

Accounts and audit.

60. (1) The Director and the Agency shall respectively cause to be kept proper accounts and other records in respect of their operations under this Act and other laws and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the said entities shall be audited by an auditor or auditors to be appointed by them respectively and approved by the Minister:

Provided that the Minister responsible for Finance may, after consultation with the Minister, require the books or the accounts of the said entities to be audited or examined by the Auditor General who shall for the purpose have the power to carry out such physical checking and other certifications as he may deem necessary.

(3) After the end of each financial year, and not later than the date on which the estimates of the entities are forwarded to the Minister under article 59(3), the entities shall respectively cause a copy of the statement of account duly audited to be transmitted to the Minister and to the Minister responsible for Finance together with a copy of any report made by the auditors on that statement or on the accounts of such entities.

(4) The Minister shall, at the earliest opportunity and not later than eight weeks after he has received a copy of every such statement and report, or if at any time during that period the House of Representatives is not in session, within eight weeks from the beginning of the next following session, cause every such statement and report to be laid on the Table of the House of Representatives.

(5) The said entities shall, not later than six weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for Finance a report dealing generally with their activities during the financial year, which report shall contain such information relating to the proceedings and policy of such entities as either of the said Ministers may from time to time require. The Minister shall, at the earliest opportunity and not later than eight weeks after he has received a copy of every such report, or if at any time during that period the House of Representatives is not in session, within eight weeks from the beginning of the next following session, cause a copy of every such report to be laid on the Table of the House of Representatives.

PART VIII

TRANSITORY PROVISIONS

Pending investigations.

61. (1) If, prior to the date of entry into force of this Act, any report has been lodged with the Government agency currently designated by the Minister to protect the welfare of children, such agency shall conclude any pending investigation within the term of six months from the date of entry into force of this Act.

(2) The said term may, on the demand of such agency, be extended by the Director for an additional term of three months, and where the matter is such that the determination of the true nature of the case depends upon the lapse of a longer period of time, to such longer

period.

(3) The demand referred to in sub-article (2) shall be made in writing and the agency shall state the reasons for which it is making such demand. The Director shall accede to the said demand if in the particular circumstances of the case he sees it fit to do so.

Proceedings pending before Juvenile Court. S.L. 12.08

62. (1) The Magistrate who, in accordance with this Act and in accordance with the Magistrates (Assignment of Duties) Regulations, is to take cognizance of any act or application, shall, on the coming into force of this Act, take cognizance of those acts or applications that immediately before the coming into force of this Act were pending before the Juvenile Court in accordance with article 4(3) of the Children and Young Persons (Care Orders) Act, and the procedure to be followed in respect of each act or application shall be that which is stipulated under this Act.

Cap. 285.

(2) Nothing in sub-article (1) shall invalidate any procedure whether written or oral, which may have been made before the coming into force of this Act and which was valid according to the law in force on the date when made.

Appeals. Cap. 285.

63. All applications for review filed in the Juvenile Court in accordance with article 4(5) of the Children and Young Persons (Care Orders) Act, Act before the coming into force of this Act shall continue to be heard by the said Court until they are so determined:

Provided that an appeal under article 45, from a decision of the Juvenile Court made under article 4(5) of the Children and Young Persons (Care Orders) Act, shall lie to the Court of Appeal upon the lapse of eighteen months from the date on which the Juvenile Court delivers its judgment.

Cap. 285.

Reviews pending before the Children and Young Persons Advisory Board. Cap. 285.

64. All cases pending before the Children and Young Persons Advisory Board under the provisions of the Children and Young Persons (Care Orders) Act, before the coming into force of this Act, shall be heard by the Child Care Review Board upon the coming into force of this Act.

Repeal of legislation. Cap. 285. Cap. 491. S.L. 16.01

65. The Children and Young Persons (Care Orders) Act, the Foster Care Act and the Placing of Minor Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder.