

GOVERNMENT NOTICE NO. 182 published on 20/5/2016

THE LAW OF THE CHILD ACT,
(CAP. 13)

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Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

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THE LAW OF THE CHILD ACT, (CAP. 13)

RULES

(Made Under Section 99(1))

THE LAW OF THE CHILD (JUVENILE COURT PROCEDURE) RULES, 2016

PART I PRELIMINARY PROVISIONS

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| Citation | 1. These Rules may be cited as the Law of the Child (Juvenile Court Procedure) Rules, 2016. |
| Application of the Rules | 2. These Rules shall, unless expressly provided otherwise, apply in all cases before the court. |
| Interpretation
Cap. 13 | 3. In these Rules unless the context otherwise requires-
“Act” means the Law of the Child Act;
“accommodation” means accommodation which is provided for a continuous period of more than twenty four hours;
“accommodation provider” means a foster parent or residential home approved in accordance with the Law of the Child Act;
“applicant” means a person who files an application in civil proceedings before the Juvenile Court;
”application” means the manner in which any proceeding, whether criminal or civil is instituted in the Juvenile Court and it includes a petition, a chamber summons, |

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- chambers application or a complaint;
- “carer” means any person who has day to day care of the child either at the time of the application or the proceedings or who had day to day care of the child before the proceedings;
- “child care application” means an application for custody, access, parentage and applications made under section 95 of the Law of the Child Act;
- “child friendly” means any process and interpretation, attitude, environment and treatment, that is humane, considerate and in the best interest of the child;
- “civil proceedings” means applications in relation to child care and protection, parentage, maintenance, custody and access, exclusion, and search and production;
- “Code” means the Civil Procedure Code Act;
- “court” means a juvenile court established under section 97 of the Act;
- “court proceedings” means any action taken by a court from the time a child first appears before a juvenile court to be charged with a criminal offence until the court finally determines the case in relation to the child, or from the time any civil action relating to a child is initiated until final judgment in the case is pronounced;
- “excluded from home” means a child who has no parental care as a result of being forced out of the home by his parents or behaving in such a way that the child feels he has no option but to leave;
- “fit institution” means an approved residential institution for socially deprived children and street children or an institution that has care and control of children and it excludes any retention home or approved school;
- “foster family” means a family in which a child is placed under the Foster Care Placement Regulations;
- “guardian ad litem” means a person who takes the

- responsibility or is appointed to represent and protect the interests of a child in a Juvenile Court proceeding;
- “harm” has the meaning ascribed to it under the Child Protection Regulations;
- "hearing" means any part of a Juvenile Court proceeding;
- “initial investigation” means an investigation under the Child Protection Regulations to assess whether a child is suffering or is at risk of suffering significant harm;
- “interested person” means a relative or a person who falls within the definition of a next friend;
- “local government authority” has the meaning ascribed to it under the Local Government (District Authorities) Act or the Local Government (Urban Authorities) Act;
- “magistrate” means a Resident Magistrate;
- “offences” means any offence stipulated under the Penal Code and any other written laws;
- "order" means a writ, warrant, summons or other process, and a decree revisional or confirmatory order and any other formal expression of the decision of a court;
- “place of safety” means care of a child with a relative, fit person, foster home, approved residential home or any other place where a child can be safely accommodated pending a decision by the head of the social welfare department or the juvenile court as to future care, but excludes any place of detention including a police cell, a retention home, approved school or prison;
- "proceedings" means an application, reference, cause, hearing, matter, suit, trial, appeal or revision, whether final or interlocutory, between parties;
- “representative” means a parent, guardian, advocate or guardian ad litem who assists or represents a child during court proceedings;
- “significant harm” has the meaning ascribed to it under in the Child Protection Regulations;

“social enquiry report” means a report prepared by the social welfare department on request of the juvenile court;

“social investigation” means an investigation undertaken by the Social welfare department;

“social investigation report” means the written report prepared at the end of a social investigation; and

“social welfare department” means a section, unit, department or other administrative body in the local government authority that is responsible for delivering child protection.

PART II

OBJECTIVE, ESTABLISHMENT AND JURISDICTION OF THE JUVENILE COURTS

Objective of the
Rules

4.-(1) The objective of these Rules is to establish a uniform practice and procedures for the Juvenile Courts of the Mainland Tanzania and to assure the rights of the child under the Act are protected.

(2) The court shall, in exercising any power conferred upon it under these Rules or when interpreting any Rule, give effect to the objective.

Designation

5. Each juvenile court under the Act shall be identified by its specific name and place or location.

Juvenile Court
Building

6.-(1) Where there is no specific court building apart from the building ordinarily used for hearing cases by or against adults, the court shall-

(a) sit in a separate courtroom or chambers; or

(b) as far as practicable, sit at a different time from the adult court to be set by the Resident Magistrate in charge.

(2) The court layout and seating arrangements shall, as far as is practicable, be in conformity with Rule 7.

(3) Where the court is sitting in the same building with the court which tries adults, the registry officer shall ensure that children attending at the court, do not share the same waiting room or area with the adults accused of a criminal offence.

Court
environment

7.-(1) In order to promote an informal, child-friendly environment that facilitates maximum participation by the child, all parties shall sit on the same level and the child shall not be placed in a dock or other raised structure.

(2) When a child is being tried for a criminal offence, the court shall be arranged in the following manner -

- (a) the Magistrate shall sit at the head of the table;
- (b) the clerk shall sit close to the Magistrate;
- (c) the prosecutor shall sit to the right of the Magistrate;
- (d) the defence advocate, or in the absence of an advocate, the guardian ad litem, shall sit to the left of the Magistrate;
- (e) the child shall sit beside his advocate or guardian ad litem in order to communicate with him;
- (f) where the child does not have an advocate or guardian ad litem, but does have a parent or guardian or carer present, the parent shall sit to the left of the Magistrate;
- (g) where the child has an advocate or guardian ad litem, the parent shall sit on the other side of the child;
- (h) the social welfare officer shall sit at the end of the table opposite the magistrate, save that where the child does not have a parent, the social welfare officer shall take the seat of a parent;
- (i) the child shall be allowed to sit throughout the

court proceedings; and

- (j) the child shall be allowed to communicate with his advocate or guardian ad litem at any time during proceedings.

(3) The court may require a witness to give evidence from a witness box.

(4) Where the alleged victim of an offence is a child, the court may change the court environment and permit seating arrangements other than those contained in sub-rule (2) to facilitate the giving of evidence by the child witness.

(5) Juvenile court officials, such as magistrates, prosecutors, advocates and other court personnel, shall not wear formal robes or uniforms.

PART III

GENERAL PROCEDURAL RULES AND ADMINISTRATION OF THE JUVENILE COURTS

Conduct of
proceedings

8. The court procedures shall be informal, friendly to the child and made by enquiry without exposing the child to adversarial procedures, in so far as this safeguards the right to justice of the child and other parties and participants in the proceedings.

Language of
the court

9.-(1) The language of the court shall be English and Kiswahili.

(2) The court may, in its proceeding use English or Kiswahili as the Magistrate shall direct, save that when the child does not read or speak the language used by the court, he shall be provided with an interpreter in accordance with Rule 10.

(3) A child shall not sign any document written in a

language which he does not understand unless the document is translated for him, and had the opportunity to discuss it with his advocate or representative.

(4) All court proceedings and decisions shall be recorded in English.

Provision of
interpreters

10.-(1) Where a child is present in person before the court and an evidence is given in the language he does not understand, the evidence shall be interpreted to him in a language understood by him, including any appropriate language for deaf children, children without speech, speech impairment or other disability that impairs the child's ability to understand the evidence.

(2) Where the child is represented and the evidence is given in a language other than the language of the court, and not understood by the representative, that language shall be interpreted to the advocate, representative or guardian ad litem in the language of the court.

(3) Where a child is giving evidence in court and that child does not speak the language of the court, the child may give evidence in his own language and that language shall be interpreted in the language of the court.

(4) The court shall, on the application of the child or his representative, provide a copy of the judgment and a translation of the judgment in the child's language if he so desires without delay and free of cost.

(5) The court shall ensure that any person directly involved in a case who does not understand the language of the court is provided with the opportunity to meet the interpreter before the trial to ensure that he or she can understand the interpreter.

(6) The court shall keep a list of interpreters.

(7) Where a person referred to under sub-rules (1) and (3) does not attend with an interpreter, the presiding magistrate

shall request the magistrate-in-charge to identify an interpreter qualified to assist.

- (8) The court shall dismiss an interpreter where-
 - (a) the interpretation he is providing is below an acceptable standard; or
 - (b) a party or a child, the child's advocate, guardian ad litem or other representative is dissatisfied with the standard of the interpretation provided and requested for dismissal

(9) Where an interpreter is dismissed in accordance with sub-rule (8), a replacement interpreter shall be appointed by the court.

(10) The court shall inform any person providing interpretation in the court that-

- (a) he owes a duty of confidentiality to the person he is assisting; and
- (b) the proceedings are confidential and that no information about the proceedings shall be passed to any third party without the consent of the court.

(11) The Court shall require an interpreter as provided by the oaths and Statutory Declaration Act.

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In camera
proceedings

11.-(1) All court proceedings shall be held in Magistrates chambers or in closed courtrooms.

(2) A closed courtroom shall be used where it is possible to maintain confidentiality and the proceedings cannot be seen or heard by persons who are not permitted to attend the proceedings.

(3) Persons permitted to attend include:

- (a) court personnel;
- (b) advocates;
- (c) social welfare officers;

- (d) guardians ad litem, a next friend of a child or other appropriate representative;
- (e) parents, guardians or carers;
- (f) a child who is the subject of civil proceedings, but who is not a party, with the permission of the presiding magistrate;
- (g) a relative or friend of the child with permission of the presiding magistrate;
- (h) persons who wish to attend for the purpose of training or research who are given permission to attend by the presiding magistrate;
- (i) any other person that the magistrate considers appropriate in the particular circumstances of the child or necessary for the effective delivery of justice.

(4) The presiding magistrate shall, before permitting any person referred to under paragraph (g) and (h) of sub-rule (3) to attend the court proceeding, obtain the consent of the child.

(5) Any information that may lead to the identification of a child who is or has been the subject of criminal or civil proceedings in the juvenile court, shall not be published in any oral, written, visual or virtual form without the leave of the magistrate presiding over the case.

Age
determination

12.-(1) Where a person appearing before the court claims to be a child, and that claim is in dispute, the court shall cause an inquiry to be made into the child's age under section 113 of the Act.

(2) The court may, in making inquiries, under sub-rule (1), rely upon:

- (a) the child's birth certificate;
- (b) such medical evidence as is necessary to provide

proof of birth whether it is of a documentary nature or otherwise;

- (c) information from any primary school attended by the child as to the child's date of birth;
- (d) any primary school leaving certificate or its equivalent certificates; and
- (e) any other relevant credible information or document.

(3) A birth certificate shall, unless rebutted, be presumed to provide conclusive proof of the age of the child.

(4) Where documents referred to under sub-rule (2) are not available or do not determine the age of the child, the court may take into account the following evidence:

- (a) any immunisation or medical records;
- (b) a medical examination of the child to determine age, save that skeletal X-ray's shall not be used as a means of determining age without the leave of the court and such leave shall only be given in exceptional circumstances;
- (c) a social enquiry report requested by the juvenile court to assist in determining the child's age.

(5) The social welfare officer shall, in preparing a social enquiry report, interview the child and any persons who have relevant information about the child

(6) The court may, for the purpose of determining the identity of a child, order that a DNA test be carried.

(7) Where the enquiry is inconclusive on the matter of age, but there is cause to believe that the person may be a child, it shall be presumed that the person is a child under the age of 18 and shall be treated as such.

(8) Where the court finds in criminal or civil proceedings that a person whose age is in dispute is a child and proceeds on that basis, a decision, order or judgment of the court shall not be invalidated or re-opened as a result of any

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subsequent finding or proof that the age of the person was not correctly stated to the court.

Providing
information
about
procedure to a
child

13.-(1) When a child is a party to, or subject of civil proceedings and attends the court hearing, the court shall explain to the child in a language that he understands-

- (a) the substance of the application that has been made and the matters that the magistrate will decide;
- (b) the role of the magistrate;
- (c) that he has the right to be heard, directly or through an advocate, guardian ad litem or other representative; and
- (d) the procedure that will be followed.

(2) The court shall explain-

- (a) to a child who is a party or subject of proceedings; and

(b) to the person who is in attendance at the court, any judgment given and the consequences of that judgment to the child.

Legal and other
appropriate
assistance

14.-(1) A child who is a party to proceedings in a criminal or civil case shall have a right to legal and other appropriate assistance.

(2) Where a child who is a party to proceedings does not have legal representation, such representative shall be provided to the child free of charge whenever practicable.

Appointment of
a guardian ad
litem

15.-(1) Where a child cannot afford to pay for legal representation, and it is not practicable to provide free legal assistance to a child, and a parent or guardian is not able to provide effective representation for the child, the magistrate presiding at the hearing shall ensure that a child who is charged

with a criminal offence is provided with appropriate assistance in the form of a guardian ad litem.

(2) The court shall explain to a child referred to under sub-rule (1) that he may choose to be represented by a parent or that he may select and appoint a guardian ad litem or request that the court appoint such a person.

(3) Where a child is a party to civil proceedings or the subject of child protection proceedings, he shall be represented by a guardian ad litem, and shall also have the right to be legally represented.

(4) The court shall permit a child who is a victim or witness to a crime and who is giving evidence before the court to be assisted by a guardian ad litem.

(5) The court shall, on the application referred to under sub-rule (4), appoint a guardian ad litem where such an appointment is in the best interests of the child.

(6) The court shall permit a guardian ad litem to assist the child with examination and cross examination of witnesses, to submit documentary or other evidence on behalf of the child and to address the court in respect of the child's views wishes and best interests.

(7) Where the guardian ad litem and the child are in conflict, the child may request that he be allowed to select a new guardian or that the court appoint a new guardian.

(8) The court may, on its own motion or on application by the social welfare department, dismiss a guardian ad litem who acts contrary to the best interests of a child, and shall ask the child to select a new guardian or appoint a new guardian ad litem.

(9) The magistrate-in-charge shall, in consultation with the head of the social welfare department for the district in which the court is situated, ensure that the district has an adequate number of qualified guardians ad litem able to assist a child.

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(10) The court shall keep a list of guardian ad litem available in the district.

Powers of
Magistrates to
manage case

16.-(1) The Magistrate shall, in criminal and civil cases, have the power to-

- (a) extend or shorten the time for compliance with a rule, order or direction;
- (b) make an order for disclosure of documents;
- (c) adjourn or bring forward a hearing;
- (d) require a party or the party's legal or other representative to attend at the court;
- (e) direct that part of any proceedings be dealt with as separate proceedings;
- (f) stay the whole or part of any proceedings or judgment either generally or until a specified date or event;
- (g) consolidate proceedings;
- (h) hear two or more applications or charges at the same time;
- (i) decide in what order the applications, charges or issues are to be heard;
- (j) direct a separate hearing of any application, charge or issue;
- (k) exclude an issue from consideration;
- (l) dismiss or give a decision on an application or charge after a decision on a preliminary issue;
- (m) encourage the parties to use an alternative dispute resolution procedure if appropriate and facilitate the use of such procedure;
- (n) ensure that the cause list provides at least two days notice of proceedings to the parties; and
- (o) take any other step or make any other order, including varying or revoking an order for the

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purpose of managing the case and furthering the overriding objective.

Matters to be recorded in criminal case file

17. A criminal case file opened against a child shall contain the information specified in the First Schedule to these Rules.

Matters to be recorded in civil case file

18. A civil case file opened in relation to civil proceedings concerning a child shall contain the information specified in the Second Schedule to these Rules.

Access and perusal of court records

19.-(1) A child or his representative shall have the right of access of the court records relating to the child's case free of charge.

(2) Any paper copy of the file or document relating to any criminal case before the court shall be available free of charge to the accused child and his representative on request.

(3) Any paper copy of the file or any documents relating to any civil case which is before the court shall, on request, be made available free of charge to the parties.

(4) Where a child is the subject of civil proceedings before the court, that child may, on reaching the age of eighteen years, apply to the court at which the case was heard, or to a resident magistrate of the district if the court stopped from functioning as a juvenile court, for a copy of any order that was made and the reasons given for that order.

(5) Copies of a document or a case file may be made available upon written request to interested parties or for the purpose of research, with the leave of the court that made the order or, if the court no longer exists or has ceased to function as a court, with the leave of the resident magistrate in charge of the district.

(6) Where leave is given to access a child's file, any papers contained therein shall be treated as confidential and neither the papers nor any information contained in the file shall be released to any person other than the person granted leave without the permission of the court or the resident magistrate In charge of the district.

PART IV

INSTITUTION OF CRIMINAL PROCEEDINGS AGAINST A CHILD

Procedure of
the court

20. The procedure set out under this part shall be applicable to the court in criminal proceedings.

Issuance of a
summons

21.-(1) Where a decision to charge a child who is on police bail with a criminal offence is made, that child shall be served with a summon to appear before the court.

(2) Every summons shall be issued by the court and shall be in writing, in duplicate, signed and sealed by a magistrate.

(3) The summons shall require the child to appear before the court at a time and place to be specified.

(4) Where the child is in the care of a local government authority, the summons shall be served on the head of the social welfare department of that authority.

(5) The charge sheet, particulars of the offence and any statements given by the child shall be included with the summons.

Arrest and
remand Order

22.-(1) A child shall not be arrested, summoned or brought before the court unless it is for the purpose of-

- (a) answering a complaint or a charge against him; or
- (b) making an application to remand him in custody.

(2) The court may, where a child is remanded into custody, and for the purpose of affording the child a right to

fair hearing, issue a removal order of the child in JCR Form No. 15 as set out in the Third Schedule.

Warrant of
arrest

23.-(1) Where a child fails to appear in court in response to a summons, the court may issue a warrant of arrest.

(2) A warrant of arrest shall not be issued under this rule unless a complaint has been made on oath by a police officer and-

- (a) an attempt to contact the child following his failure to respond to the first summons has been made without a success; and
- (b) the child cannot be contacted or found; and
- (c) a second summons has been issued for the child's attendance before the court and the child has failed to respond.

(3) Where a child is arrested under a warrant of arrest, the person arresting the child shall immediately inform and notify the parent, guardian, carer and the head of the social welfare department of the district where the child is arrested, of-

- (a) the arrest of the child;
- (b) the reason for the arrest; and
- (c) the child's whereabouts.

(4) Where a child has been arrested under the warrant of arrest, that child shall be brought before the court on the day of arrest not later than the next day following the arrest, save that where the offence is a serious one, and-

- (a) the child is arrested after the end of business on Friday, a child may be detained and brought before the court on a Monday morning; or
- (b) the child is arrested after the end of business on the day before a public holiday, that child shall be brought before the court on the next working day.

(5) Where it is not possible to bring the child who has

been referred to under sub-rule (4) before the court within twenty four hours-

- (a) the police shall notify the social welfare department of the area in which the child is arrested; and
 - (b) the social welfare department shall co-operate with the police to place the child in an approved residential home, institution or with a fit person until he is brought before the court.
- (6) If the child is kept overnight at the police station on a warrant of arrest, that child shall be provided with sufficient food, water, bedding and light and be placed in a separate cell from adult's cell.
- (7) A warrant of arrest shall remain in force until it is executed or cancelled.

A charge sheet

24.-(1) A charge sheet shall contain, a statement of the specific offence or offences with which the accused child is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the offence charged.

(2) The court shall, before the commencement of the trial, ensure that the prosecution provide the child or, the child's representative or social welfare department, with a copy of the charge sheet, in sufficient time for the child to prepare his defence.

(3) Where the child does not understand English or Kiswahili, the court shall ensure that the charge sheet and the statement of facts are translated into a language the child understands.

Attendance of
parents,
guardians or
carers

25.-(1) Where parent, guardian or carer who has the information of his child's case fails to attend criminal proceedings relating to his child, the court may, issue a

summons requiring a parent, guardian or carer to attend at the court on a specified date, unless-

- (a) it is not in the child's best interests that the parent, guardian or carer should attend; or
- (b) it is not practicable for the parent, guardian or carer to attend.

(2) Where a parent, guardian or carer, who has been issued with a summons pursuant to sub-rule (1) fails, without sufficient excuse, to appear before the court, the court may issue a warrant to bring him before the court at such time and place as shall be specified in the warrant.

(3) Where the court is satisfied by evidence on oath that a parent, guardian or carer shall not attend the court proceeding relating to his child unless compelled to do so, the court may issue a warrant for the arrest and production of the witness before the court at a time and place to be specified in the warrant of arrest.

(4) Where the parents, guardians or carers were not informed in sufficient time to permit attendance, or were unable to attend for good reason, the court may, for the interests of justice, set aside any finding or order.

(5) Where the child is in the care of the local government authority, the assigned social welfare officer shall attend the hearing and shall have the same rights as a parent.

Disqualification
of parent,
guardian or
carer to assist
the child

26. The magistrate shall not consent to the parent, guardian or carer assisting the child in the conduct of his case, if he is satisfied that-

- (a) the parent, guardian or carer is charged with an offence based on the same facts;
- (b) the parent, guardian or carer has been convicted of an offence against the child;
- (c) it is not in the child's best interests to be so assisted; or

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(d) the child is in the care of the local government authority and the local government authority, in exercising its parental rights under the Child Protection Regulations, 2015 has determined that it is not in the best interests of the child for the parent, guardian or carer to assist the child.

No proceedings
in the absence
of a

27.-(1) The court shall ensure that a child is represented at all hearings.

representative
for an accused
child

(2) Where the child does not have representation, the magistrate shall adjourn the proceedings at the first hearing to allow a representative to be appointed and for the child to meet and speak with his representative:

(3) An adjournment granted under sub-rule (2) shall not exceed fourteen days.

(4) Where a child representative is present in the court on the day of hearing, the case shall be adjourned for short period of time to allow the child to speak to the representative and the hearing shall continue on that day.

Bail

28.-(1) A child who appears or is brought before the court for the purpose of hearing any charges against him, shall, unless the offence with which the child is charged is unbailable, be granted bail and be released into the care of his parent, guardian, a fit person, fit institution or the Commissioner of Social Welfare, to return to the court at a date to be specified.

(2) For the purposes of this Rule, where the child is released into the care of the Commissioner of Social Welfare, the child care shall be delegated to the head of the social welfare department of the district where the child ordinarily resides and if the child is of no fixed abode, the care shall be delegated to the head of the social welfare department in the district in which the child was arrested or such other social

welfare department as the Commissioner deems appropriate:

Provided that where another local government authority has taken responsibility for that child, that local government shall continue to take care of the child on behalf of the Commissioner.

(3) Any child who is bailed into the care of the Commissioner shall be treated as though he were a child referred to under section 94 (5) of the Act.

(4) The court shall, in releasing the child on bail, not require a financial surety.

Remand into
custody

29.-(1) Where an application is made for the child who is charge of bailable offence to be remanded in custody, the court shall take into account-

- (a) that bail shall not be denied where the child is unlikely to receive a custodial sentence upon conviction; and
- (b) that deprivation of liberty pending trial is to be used in exceptional circumstances, as a measure of last resort and for the shortest possible period of time.

(2) An order remanding a child into custody shall be made where it is necessary and-

- (a) where the child is an immediate danger to himself or to others;
- (b) the child has failed to attend court on a criminal charge on a previous occasion; or
- (c) the child has previously been granted bail by a court and has failed to comply with the conditions of bail or absconded.

(3) The magistrate shall, before granting a remand order committing a child to a retention home or any other detention facility as set out in JRC Form No. 12, consider

whether the child and public can be adequately safeguarded by alternative measures, such as-

- (a) placing the child at home under the supervision of a parent;
- (b) placing the child with a guardian, relative, family friend, fit person or fit institution; or
- (c) placing the child in the care of the Commissioner.

(4) A child placed under any care referred to in sub-rules (3) shall remain in such care until final determination of the case unless the court deems it appropriate to review its decision.

(5) When placing a child under the supervision of a fit person or a fit institution, the court shall have regard to the need to be located as near as possible to the place where the parents or guardian are ordinarily resident, to the extent that it is practicable to do so.

(6) A lack of parental care or a fixed abode shall not be a reason to remand the child in custody.

(7) The court may, when placing a child under care impose restrictions and conditions, including-

- (a) requiring the child to abstain from visiting a particular locality or premises;
- (b) requiring the child to abstain from meeting with a named person or group of people;
- (c) requiring a child to remain in their place of accommodation at specified times;
- (d) requiring the child to attend a specified place and, if deemed appropriate, at a specified time, including a school;
- (e) any other condition which the court may deem proper and just to impose.

(8) When the court decides to remand a child in custody, it shall give priority to remanding a child to a retention

home accommodating children with the age below eighteen years.

(9) Where a child is remanded into custody, he shall be held separately from adults, and receive care, protection and all necessary individual social, educational, vocational, psychological, medical and physical assistance that he may require in view of his age, gender, disability, health status and personal circumstances.

First
assessment of a
child

30.-(1) Any child who has been remanded in custody shall be assessed by a social welfare officer within three days of the start of the remand.

(2) A written assessment report shall be made available to the juvenile court not later than two days before the review of the child's first period of remand.

(3) The assessment report shall, where practicable, contain the following information-

- (a) the family background of the child and other material circumstances relating to the child which are likely to be of assistance to the juvenile court;
 - (b) whether the child may be in need of care and protection under Part III of the Act;
 - (c) an estimation of the age of the child if his age is uncertain;
 - (d) a recommendation regarding the release of the child from remand and possible placement of the child for the period before trial;
 - (e) any factors that may affect the criminal capacity of the child; and
 - (f) any other relevant information regarding the child which the social welfare officer deems relevant and which may further any objective of the Act.
- (4) The social welfare officer shall be present during

the court review proceedings and, if requested by the court, give evidence on any matter contained in the report.

Review of
remand

31.-(1) An order for remand shall be reviewed in every fourteen days.

(2) The child shall be present during every review of remand.

(3) The court shall take into account the social welfare officer's first assessment report and consider whether the child be released on bail or continue to be held on remand.

(4) Where the child follows the criteria stipulated under rule 29(2) and cannot be placed in any care facility referred to under rule 29(3), the court shall extend the remand.

(5) Where the court finds that the child no longer poses immediate danger to himself or to any other person, and the child does not fall within Rule 29(2)(b), it shall release the child on bail.

(6) Where the first assessment report recommends that the case is suitable for diversion, the magistrate shall invite the prosecution to address the court on the need for continuation of the remand and may refer the case to the prosecution to consider diversion of the child.

(7) Where the child does not have any accommodation to which he can return on release from custody or is without parental care, the court shall make a child protection referral to the head of the social welfare department in the district where the child ordinarily resides or if the child has no fixed abode, the district in which the child was arrested or the district in which the court is located, save where another local government authority has already taken responsibility for the child, it shall continue to take responsibility.

(8) For the purpose of sub-rule (7), the court may consider that a local government authority has already taken responsibility for the child if the social welfare officer

preparing the assessment report has identified a suitable option for the child in that district and that local government authority has agreed to take responsibility for the child.

(9) A child who is referred in accordance with sub-rule (7) shall be provided with accommodation and assisted by the social welfare department in accordance with section 94(5) of the Act.

(10) The court shall-

(a) record and give reasons for the extension of remand or the decision to release the child on bail, and

(b) serve a copy of the record to the child's representative.

(11) For the purpose of this rule, "diversion" means a system for giving a chance for a first time criminal defendant in lesser crimes to perform community service, make restitution for damage due to the crime, obtain treatment for alcohol or drug problems or counseling for antisocial or mentally unstable conduct, and if the defendant cooperates and the diversion results in progress, the court eventually may determine the remand in terms of this Rule.

PART V

CRIMINAL TRIAL OF A CHILD

Entering a plea

32.-(1) When a child is charged with an offence, the court shall explain to the child in a language that he understands-

(a) the substance of the charges and the particulars of the offence;

(b) the facts that shall be established before the child can be found guilty;

(c) the role of the magistrate; and

(d) the procedures of the court.

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(2) The child shall be asked to enter a plea after he has been given an opportunity to communicate with his representative,.

(3) Where the child pleads guilty, a court shall record his plea as nearly as possible in the words he uses and enter a plea of guilty.

(4) The court shall invite the prosecutor to present the summary of the evidence and the call upon the child to respond on the facts.

(5) If the Court is certified that the response amounts to unequivocal pleas shall enter a conviction and after the completion of a social enquiry report, pass a sentence in accordance with rule 48.

(6) If the child's response under this rule does not amount to unequivocal plea, the court shall enter a plea of not guilty.

Where a plea of
not guilty is
entered

33. Where the child accused does not plea guilt to the charge he is charged of or the court does not accept the child's plea of guilty to the charge, the court shall—

- (a) record a plea of not guilty;
- (b) proceed to sign the record; and
- (c) proceed to hear the evidence for the prosecution.

Timescale for a
criminal trial

34. (1) Any criminal case triable by the court shall be completed within six months after the child has first appeared on the charge before the court.

(2) Upon expiry of the time prescribed under rule (1), the Court may for good reasons to be recorded, extend the period of completion of a case for a period not exceeding three months.

Participation of
the child in
proceedings

35.-(1) Where it appears to the court that an accused child is unable to participate in the hearing as a result of not

understanding the proceedings; or unable to instruct his advocate, guardian or representative as to his defence, the court shall stay the proceedings for seven days to determine whether a fair hearing can take place.

(2) In determining whether a fair hearing can take place, the court may request a social welfare officer to interview the child and report back to the court on the child's capacity to participate in and understand the proceedings.

(3) Where the court is satisfied that the child cannot participate in or understand the proceedings, conduct his defence or instruct his advocate, guardian ad litem or other representative as to his defence, it shall dismiss the charge and refer the child to the head of the social welfare department of-

- (a) the district in which the child ordinarily resides;
- (b) the district in which the child was arrested or the district in which the court is located; or
- (c) where another local government authority has already taken responsibility for the child, to that authority,

to decide whether child protection proceedings should be taken.

(4) Where the child is discharged by the court for any other reason and falls within section 94(5) of the Act in that he-

- (a) is lost, abandoned or seeks refuge; and
- (b) is in need of assistance and accommodation,

the child shall be referred to the head of the social welfare department of the district in which the child ordinarily resides, or if the child is of no fixed abode, the district in which the child was arrested or the district in which the court is located, or where another local government authority has already taken responsibility for the child, to that authority.

(5) For the purpose of sub-rules (3) and (4), the court may consider that a local government authority has already

taken responsibility for the child if the social welfare officer has identified a suitable option for care of the child in that district and that local government authority has agreed to take responsibility for the child.

Duty to
disclose
prosecution
case

36.-(1) The prosecutor shall file the details of the prosecution case in duplicate to the court before the preliminary hearing.

(2) The court shall supply a copy of the details of the prosecution case to the child or child's representative before the date of the first hearing.

(3) The details of the prosecution case shall include-

- (a) the charge sheet and the particulars of the offence;
- (b) a statement of facts;
- (c) any document or extract on which the case will be based; and
- (d) any previous convictions of the child.

(4) The prosecutor shall, within fourteen days before the final proceedings, disclose to the court any witness statements and any other evidence upon which the prosecution seeks to rely.

(5) The prosecutor shall, during the court proceedings, keep under review whether there is prosecution material, which might reasonably be considered capable of undermining the case for the prosecution against the accused child or of assisting the case for the child, which has not been disclosed to the court.

(6) Where the prosecutor encounters material mentioned under sub-rule (5) at anytime during the proceedings, he shall disclose such material to the court.

(7) Prosecution material includes material-

- (a) which is in the prosecutor's possession and came into his possession in connection with the prosecution case against the accused; or

(b) which he has inspected in connection with the case for the prosecution against the accused.

(8) Where the prosecution fails to file the details of the prosecution case within the required times, the court shall, on the application of the accused or on its own motion, order the prosecution to file such documents within three days.

(9) The court shall, before it exercises its power under sub-rule (8), give the prosecution the right to make representations against disclosure.

Preliminary
hearing

37.-(1) Where a child charged pleads not guilty to the charge, the presiding magistrate shall fix date for a preliminary hearing and that date shall be within fourteen days from the day the charge was read.

(2) The preliminary hearing may take place at the first hearing if the child has a representative.

(3) The magistrate shall explain the nature and purpose of the preliminary hearing to the child and his representative.

(4) The prosecutor shall read the statement of facts to the accused at the preliminary hearing in a language that the child understands, or in the event that the child does not understand Kiswahili or English, in the presence of an interpreter appointed for the child.

(5) The parties shall, after the statement of fact has been read, agree on which matters are not in dispute.

(6) The magistrate may put questions or seek clarifications relating to the statement of facts and the answers to such questions may be given without oath or affirmation.

(7) At the conclusion of the preliminary hearing, the court shall prepare a memorandum of the matters agreed and the memorandum shall be read over and explained to the child in a language that he understands, and shall be signed by the presiding officer, the child, his representative and by the prosecutor, and then filed with the court.

(8) Any fact or document admitted or agreed in a memorandum filed under this sub-rule (7) shall be deemed to have been duly proved:

Provided that, if during the course of the trial, the court is of the opinion that the interests of justice so demand, the court may direct that any fact or document admitted or agreed in a memorandum filed under this sub-rule be formally proved.

(9) No witnesses shall be called during a preliminary hearing.

(10) The court may give notice to any person who is likely to be called as a witness after a preliminary hearing, that he may be required to give evidence before the court on a date to be specified in the notice and such notice shall be deemed to be a summons duly issued and served upon him to appear and give evidence or issue a summons to a witness in accordance with JCR Form No. 16 as set out in the Third Schedule.

(11) The magistrate presiding over the first hearing shall preside in any subsequent hearings relating to the charge against the child, unless it is not practicable to do so or it would cause undue delay.

Adjournment
due to non-
attendance of
parties or
witness

38.-(1) Where the prosecutor fails to appear before the court on the date fixed for hearing, and has not informed the court of his inability to attend, the court shall fix another date, and inform the prosecutor of his failure to attend.

(2) If the prosecutor fails to appear before the court on another date fixed for hearing and has not informed the court of his inability to attend, the case shall be dismissed.

(3) Where a social welfare officer responsible for the first assessment report or the social enquiry report fails to attend a fixed hearing, and has not informed the court of his inability to attend, the court shall summon the said officer or the head of the social welfare department to provide an

explanation for non-attendance.

(4) Where a witness for the prosecution including a child witness or defence fails to attend court without good cause in response to a summons, the court shall-

- (a) dispense with that witness and continue the proceedings; or
- (b) issue a warrant to bring him before the court at such time and place as shall be specified in the warrant.

(5) The court shall, once a trial has commenced, proceed to hear the witnesses in the case without any further adjournment or going part-heard,

Provided that where a witness has good reason for not attending, the court may grant an adjournment to permit the witness's evidence to be heard or such other order as it thinks fit.

(6) Where an adjournment is granted after the commencement of the trial and the case is partly-heard, the court shall resume the hearing on the first possible date.

Prosecution
evidence

39.-(1) The court shall, when the prosecution has closed its case, determine whether a prima facie case has been established and the child has a case to answer.

(2) When the court decides that the prosecution has not made out its case sufficiently to require the child to answer the allegations, it shall dismiss the charge and acquit the child.

(3) Where the prosecution has made out a prima facie case, the court shall hear the witnesses for the defence and any further statement the child wishes to make in his defence.

Admission of
medical
evidence

40.-(1) Where a medical report is to be tendered as evidence in the case, the prosecution and defence shall consult at or before the preliminary hearing on the extent to which the contents of the medical report are agreed.

(2) Where the facts contained in the medical report are agreed, the medical report may be tendered in evidence and medical officer who attended to the person who is the subject of the medical report, shall not be called to give evidence.

(3) Where the medical officer who examined the person who is the subject of the medical report is not available as a witness, another medical officer may be called to testify to contents of the report.

Admission of
confession
evidence
Cap. 6

41.-(1) Any confession voluntarily made in accordance with the Evidence Act by a child accused of an offence to a police officer may be admitted in evidence before a juvenile court.

(2) The onus of proving that any confession made by an accused child was voluntary shall fall on the prosecution.

(3) The court shall, in determining if the confession was voluntarily given, take into account the age of the child, the child's development, the length of the interrogation, the child's understanding, the fear of unknown consequences or of a suggested possibility of imprisonment, any inducements offered, and whether a parent, guardian, child supporter, guardian ad litem or legal representative was present to assist the child.

(4) Where the court concludes that the confession evidence was not given voluntarily, it shall not admit such evidence.

The defence
case

42. The child shall be informed that he has a right-

- (a) to give evidence on oath or without oath; and
- (b) to call witnesses on his behalf.

Evidence in
chief of an
accused child

43.-(1) Evidence in chief shall be given orally.

(2) The court shall, in hearing the accused's evidence in chief, keep the proceedings as informal as possible and not

apply the strict rules of evidence unless it is necessary to do in the best interests of the child.

Power of the court to order production of evidence

44. The court may, in any proceedings before it, examine and cross-examine parties and witnesses, and shall have the power to order that relevant evidence be produced or brought before the court.

Cross-examination of witnesses

45.-(1) An accused child may be cross examined by a prosecutor or co-accused.

(2) A witness, other than the accused, may be cross-examined by any party to the proceedings other than the party that called the witness, but not a hostile witness.

(3) The court shall ensure that cross-examination is conducted in a non-adversarial manner and that the right of the accused child not to incriminate himself is upheld.

(4) A person who is cross-examing an accused child or a child witness, shall,

- (a) use simple language that the child can understand;
- (b) ask short direct questions; and
- (c) avoid confrontation, bullying or hectoring of the child.

(5) The court may, during and at the close of each witness's evidence ask the witness questions necessary and desirable -

- (a) to clarify the evidence;
- (b) for the purpose of establishing the truth of the facts alleged; or
- (c) to test the credibility of the witness.

(6) The court shall control and guide the conduct of parties to the proceedings by limiting irrelevant questions or needless repetition of questions.

Conviction of a
child

46.-(1) Where the court after hearing the witnesses, is satisfied beyond all reasonable doubt that the offence against the child is proved, it shall convict the child of the offence charged.

(2) When a child is charged with an offence that consists of several particulars of which constitutes a minor and major offence, and particulars which constitute a minor offence are proved, the court may convict the child of the minor offence despite he was not charged with it.

(3) The prosecutor shall inform the court if the child is a first offender or has any previous criminal record.

(4) The court shall, after convicting the child and before passing a sentence, request a court social welfare officer to prepare a social enquiry report, to be filed within fourteen days from the day of request is made.

Pre- sentence
social enquiry
report

47.-(1) The social enquiry report shall contain details of the child, which includes-

- (a) the child's background and other material circumstances likely to be of assistance to the court;
- (b) present family circumstances and the home life experienced by the child;
- (c) whether the child attends school or any training programme or is employed;
- (d) the child's state of health;
- (e) any previous offences the child may have committed;
- (f) assessment of the chances of the child re-offending or causing serious harm; and
- (g) recommendations on the appropriate sentence taking into account that the purpose of a sentence shall be rehabilitative and to assist the child to be

a constructive member of his family and community.

(2) The social enquiry report shall be factual, objective and unbiased, with clearly identified recommendations and options for passing a sentence on the child.

(3) The social welfare officer shall, in preparing the social enquiry report, have regard to the first assessment report and consult other professionals who have been in contact with the child.

(4) The court shall release the child on bail while the social enquiry report is being prepared and before sentence is passed unless the criteria contained in Rule 29(2) are met and it is not possible to safeguard the public adequately by imposition of the options and conditions contained in Rules 29(3) and (7).

Judgment

48.-(1) The Magistrate who heard the case shall deliver a written judgment which contains the evidence presented and points for determination, the decision thereon and the reasons for the decision.

(2) The judgment delivered pursuant to sub-rule (1) shall be dated and signed by the Magistrate as of the date on which it is pronounced in court.

(3) Where for any reason the Magistrate is unable to pronounce his written judgment in court in accordance with sub-rule (1), the court shall arrange for another magistrate to read the judgment in court.

(4) All judgments shall be pronounced in court within twenty one days after the conclusion of the proceedings.

(5) The judgment shall, in the case of conviction specify the offence of which, and the section of the Penal Code or other law under which the accused person is convicted.

(6) The judgment shall, in the case of an acquittal state the offence of which the accused person is acquitted and shall direct that he be set at liberty.

(7) The court shall explain to the child the substance of the judgment given and its consequences.

PART VI
SENTENCING

Sentencing
procedure

49.-(1) The court shall, before reaching a decision on the appropriate sentence for a convicted child, have regard to the following principles-

- (a) the need for proportionality by reference to the circumstances of both the offence and the offender;
- (b) the importance of rehabilitating and reintegrating a child offender;
- (c) the need to maintain and strengthen family relationships wherever possible;
- (d) the desirability of imposing the least restriction consistent with the legitimate aim of protecting victims and the community;
- (e) the importance of child offenders accepting responsibility for their actions and being able to develop responsible, beneficial and socially acceptable ways;
- (f) the need to take into account factors that have contributed to the child's offending behaviour, including any mental health problems or learning disability, poverty, low educational achievement and lack of parental care; and
- (g) the need to take into account the special circumstances of particular groups of child offenders, especially children living in difficult circumstances.

(2) The court shall, before passing sentence, take into account-

- (a) the social enquiry report;

- (b) any plea of mitigation made by the child or made on his behalf;
- (c) the culpability of the child and the harm caused, intended or foreseeable, taking into account aggravating and mitigating factors relating to the offence;
- (d) that placement in an approved school should only be imposed as an exceptional measure, as a last resort and for the shortest appropriate period of time; and
- (e) whether a discharge or a non-custodial sentence would be in the best interests of the child and serve the interests of justice.

Conditional
discharge

50.-(1) Where a child is convicted of an offence, the court may make an order discharging the offender conditionally on his entering into recognisance to be of good behaviour for a period to be specified which does not exceed three years.

(2) The court may require a surety from the parent or guardian and the child,

Provided that a financial surety shall not be required where the parent, guardian or child do not have the financial means to pay.

(3) The court may attach conditions to a conditional discharge including-

- (a) the placement of the child under the supervision of a parent, guardian, relative or the head of the social welfare department as may be named in the order; and
- (b) such other conditions as the court may deem appropriate, including but not limited to:
 - (i) an oral or written apology to a specified person or persons or institution;

- (ii) referral to a community rehabilitation or reintegration programme;
- (iii) referral of the child to counselling or therapy;
- (iv) restitution of a specified object to a specific victim or victims of the offence where the object concerned can be returned or restored;
- (v) provision of some limited service or benefit to the victim or victims, save that any such service shall be in conformity with Part VII of the Act;
- (vi) where there is no identifiable person or persons to whom restitution or restoration can be made, provision of some limited service or benefit to the community; and
- (vii) referral of the child to family group conferencing or to victim offender mediation.

(4) The court shall ensure that-

- (a) a parent, guardian or relative who is named as supervisor understands the duties and responsibilities of supervision and accepts them; and
- (b) the child understands and accepts the conditions attached to the conditional discharge and accepts them.

(5) Where a conditional discharge with supervision is deemed by the court to be the appropriate sentence for a child, but there is no parent, guardian or relative willing to supervise the child, the court shall place the child under the supervision of the head of the social welfare department for the district in which the child ordinarily resides or if the child will not be

residing there, the district in which he will be residing, or if of no fixed abode, the district in which the child was arrested or in which the court is located, save that where a local government authority has already taken responsibility for that child, it shall retain responsibility.

(6) For the purpose of sub-rule (5), the court may consider that a local government authority has already taken responsibility for the child if the social welfare officer has identified a suitable option for the child in that district and that local government authority has agreed to take responsibility for the child.

(7) Where the child has no fixed abode or has no parental care, a child protection referral shall be made to the relevant social welfare department, in accordance with sub-rule (5), who shall accommodate and assist the child.

Fine,
compensation,
and cost

51.-(1) A fine, compensation or costs may, subject to section 118 of the Act, be imposed to reflect the loss caused by the child's Act.

(2) A child who is the subject of a probation order as set out in JCR Form No. 13 third Schedule of these Rules, may be subject to any of the following conditions that the court considers necessary and appropriate-

- (a) a reporting to a relevant social welfare officer at specified times and places;
- (b) obeying any instructions of the social welfare officer;
- (c) reporting any changes of address, school or employment;
- (d) not leaving an area of residency without permission;
- (e) refraining from contact or communication with a specified person or people;
- (f) refraining from entering specified premises or a

specified area; or

(g) obeying school or home rules.

(3) Where the court intends to impose a fine, compensation or costs against a parent, guardian or relative, such person shall be given an opportunity to be heard by the court

(4) The court shall, in making an order for imposition of a fine, compensation or costs against a parent, guardian or relative, take into account the effect of such an order on the victim, and on the relationship between the person ordered to pay and the child.

Probation orders

52.-(1) The court shall where a discharge without any order is not sufficient, consider imposing a probation order.

(2) A child who is the subject of a probation order may be subject to one or more of the following conditions to-

(a) reporting to a relevant social welfare officer at specified times and places;

(b) obeying any instructions of the social welfare officer;

(c) reporting any changes of address, school or employment;

(d) not leaving an area of residency without permission;

(e) refraining from contact or communication with a specified person or people;

(f) refraining from entering specified premises or a specified area; and

(g) obeying school or home rules.

(3) The court may impose additional conditions which requires the child to attend school, reside at a particular place, undergo treatment or counselling, attend a rehabilitation or reintegration programme or not use alcohol or drugs.

(4) Where a probation order is deemed by the court to

be the appropriate sentence for a child, and a parent, guardian or relative is not willing to supervise the child, the court shall place the child under the supervision of the head of the social welfare department for the district in which the child ordinarily resides or if the child will not be residing there, the district in which he will be residing, or if of no fixed abode, the district in which the child was arrested or in which court is located, save that where a local government authority has already assumed responsibility for that child, it shall retain responsibility.

(5) For the purpose of sub-rule (4), the court may consider that a local government authority has already taken responsibility for the child if the social welfare officer has identified a suitable option for the child in that district and that local government authority has agreed to take responsibility for the child.

(6) The court shall make a child protection referral to the relevant social welfare department who shall accommodate and assist the child.

Breach of non-custodial order

53.-(1) Where a child breaches non-custodial sentence, that child may be referred back to the court by the prosecutor.

(2) On referral the court may-

- (a) confirm the non-custodial order;
- (b) vary, add or substitute any condition of the order; or
- (c) revoke the order and impose another non-custodial sentence as the court thinks fit.

(3) Where a referral is made to the court, another report shall be prepared by the assigned social welfare officer and in case a social welfare officer has not been assigned and the child is not the subject of a probation order, a social welfare officer in the local government authority where the child resides shall prepare the report.

(4) The court shall impose a custodial sentence to a child where there is a breach of a non-custodial sentence and the criteria contained in rule 54 are satisfied.

Committal to an
Approved
School

54.-(1) Where a child is convicted -

- (a) of a serious offence of violence or as a result of the conviction he is determined to be a persistent offender, and the offence which he has committed would, if committed by an adult, be punishable by a custodial sentence; and
- (b) the court believes there is a significant risk of harm to members of the public,

the court may, as a matter of last resort, and in accordance with JCR Form 14A as set out in the Third Schedule, make orders that the child be committed to custody at an approved school for a period of time not exceeding three years or until he is eighteen, whichever is the earlier.

(2) Subject to section 124 of the Act, the court shall, in making an order under sub-rule (1), provide the information required through JCR Form 14B as set out in the Third Schedule.

(3) A custodial sentence shall not be imposed on the basis that the child has no accommodation or parental care.

(4) Where a child, who has been convicted for non-custodial sentence has no accommodation or parental care, the court shall make a child protection referral to the relevant social welfare department in accordance with Rules 50(7) or 52(6).

(5) Any child who is detained beyond the period of custody stated in the order shall apply to the court in the district where he is held, for immediate release.

(6) Any application by the manager of an approved school for an extension of the period of detention for a year under Section 127 of the Act, shall be granted in exceptional

circumstances and when the child presents a danger to the public.

(7) The period of detention shall not be extended on grounds of unavailability of accommodation and support for the child.

PART VII PARENTAGE

Application for
parentage

55.-(1) The court may, upon the receipt of an application for parentage under Section 34 of the Act, grant an order confirming the parentage of a child and a declaration of parentage.

(2) The court shall receive and determine applications for parentage under Section 34 where-

- (a) the child is ordinarily resident in Tanzania; or
- (b) the child has been resident in Tanzania for a period of at least one year; or
- (c) the person whose parenthood is in issue died before the date of the application and before his death was either domiciled in Tanzania or was ordinarily resident in Tanzania.

(3) The court may, in hearing an application for a parentage order, make an order for custody on its own motion on such conditions as it deems fit.

(4) The court may, apart from the evidence prescribed in Section 35 of the Act, consider-

- (a) the date and place of the child's birth;
- (b) the names of the child, including all names that the child has or has had, and the facts relating to any change of the child's name;
- (c) the names that it is proposed the child should have on the making of the parentage order, showing separately the proposed given name or names and the proposed surname; and

(d) the consent of the respondent to the making of the parentage order.

(e) if the applicant or the person whose parentage is in issue, is known by a name other than that which appears in that person's birth certificate, that other name must also be stated in the order.

(5) A court officer shall send a copy of the order, including the declaration of parentage to the Registrar of Births within twenty one days, beginning with the date on which the order was made.

Mode of
application for
parentage

56.-(1) Any application for parentage shall be made by way of a petition in format JCR Form No. 6 as set out in the Third Schedule containing-

- (a) the name and address of the applicant;
- (b) particulars of the facts giving the court jurisdiction;
- (c) details of any previous application that has been made;
- (d) the grounds and reasons for the application; and
- (e) the relief sought.

(2) The application shall be filed at the court in the district where:

- (a) both the applicant and the respondent ordinarily reside; or
- (b) the respondent ordinarily resides.

(3) An application shall not be open to objection on the ground that the applicant only seeks a declaratory decree or that no consequential relief is claimed.

Applicants for a
parentage order

57.-(1) The application under this Part shall set out the applicant's relationship with the child and where the applicant is an interested person, he shall state the reasons for seeking special leave to apply for a parentage order.

(2) The court shall, in deciding whether to grant an interested person with a special leave under Section 34(1)(e) of the Act, hear evidence from the interested person and such other persons as the court considers appropriate.

(3) There shall be no obligation on the court to notify of the application for special leave to any the child who is the subject of the application or any other person with parental rights and responsibilities.

(4) Where special leave is sought pursuant to section 34(1)(e) of the Act, the court shall-

- (a) consider such application within twenty eight days of the application being filed; and
- (b) give judgment on the application within ninety days after the filing of the application.

(5) The court shall, in deciding whether to grant special leave have regard to-

- (a) the applicant's connection with the child;
- (b) any risk there might be of the proposed application disrupting the child's life to such an extent that he would be harmed by it; and
- (c) any risk of harm that might be caused as a result of the petition to any respondent to an application.

(6) Where the court decides to grant special leave, the interested person shall file an application for a parentage order in accordance with this Part.

(7) Where the applicant is a child of the age below eighteen years, the petition shall be made on behalf of the child by a next friend or guardian ad litem.

(8) Where the mother of the child applicant is a respondent, she may not act as the next friend of the child.

(9) A written consent to act as a next friend or guardian *ad litem* must be signed by the next friend or guardian ad litem.

Powers to refuse
an application

58.-(1) The court shall, in relation to any application for a parentage order or a declaration of parentage, have powers to refuse to hear the application if it considers that the determination of the application would not be in the best interests of the child.

(2) Where a court concludes that it is not in the best interests of the child to hear an application for a declaration of parentage, it may order that no further petition shall be made by the applicant without special leave of the court.

Parties to
proceedings

59. Where an application for parentage is made and leave is given, the respondents to the application shall be-

- (a) the person whose parentage is in issue; and
- (b) any person who is or is alleged to be the parent of the person whose parentage is in issue, except where that person is the applicant; and
- (c) any guardian of a child, save where the applicant is the guardian.

Notice and
summons of
applications

60.-(1) Every application, notice, summons or documents signed and sealed with the seal of the court in JCR Form No. 2 as set out in the Third Schedule to these Rules shall be served on all respondents within seven days of being filed in accordance with the procedure for service of a summons provided under Order V of the Code.

(2) Where a respondent to the application cannot be found, the procedure contained in Order XVI of the Code shall be followed.

(3) The respondent to any petition for a declaration of parentage shall file reply to the petition with the court within fourteen days of receipt of the petition, and include details of any other person that the respondent considers fit to be made a party to the application or be given notice of the application.

(4) A person given notice of the proceedings under sub-rule (1), may within fourteen days from the date when the notice was served, apply to be joined as a party.

(5) Where a person has reasonable cause for not complying with the timescale set out in this Rule, or it is impracticable to do so, the court may in its discretion, extend the time for filing the required notices, summons and applications.

DNA and
medical tests

Act No.
8 of 2009

61.-(1) Where parentage is contested, and the evidence produced before the court during the hearing is not sufficient to determine the parentage of the child, the court may, upon request of any party to the proceedings or on its own motion order a DNA or other medical test in accordance with the provisions of the Human DNA Regulations Act to be conducted.

(2) Where the conduct of DNA test is ordered by the court, a sample, as determined by the DNA testing body, shall be provided by the mother, any person claiming to be the father or mother and the child in accordance with the provisions of the Human DNA Regulations Act.

(3) The arrangements for the taking and testing of samples shall be the responsibility of the party who requested for the test and that the court shall set a time limit for the arranging of the test.

(4) The court shall decide who shall pay for the test or the extent to which the cost shall be shared amongst the parties to the proceedings.

(5) Where the mother or any person claiming or alleged to be the father or mother refuses to provide a sample, the court may draw such conclusions as may be appropriate in the circumstances.

Contents of the
DNA report

62. The DNA report shall include the following

information -

- (a) the names of the tested parties;
- (b) the date and circumstances of the specimen collection for each tested party;
- (c) the probability of paternity or maternity following a DNA test; and
- (d) a statement of conclusion on paternity.

PART VIII CUSTODY AND ACCESS

Procedure for
making
application for
custody or access

63.-(1) An application for custody or access by a parent, guardian or relative who is caring for the child shall be made by filing JCR Form No. 8 set out in the Third Schedule of these Rules.

(2) An application for custody or access shall be signed by the applicant or his representative.

(3) The application shall be filed at the Court in the district -

- (a) where both the applicant and respondent ordinarily reside; or
- (b) where the respondent resides.

(4) Where the applicant is a child under the age of eighteen years, the application shall be made on behalf of the child by a next friend or a guardian ad litem.

(5) Where the mother or father is a respondent to the application, that mother or father may not act as the next friend or guardian ad litem of the child.

(6) A written consent to act shall be signed by the next friend or guardian ad litem.

Powers of the
court to consider
an application for

64.-(1) The court may consider an application for custody or access made under sections 37 and 38 of the Act where-

custody or access

- (a) the child is domiciled or ordinarily resident in Tanzania; or
 - (b) the child has been resident in Tanzania for a period of at least one year; or
 - (c) the child has been wrongfully removed from another country or wrongfully retained in Tanzania.
- (2) The court shall-
- (a) consider any such application within twenty eight days of the application being filed; and
 - (b) give judgment on the application within forty two days after the filing of the application.

Service of an application

65.-(1) Every respondent to an application for custody or access and any interested person shall be served by the court within fourteen days of the application being filed with a signed and sealed court copy of-

- (a) the application;
- (b) the date of the first hearing before the court which shall be no later than twenty eight days after the application has been filed; and
- (c) details of any mediation service available in the area, with details of how the service can be contacted.

(2) Where the applicant is a child, the head of the social welfare department in the district in which the child ordinarily resides shall be informed of the application.

(3) Where the child lives with a person who is not a party to the proceedings, that person shall be deemed as an interested person and shall be served with the documents mentioned under sub-rule (1).

(4) Where an interested person is identified after the start of the proceedings the documents mentioned under sub-rule (1) shall be served within fourteen days of that

identification.

(5) If the respondent is residing outside Tanzania at the time of the application, the time for service shall be extended as deemed reasonable by the court.

(6) The procedure for issue and service of summons shall be the procedure provided under Order V of the Civil Procedure Code.

(7) A respondent shall file a reply to the application within fourteen days from the date of service, and where the respondent can show that it was not practicable to reply in such time, the court may extend the time of reply.

(8) A respondent in his reply to the application may include a cross-application applying for the same or a different order.

(9) The court shall, on a cross-application, have similar powers to grant an order in terms of these Regulations as it may have to an applicant.

Emergency
applications for
return of a child

66.-(1) Where a child has been-

- (a) removed or retained by one parent without the consent of the other, or
- (b) unlawfully removed or retained in contravention of a court order,

a parent, may apply to the court for an emergency order that the child be returned and a custody order granted.

(2) An application made under this Rule may be made *ex-parte* and where it is made at a time when the court is not sitting in the area in which the applicant resides, that application may be made in any other convenient manner to contiguous a court of concurrent jurisdiction.

(3) Where an order is made in accordance with sub-rule (2) (a) the applicant shall file an application at the time when the application is made or at such time as the court may

directed.

(4) A copy of any order made shall be served by the court within forty eight hours on each respondent to the application.

(5) Where the court refuses to hear the application on an ex-parte basis, it shall direct that the application be heard inter-parties.

Factors to be considered in granting an ex-parte order

67. The court shall in determining to grant an ex-parte order, consider-

- (a) whether the application could be made on notice but the period of time for notice and answer shortened;
- (b) whether there is good and sufficient reason for making the order;
- (c) the impact on the child; and
- (d) the period of time that has elapsed since the removal or retention of the child.

Interim orders made on an ex-parte basis

68.-(1) Where an application has been made for custody or access, and the court has decided that it is in the best interests of the child to make an order, it may-

- (a) make an interim order granting custody to the applicant under section 37 of the Act pending an inter-parties hearing; and
- (b) make an order under its inherent jurisdiction that the child be returned immediately to the applicant.

(2) Where an order is made under sub-rule 1(a) or (b), the order shall-

- (a) authorise the court social welfare officer to search for, take charge of and deliver the child to the person named in the order; and

- (b) authorise the police officer in charge of the district to assist the social welfare officer in this task.

(3) Where an order is made under sub-rule (2), a copy of the order shall be served by the court on the police officer in charge of the district and the head of the social welfare department in the district where the child is believed to be located.

(4) Where an interim order has been made *ex parte*, and the absent party wishes to challenge it, the court shall fix a date for an inter-parties hearing within fourteen days.

The first hearing

69.-(1) The date for the first hearing of an application shall be not late than twenty eight days after the application has been filed.

(2) When informing the parties of the date of the first hearing, the court shall-

- (a) provide details of any mediation service that is available;
- (b) inform the parties that they will be required to attempt to settle their dispute through mediation before the first hearing; and
- (c) require the parties and any interested person who has been served to attend the hearing.

Joining the child as a party to proceedings

70.(1) An application to make the child a party to the proceedings may be made by a social welfare officer on behalf of the local government authority, a child's next friend, a guardian ad litem.

(2) Without prejudice to sub-rule (1), the court may make the child a party on its own motion.

(3) The court shall grant the application where it is in the best interests of the child to be joined.

(4) Where a child is of sufficient age and

understanding, he may apply to be a party to the proceedings either on his own behalf or through a next friend or guardian ad litem.

(5) In deciding whether a child is of sufficient understanding, the magistrate shall speak with the child in chambers in the presence of a social welfare officer.

Adjournment

71.-(1) At the first hearing the court shall enquire of the parties whether they have seen a mediator and, if not, where practicable and appropriate to do so, adjourn the hearing for a period of no more than 28 days to allow the parties to resolve the issues through mediation.

(2) Where the parties have seen a mediator and evidence is provided that they have not been able to resolve their differences, the court shall proceed to hear the case.

Ordering a social enquiry report on custody or access

72.-(1) Where there is a contested application for custody or access, the court may direct the social welfare officer to prepare a social enquiry report.

(2) A social welfare officer shall, in preparing the report consult-

- (a) all the parties to the proceedings separately; and
- (b) the child separately and, if necessary, with the parents or other relevant persons.

(3) In providing recommendations for custody or access the best interests of the child shall be the paramount consideration.

(4) The court shall consider the social enquiry report before making a decision on custody or access.

(5) The social welfare officer who prepared the social enquiry report shall make himself available to the court to give evidence, if the court or a party to the proceedings so requests.

(6) Where a court decides not to accept the recommendations contained in the social enquiry report it shall state the reasons for the non-acceptance.

Considerations
on making a
custody and
access order

73. In determining whether to make a custody or access order, the court may consider, in addition to the factors contained under Section 39(1) and s.26(2) of the Act, the following—

- (a) the ascertainable wishes and feelings of the child;
- (b) the background and any characteristics of the child which the court considers relevant;
- (c) the child's physical, emotional and educational needs;
- (d) the undesirability of disturbing the life of the child by changes of custody;
- (e) the likely effect on the child of a change of circumstances;
- (f) capable each parent and any other person in relation to whom the court considers the question relevant is of meeting the child's needs;
- (g) any harm the child has suffered or is likely to suffer;
- (h) the willingness of each parent to support and facilitate the child's ongoing relationship with the other parent; and
- (i) the willingness of any non-parent to support and facilitate the child's on-going relationship with the parents.

Power of the
court to make
orders of its own
motion

74. The court may—

- (a) when making a custody order, make an access order either on application of a party to the proceedings or on its own motion; and

- (b) When making an access order, make a custody order either on application of a party or of its own motion.

Conditions for a person holding custody order

75.-(1) The court may, in granting a custody order in relation to a child, permit the parent with custody to take day to day decisions about the child and to-

- (a) decide where that child shall reside;
- (b) decide where the child shall be educated; and
- (c) take medical decisions in relation to the child,

Provided that the court may set limited or imposed conditions on the exercise of such right.

(2) The custodial parent shall, before taking any major decision on a child's life, including the issues contained in sub-rule (1), consult the other parent.

(3) person who has a custody order may not change the child's name or -

- (a) cause the child to be known by a new name;
- (b) change the child's religion;
- (c) remove the child from Tanzania for a period of more than twenty eight days;
- (d) agree to the child's marriage ; or
- (e) place the child to live with another carer,

without the consent of the other parent or with the leave of the court.

Access orders

76.-(1) An order for access shall set out the days and times on which the child is to have access with a non-custodial parent or other relevant person and the times and duration of such access, and the order shall include details of-

- (a) any overnight stays that are to occur during access;
- (b) access on public holidays;
- (c) access during school holidays; or

- (d) where the child does not attend school, any extra access time for the purpose of taking a holiday with the child.

(2) Notwithstanding sub-rule (1), an order for access may, provide that the child shall have access with a non-custodial parent or other relevant person, access to be on such days and times as shall be agreed between the parties.

- (3) An order for access may set out-
 - (a) where the access is to take place;
 - (b) the arrangements for picking up and dropping off the child before and after access;
 - (c) any restrictions on-
 - (i) where the child is to be taken during access;
 - (ii) who should care for the child during access;
 - (iii) who should be present during the time the child is having access with the parent or other relevant person;
 - (d) any medical or other treatment that must be provided to the child during access; and
 - (e) such other provisions as may be necessary in the best interests of the child.

Factors to be considered in granting an access application

77.-(1) The court shall, in determining to grant an application for access, have regard to-

- (a) the best interests of the child;
- (b) the applicant's connection to the child and the family;
- (c) any risk there might be of the proposed application disrupting the child's life to the extent that he would be harmed by it; and
- (d) any risk of harm that might be caused as a result

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of the petition to any respondent to an application.

(2) The court may, where necessary to safeguard the child best interest, make an order that a child shall not have access to a parent or other relevant person.

Discharge of
existing orders

78.-(1) Where a court grants a custody order to a parent or relevant person, that order shall have the effect of discharging any existing care order or custody order.

(2) Where a court grants an access order, it shall state the extent to which the order discharges other existing access orders.

Varying a
custody or access
order

79.-(1) Where an order has been made for custody or access, an application may be made by any party to the proceedings on sufficient grounds to vary or set aside the order.

(2) An application shall be made in accordance with rule 64 in the format and set out in JCR Form No.11 in the Third Schedule of these Rules.

No further
application
without special
leave of the court

80.-(1) The court may on disposing of any application for an order for custody or access, order that there be no further application by any person named in the order with respect to the child concerned without the special leave of the court.

(2) The Order under sub-rule (1) shall be made as a matter of last resort in cases of repeated and unreasonable applications.

(3) The court shall, in determining to grant special leave have regard to-

- (a) the best interests of the child;
- (b) the applicant's connection to the child and the family;

(c) any risk there might be of the proposed application disrupting the child's life to the extent that he would be harmed by it; and

(d) any risk of harm that might be caused as a result of the petition to any respondent to an application.

(4) The court shall consider an application for special leave within twenty eight days of the application being filed and shall give decision no later than forty two days after the filing of the application.

Enforcement
orders

81.-(1) An application may be made to the court for enforcement of an order under this Part where a party has failed to comply with the terms of the order as set out in JCR Form No.9 in the Third Schedule of these Rules.

(2) The burden of proving a breach of the order shall be on the applicant.

(3) Where the court is satisfied that the order has not been complied with, the court may vary the order as it sees fit.

Removal of child
from the United
Republic

82.-(1) A child shall only be removed from the United Republic of Tanzania when the parent or guardian seeking to remove the child-

(a) has the written consent of the other parent or guardian, provided such consent has not been unreasonably withheld; and

(b) has obtained leave from the court to remove the child,

save that where the child is the subject of a custody order, the custodial parent may remove the child from the jurisdiction for a period not exceeding twenty eight days.

(2) An application for permission to remove the child from the jurisdiction of the United Republic shall be made in

the formal as set out in JCR Form No. 17 in the Third Schedule of these Rules.

(3) In deciding whether to grant leave to remove the child from the jurisdiction, the court may take into account-

- (a) the factors contained in Rule 77;
- (b) the reason for the intended removal;
- (c) the impact of refusal on the applicant parent and any new family of the child;
- (d) the arrangements made to ensure a continuing relationship with the other parent.

(4) An order permitting removal from the jurisdiction, may contain:

- (a) a provision relating to the length of the removal; and
- (b) arrangements for both direct and indirect access to the parent remaining within the jurisdiction.

(5) The court may require that an applicant parent provide a surety to ensure-

- (a) that the child is returned at the end of the period of removal granted; and
- (b) the access arrangements agreed in the order are fulfilled.

PART IX MAINTENANCE

Application for a
maintenance
order

83.-(1) An application for maintenance may be made under Section 42 of the Act in the format as set out in JCR Form No.7 in the Third Schedule of these Rules.

(2) An application may be made against one parent or both.

(3) The court shall receive and determine applications for maintenance of a child under Section 98(1)(b) of the Act where the child's parents are unmarried.

(4) The court may receive and determine applications for maintenance of a child in cases where the child's parents are married, and at the time of the application where there is no substantive application made under the Law of Marriage Act.

Considerations
when making a
maintenance
order

84.-(1) The court shall, before making an order for maintenance take into account the matters contained in section 44 of the Act and the income or wealth of both parents or of any person legally liable to maintain the child.

(2) The court shall, in considering the wealth or income of a parent or a person legally liable to maintain the child, take into account-

- (a) wages, salaries, commission, bonuses and allowances;
- (b) service provided;
- (c) business activities;
- (d) pension or severance benefits;
- (e) dividends and interests;
- (f) returns from real or personal property such as rents, sale of produce, farm products, livestock, poultry, dairy product and other similar items; and
- (g) needs of other dependants.

Social enquiry
report on
maintenance

85.-(1) The court may, before granting an order for maintenance in accordance with section 45 of the Act, request a social welfare officer to prepare a social enquiry report for the purposes of -

- (a) assessing the ability of parents to provide for the maintenance and care of the child; and
 - (b) ascertaining the accuracy of any statements relating to income and outgoings and liabilities.
- (2) A social welfare officer shall, before making any

enquiry issue a written notice of his intention to make such an enquiry to -

- (a) the parent without custody;
- (b) the person with custody of the child; and
- (c) the employer of either parent.

(3) The social welfare officer shall submit his report to the court within fourteen days from the date the court made the order.

Payment of child
maintenance

86.-(1) The Juvenile Court shall order for the payment of child maintenance to be made-

- (a) to the parent or person caring for the child or children in question;
- (b) to, or through, the head of the social welfare department; or
- (c) to, or through, such other person as the court may, from time to time, specify.

(2) The court shall specify in the order the intervals at which payments of child maintenance are to be made.

(3) The court shall cause the maintenance order to be reviewed annually for the purpose of ascertaining compliance with the maintenance order, change of residence, change of employment or business or other relevant circumstances.

Enforcement of
child
maintenance

87.-(1) Where a maintenance order applied for under section 42 of the Act has been granted by the court and-

- (a) the person ordered to maintain a child has failed to comply with the maintenance order for more than twenty eight days after the order was made; or
- (b) a payment of maintenance is more than twenty eight days overdue,

an application may be made for enforcement of the order using JCR Form No. 9 set out in the Third Schedule of these

Rules.

(2) A person who makes an application pursuant to sub-rule (1) shall, before an application for enforcement of maintenance order is sought, give notice to the defaulting parent requiring the parent to comply with the order.

(3) Where in any maintenance proceeding, the court has passed an order for the payment of any money, such order may be enforced in the same manner as a similar order passed in any civil suit under the Code, and the provisions of the Code, relating to the execution of such orders shall apply *mutatis mutandis* to an order for payment of money in any maintenance proceedings.

Variation and
discharge of a
maintenance
order

88.-(1) A parent or person who has custody of a child or any other person legally liable and appointed to maintain the child may make an application to the court as the format set out in JCR Form No.11 in the Third Schedule of these Rules to vary or discharge the maintenance orders on the grounds of a change of circumstances.

(2) In determining whether to grant an application to vary or discharge a maintenance order under section 49 of the Act the court may consider the following factors-

- (a) any substantial and material change of circumstances since the making of the order;
- (b) the reasonable needs of the child; and
- (c) the ability of each parent to pay towards the maintenance of the child.

PART X

CHILD PROTECTION, CARE AND SUPERVISION PROCEEDINGS

Infringement of
child's rights

89.-(1) Where a child's rights are being infringed, the head of the social welfare department on behalf of the local

government authority or an interested person may, in accordance with section 95(3) of the Act, make an application to the court for-

- (a) any relief or order as the circumstances may require; and
- (b) in the case of a parent, an order that the parent execute a bond to exercise proper care and guardianship of the child.

(2) The local government authority may, in accordance with section 95 (3) of the Act, make an application under this Rule where-

- (a) a social welfare officer has requested the person infringing the child's right to take action or refrain from certain forms of action, and that person has refused or failed to do so; and
- (b) the issue cannot be dealt with under any other provisions of the Act.

(3) An application for an order under section 95 (3) of the Act shall be made on JCR Form No. 4 of the Third Schedule of these Rules and shall include-

- (a) the name and, where possible, the date of birth of the child;
- (b) if known, the whereabouts of the child;
- (c) the full name of the parties to the application together with their relationship to the child;
- (d) a statement of facts setting out the background to the case and the rights of the child that are being infringed; and
- (e) the relief sought.

(4) Where an allegation is made in the proceedings that the child is suffering or is at risk of suffering harm, the social welfare department of the district in which the child ordinarily resides or is located shall be a party to the proceedings.

(5) The court may, in the exercise of its powers under section 95(3)(a) of the Act, provide the child with protection and make any order or determine any issue in respect of infringement of the child's rights including, but not limited to-

- (a) orders to restrain publicity;
- (b) orders to prevent an undesirable association;
- (c) orders relating to medical treatment, including the obtaining of a DNA test;
- (d) orders to protect abducted or trafficked children, or children where the case has another substantial foreign element;
- (e) orders for the return of children to and from another country ; and
- (f) an order that the social welfare department undertake an initial investigation to determine whether the child is suffering or is at risk of suffering significant harm.

(6) The court may, in exercising its powers under s.95(3) of the Act order that parental rights be vested with the Commissioner and the parents' exercise of their parental rights shall be restricted to the extent that the court deems necessary.

(7) Where parental rights are vested with the Commissioner, the court may order that day to day care and control of the child be given to a named individual or to the head of the social welfare department, save that no important step shall be taken in the child's life without the consent of the court.

(8) Parental rights shall remain vested with the Commissioner unless and until the court discharges the order.

(9) Where the Commissioner has parental rights as a result of an order made pursuant to section 95(3)(a), the child shall not be removed from the United Republic of Tanzania

without the court's consent.

A child in need of protection

90. A child shall be regarded as being in need of care and protection if he is suffering significant harm or is at risk of suffering significant harm, as defined in the Child Protection Regulations, and one or more of the circumstances contained in section 16 or 144 of the Act applies.

Application for care and supervision order

91.-(1) An application for a care or supervision order may be made by the local government authority of the district in which the child ordinarily resides, or if the child is without parental care, the district in which the child is found or is located as set out in JCR Form No. 3 in the Third Schedule of these Rules.

(2) The respondents to the action shall be-

- (a) the parents of the child;
- (b) any guardian of the child;
- (c) any person who was caring for the child immediately before the application was made; and

(d) the child who is the subject of an application.

(3) An application shall include-

- (a) the name and, where possible, the date of birth of the child;
- (b) the full name of the respondent parents and any other parties to the application together with their relationship to the child; and
- (c) whether the application is for a care order or a supervision order;

(4) The following documents shall be filed with the application -

- (a) an initial statement from a social welfare officer in accordance with the Child Protection Regulations;

- (b) the care or supervision plan for the child, containing information as set out in the Child Protection Regulations;
- (c) an initial investigation report conducted under the Child Protection Regulations, if this has been finalised at the time of the application;
- (d) the social investigation report conducted under the Child Protection Regulations if this has been finalised at the time of the application;
- (e) evidence that the parents guardian or carer have been informed of the intention of the local government authority to make an application for a care or supervision order and of the right to be represented in accordance with the Child Protection Regulations,

Provided that where an application is made on an emergency basis, the documents required to be attached to an application may be provided in accordance with the directions of the court.

(5) An application for a care or supervision order shall be served on the respondents by the court within forty eight hours of it being filed

First hearing of
an application

92.-(1) The first hearing shall, as soon as practicable after an application is made and not later than forty eight hours after an application is filed, take place at which the court shall set the time -

- (a) for the documents required in Rule 91(4) to be served if such documents have not already been filed and served by the applicant local government authority;
- (b) by which any respondent, other than the child who is the subject of the proceedings, shall file an answer to the application, a statement and any

further evidence on which he intends to rely; and

- (c) by which the applicant may file a statement in reply.

(2) Without prejudice to sub-rule (1), the court may make directions on the following matters:

- (a) whether service of the application on certain parties can be dispensed with;
- (b) whether proceedings or any part of the proceedings should be expedited;
- (c) whether any other person should be made a party to proceedings;
- (d) the appointment of a guardian ad litem for the child unless one has already been appointed;
- (e) attendance of the child or any other person before the court;
- (f) the filing of evidence including any expert evidence; and
- (g) whether the parties and their representatives should meet at any stage of the proceedings and the purpose of such a meeting.

(3) Wherever practicable and where it will not cause undue delay the magistrate conducting the first hearing shall retain conduct of the case until the conclusion of the final hearing.

Application to be
joined as a
respondent

93.-(1) An interested person may apply to the court for special leave to be joined as a respondent to the application for a care or supervision order.

(2) The court shall, in deciding to grant special leave have particular regard to-

- (a) the applicant's relationship with the child;
- (b) whether the applicant is a potential carer for the child;
- (c) the view of the local government authority in

- relation to joinder; and
- (d) whether the best interests of the child are served by joinder.

Interim care or
supervision order

94.-(1) The court may, at the first hearing of an application for a care or supervision order, or at any time before the completion of the final hearing, make an interim care or supervision order.

(2) Where an application for a care order is made following the removal of a child to a place of safety and it has not been possible to locate and serve the parent, guardian or carer with the application before the cessation of the place of safety, an emergency interim care order may be made for a period of seventy two hours to permit service to be effected or to be dispensed with.

(3) An interim care or supervision order shall be made for such period as may be specified in the order, not exceeding a period of eight weeks from the date on which the order is first made.

(4) An interim order may be renewed for a period of twenty eight days.

(5) Where the parties consent in writing to a renewal of the interim care or supervision order, the court may renew the order without the parties appearing before the court.

(6) Where an interim order is made by the court, the court may direct-

- (a) the social welfare department on behalf of the local government authority; or
- (b) any other party to the proceedings,
to arrange a medical or psychiatric examination, assessment or report of the child or of any respondent to the proceedings.

Expert evidence

95. When a child is the subject of an application for a care or supervision order, a person shall not cause the child to be medically or psychiatrically examined, or otherwise

assessed for the purpose of preparation of expert evidence for use in the proceedings without the court's permission.

Agreement of
facts by the
parties

96. The court shall require the parties prior to the final hearing of the application to draft a document which contains the fact of the application on which they agree and the fact of the application on which they disagree.

Hearing the
parties

97. -(1) Subject to any directions given under sub-rule (2), the parties and the child's guardian ad litem, shall adduce their evidence at any hearing on an application under this Part in the following order-

- (a) the applicant;
- (b) a parent, guardian or carer of a child;
- (c) other respondents to the application;
- (d) the child through his guardian ad litem; and
- (e) the child if he is a party to proceedings and there is no guardian ad litem.

(2) The court may permit a witness to give evidence without following the order set out in sub-rule (1), where it is in the best interest of the child necessary in the interests of justice.

Orders that may
be made on
application for a
care order

98.-(1) The court may, on an application for a care order, make an order-

- (a) placing the child with respect to whom an application was made in the care of the applicant local government authority;
- (b) placing the child under the supervision of the applicant local government authority;
- (c) for a search and production order in accordance with Part XI of the Rules; or
- (d) for an exclusion order in accordance with Part XII of the Rules.

(2) The court may on its own motion make a supervision order instead of a care order, if it finds that such order is in the best interests of the child.

(3) Where the court prefers a supervision order than a care order it shall adjourn the proceedings to permit the local government authority to produce a supervision plan.

(4) Where the proceedings for a care order are adjourned, the court may make an interim care or an interim supervision order with respect to the child concerned.

(5) The court shall not make a care order regarding a child until it has considered the care plan.

Freeing a child
for adoption

99.-(1) Where the court makes a care order and the local government authority has filed evidence that all the persons with parental rights and responsibilities have consented to the child being placed for adoption in accordance with the Child Protection Regulations and the Adoption of Children Regulations, the care order shall record that the child is free for adoption and may be placed with adoptive parents.

(2) Where the court makes a care order while the care plan is for adoption, it shall dispense with parental consent to adoption and shall make an order freeing the child for adoption if-

- (a) the parent or guardian cannot be found; or
 - (b) one or both parents or the guardian are unknown; or
 - (c) the parents or guardian lack capacity to consent; and
 - (d) no other person with parental rights and responsibilities under an agreement or court order is known or can be found,
- (3) The court shall, in determining whether a parent

cannot be found, ensure that reasonable enquiries have been made of those likely to know where the parent, guardian or any other person with rights and responsibilities under an agreement or court order is residing, including family members and the last known employer.

(4) The court shall, in determining whether a person is unable to give consent consider-

- (a) whether the parent has the capacity to give consent, and
- (b) the likely period of time that the parent is likely to lack capacity, bearing in mind the desirability of the child being brought up within the birth family.

(5) Where-

- (a) an application has been made for a care order; and
- (b) the care plan is for adoption; and
- (c) the parents, guardian or other person with rights and responsibilities under an agreement or court order do not consent to the adoption; and
- (d) the parents, guardian or other person with rights and responsibilities under an agreement or court order have neglected or persistently ill-treated the child or have failed to protect the child against neglect or persistent ill-treatment by another person,

the local government authority may make an application for an order freeing the child for adoption on the ground that consent is being unreasonably withheld.

(6) The court shall, in determining whether the child has been neglected or persistently ill-treated, take into account-

- (a) any social enquiry report, social investigation

report or assessment of the child and the parent guardian or other person with rights and responsibilities under an agreement or a court order undertaken by the applicant local government authority or a local government authority in whose area the child previously resided;

(b) the period of time the child has been cared for outside their family, if any, and the frequency of contact between the child and the parents during that time; and

(c) any abuse or violence used against the child by his or her parents.

(7) The court shall, in deciding whether consent is unreasonably withheld, take into account-

(a) the right of the child to grow up in a family environment;

(b) the needs of the child for a permanent alternative family;

(c) any bonds that the child has with the birth family; and

(d) the likelihood of the child being reunified with the birth family within a timeframe that meets the child's needs.

(8) The court shall, in reaching its decision on whether to dispense with consent, take oral evidence from the assigned social welfare officer as to the best interests of the child.

(9) The court shall, in reaching its decision on whether to dispense with consent under this Rule, take into account that any delay in making decisions about a child's care can be justified if it is in the child's best interests.

(10) A parent, guardian or other person with rights

and responsibilities under an agreement or court order may, in accordance with the provisions of the Code make an application to the court to set aside the care order and the order freeing the child for adoption.

(11) Where consent has been dispensed with under this Rule, and no application has been made to set aside the order or an application for set aside has been refused, and any appeal has been refused, the court shall-

- (a) record the child as free for adoption;
- (b) the local government authority may place a child for adoption with adoptive parents; and
- (c) the consent to adoption granted under this Rule shall not be the subject of challenge in any other court.

(12) When an adoptive parent makes an application for adoption or open adoption, and consent was dispensed with under this Rule -

- (a) there shall be no requirement to notify the parent or guardian or other person with rights and responsibilities under an agreement or court order that an adoption application has been filed and no requirement to make the parent or guardian or other person with rights and responsibilities under an agreement or court order a party to the proceedings;
- (b) the local government authority shall be made a party to the application.

Criteria for
making a care
order

100. A court may make an interim care or supervision order or a care or supervision order or an interim care or supervision order if it is satisfied-

- (a) that the child concerned is suffering or is likely

- to suffer significant harm; and
- (b) that the harm or likelihood of harm is attributable to -
 - (i) the care or lack of care given by the parent to the child; or
 - (ii) the child being beyond parental control; and
- (c) that the making of such an order is in the best interests of the child.

Parental rights
under care order

101.-(1) Where a care order or an interim care order is in force with respect to a child, the local government authority shall-

- (a) have parental rights and responsibility over the child; and
- (b) have the power to determine the extent to which the parent or any person who has been granted parental rights by the court shall exercise parental rights and responsibilities over the child.

(2) The local government authority shall only limit the exercise of parental rights to the extent that is necessary to safeguard and promote the child's welfare.

(3) While a care order is in force-

- (a) the local government authority or any person caring for the child shall not-
 - (i) change the child's names; or
 - (ii) change the child's religion, or
 - (iii) consent to the child's marriage,without an order from the court;
- (b) the local government authority shall not remove the child, or permit anyone acting on its behalf to remove the child from the United Republic of Tanzania, except in accordance with sub-rule (c) below, without the consent of the court;

- (c) sub-rule (b) above shall not prevent the removal of a child subject to a care order from the United Republic of Tanzania for a period of not more than twenty eight days provided that the person taking the child has obtained the written consent of the local government authority.

(4) Sub-rule (3)(b) shall not apply where the care plan is for the child to live outside the United Republic of Tanzania.

(5) This Rule shall not apply where the care plan is for adoption and the court has ordered that the consent of the parents to an adoption be dispensed with in accordance with Rule 99.

Arrangement for
access with a
child under care
order

102. The local government authority shall, on an application for a care order set out in the care plan the arrangements for access between the child and-

- (a) his parent;
- (b) his guardian;
- (c) any person who had care of the child immediately before the application for a care order was made; and
- (d) any other named person who is important to the child.

Application for
an order for
access to a child
in care

103.-(1) The court may, on an application by the local government authority or any person named in Rule 102(a) to (d), make an order for access with the child and may include the time and location of the access.

(2) The court may, on an application by the local government authority or by the child, make an order authorising the authority to refuse access between the child and any person named in sub-rule (1) and named in the order.

(3) The court may, when making a care order with respect to a child, make an order under this Rule, even though no application for such an order has been made with respect to the child, if it considers that such an order has to be made.

Duration of a
care order

104. A care order may be made for a maximum period of three years or until the child reaches the age of eighteen whichever is earlier.

Making an
application for a
further care order

105.-(1) A local government authority may make an application for a care order upon the expiry of a first or subsequent care order provided that the child is under the age of eighteen at the time of application.

(2) An application shall be filed by the local government authority that obtained the original order, save that where there has been a period of time between the expiry of the original order and the application for a new order, the application shall be made by the local authority where the child is ordinarily resident, has been found or is located.

(3) The application shall be made in accordance with Rule 91 and shall include-

- (a) a statement setting out the reasons why an application is being made for a second or subsequent care order;
- (b) any social investigation of the family undertaken for the purposes of reintegration;
- (c) a care plan setting out the arrangements that are to be made for the child containing the information set out in the Child Protection Regulations;
- (d) the minutes of the pre-discharge case review conference conducted in accordance with the Child Protection Regulations under the previous care order; and

- (e) a copy of the original care order and any further care orders made by the court.

Discharge of a
care order

106.-(1) An application for discharge of an order under Section 23 of the Act shall be made in the format as set out in JCR Form No. 11 in the Third Schedule to these Rules and a statement setting out the reasons for discharge and the arrangements to be made for the child shall be included.

(2) Where an application is made for discharge by the child:-

- (a) the local government authority shall be made as a party to the proceedings; and
- (b) the child shall be assisted in the proceedings by a guardian ad litem.

(3) Where a child who has applied for the care order to be discharged does not have a guardian ad litem, the court shall appoint one on receiving the application and shall, wherever practicable, appoint the same guardian ad litem that represented the child in the care proceedings.

(4) Where an application to discharge the care order is made by a parent, the child and the local government authority shall be named as parties to the proceedings.

(5) Where the local government authority has applied to discharge the care order-

- (a) the child and the parents or guardian shall be made as parties to the proceedings, and a guardian ad litem appointed for the child;
- (b) it shall file a discharge care plan in accordance with the Child Protection Regulations.
- (6) A care order shall only be discharged where-
 - (a) the court is satisfied that a care order is no longer required to safeguard the welfare of the child;
 - (b) the discharge care plan safeguards and

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- promotes the welfare of the child; and
- (c) discharge is in the best interests of the child.

A supervision
order

107.-(1) A supervision order may be made to prevent significant harm occurring to the child while the child remains in the family home in the care of his parent, guardian or relative.

(2) A supervision order shall not require that the child live anywhere other than with his family.

Orders that may
be made on
application for
supervision order

108.-(1) The court may, on an application for a supervision order, make an order-

- (a) placing the child under the supervision of the applicant local government authority;
- (b) placing the child with respect to whom an application was made in the care of the applicant local government authority;
- (c) for a search and production order in accordance with Rule 111; or
- (d) for an exclusion order in accordance with Rule 116.

(2) The court may make a care order instead of a supervision order on its own motion, such order is in the best interests of the child.

(3) The court shall, before making a care order on its own motion, adjourn the proceedings to permit the local government authority to produce a care plan.

(4) Where the proceedings for a supervision order are adjourned, the court may make an interim supervision or an interim care order with respect to the child concerned.

(5) The court shall not make a supervision order on a child until it has considered the supervision plan.

Duration of
supervision order

109.-(1) A supervision order may be made for a

period of one year or until the child reaches the age of eighteen years whichever is the earlier.

(2) The order referred to under the sub-rule (1) shall be made with the consent of a parent or guardian.

(3) A supervision order may be extended on the application of the local government authority for a further period of one year or until the child reaches the age of eighteen years, whichever is the earlier.

(4) The court shall only extend an order where the criteria contained in Rule 100 continue to apply and-

- (a) such extension is in the best interests of the child;
- (b) the parent or guardian consents; and
- (c) the child consents.

Supervision
authority

110.-(1) A supervision order shall place a child under the supervision of the local government authority that made the application,

Provided that where the child will live in the area of another local government authority for the duration of the order, the child shall be placed under the supervision of that local government authority.

(2) Where the supervision plan is for the child to live in another local government authority that local government authority shall be notified by the applicant local authority at the time of filing the plan with the court.

(3) The other local government authority shall have the right to apply to be made a party to the proceedings.

PART XI

SEARCH AND PRODUCTION ORDER

Application for a
search and
production order

111.-(1) Where a local government authority has made an application for a care order or a supervision order,

the local government authority may apply for a search and production order under Section 29(2) of the Act in the format set out in JCR Form No. 5 in the Third Schedule of these Rules where-

- (a) there is reasonable cause to believe that a child is suffering or is at risk of suffering significant harm;
- (b) the local government authority has decided to undertake an investigation; and
- (c) the local government authority has sought to exercise its powers under s.96(1) of the Act to search premises where the child is kept and is unable to locate the child.

(2) The application shall-

- (a) name the child;
- (b) name each parent or guardian and any person who it believes have care of the child and provide an address and any other contact details.
- (c) contain the facts on which the local government authority relies to prove that the child is suffering or likely to suffer significant harm and the harm that is likely to be caused if a search and production order is not granted;
- (d) name the premises in which it is believed the child is being kept; and
- (e) the attempts that have been made to locate the child.

Powers of the court on an application for search and production order

112. Where the court is satisfied that the conditions in Rule 111(1) are met, it may-

- (a) grant the local government authority the power to enter named premises and remove the child, or any other child found in the premises who is suffering or is at risk of suffering significant

harm, to a place of safety; or

- (b) require the parent or guardian to produce the child at a place and time to be determined by the court and no later than seven days after the order was made.

Ex-parte search
and production
order

113.-(1) Where the local government authority has reasonable cause to believe that if the parent, guardian or carer is notified of the application for a search and production order, that person may remove the child from the premises where he is believed to be present, the local government authority may make an *ex parte* application to the court or, if the court is not sitting, to a court of competent jurisdiction.

(2) An *ex parte* application shall be heard by the court on the day that it is lodged.

(3) If an *ex parte* order is made by the court, the order may be executed, but the parent, guardian or carer shall be shown the order at the time the social welfare officer enters the premises.

(4) Where an *ex parte* order is granted, the parent, guardian or carer shall have the right to make an application to set aside a search and production order in the court within seventy two hours of the order being executed.

Procedure for a
search and
production order
inter parties

114.-(1) An application made *inter parties* shall be heard within forty eight hours after the notice is served.

(2) Where all reasonable steps to locate the parent, guardian or carer for the purpose of service of notice have been unsuccessful, and the court has been notified of this, the application shall be heard by the court on the day of notification.

Staying an
application for a
care and

115.-(1) When a search and production order is made, the application for a care or supervision order may be stayed

supervision order or discharged by the court.

(2) Where the court decides to stay the application for a care or supervision order, the court shall-

- (a) set a period of time for which the application shall be stayed; and
- (b) give reasons for the stay.

PART XII

EXCLUSION ORDER

Application for
an exclusion
order

116.-(1) Where an application for a care or supervision order or an interim care or supervision order has been made and there is evidence that a child is suffering or is likely to suffer significant harm, and that the significant harm would cease to exist if a named person was removed from the child's home or was prevented from having any contact with the child, an application for an exclusion order under Section 28 of the Act may be made by-

- (a) the local government authority;
- (b) a parent, guardian or carer; or
- (c) a child who is the subject of the care or supervision proceedings.

(2) The respondent to an application shall be the person that the applicant seeks to exclude, and may include a person who is not a party to the care or supervision proceedings.

(3) An application for care or supervision order shall be made by filing JCR Form No. 10 as set out in the Third Schedule together with an affidavit of the evidence in support of the application.

(4) The application shall be served on the respondent by the court within seventy two hours, unless an application is made ex parte and the matter shall be heard within seventy two hours of the service of the application.

Application of
an ex-parte
exclusion order

117.-(1) Where it is necessary to protect the child or the person looking after the child, an application for an exclusion order may be made ex parte.

(2) Where an exclusion order is granted ex parte, the court shall serve the order on the relevant person and inform the person of that person's right to apply to vary or discharge the exclusion requirement.

(3) Where the court refuses to make an ex parte order, it may direct that a further inter parties hearing be granted on the application on a date to be fixed.

Criteria for
granting
exclusion order

118. Where on an application for a care or supervision order, the court may, is satisfied-

- (a) that a child's welfare could be safeguarded by removing a named person from the child's home or excluding a person from entering a home; and
 - (b) a parent or some other person in the home is able and willing to give the child a level of care that would safeguard the child's health and development,
- it shall make an exclusion order.

Terms of an
exclusion order

119. The exclusion order may-

- (a) require a named person to leave the home in which he is living;
- (b) prohibit a named person from entering a home in which the child is living;
- (c) prohibit a named person from entering a defined area around the home in which the child is living; and
- (d) prohibit a named person from contacting or

speaking to the child concerned or to persons looking after the child.

Duration of an exclusion order

120.-(1) The duration of the exclusion order shall be specified and may be for as long as is necessary to protect the child from suffering or being at risk of suffering significant harm.

(2) An order shall be subject to a review by the court no later than six months after it has been made.

Varying or discharge of an exclusion order

121. An exclusion order made under this part may be varied or discharged on the application of the named person, a party to the care or supervision order or proceedings or on the court's own motion.

Breach of an exclusion order

122.-(1) The local government authority shall serve the exclusion order on the respondent.

(2) A breach of the exclusion order may be returned to the court and shall be heard by court within forty eight hours of it being notified.

(3) Where a breach of the exclusion order is proved to the satisfaction of the court, the court may make such orders as it deems fit.

PART XIII APPEALS

Appeals

123.-(1) The court shall, when a finding, sentence or order is made or passed, inform the parties that they have fourteen days in which to enter an appeal.

(2) An appeal shall be made in the form of a memorandum in writing in Kiswahili or English and state briefly the grounds of objection to the decision, sentence or order appealed against and be accompanied by a copy of the

proceedings, judgment or order appealed against, unless the High Court otherwise directs.

(3) The memorandum of appeal shall-

- (a) be lodged with the court which heard the matter in the first instance;
- (b) within 30 days upon receipt, be transmitted with the High Court, together with the complete record of the Court proceeding to which the appeal relates.

PART XIV

GENERAL PROVISIONS

Amendment and
formulation of
schedules

124. Save as otherwise provided, the forms set out in the Schedules to these Rules, shall be used in applications under the Act, and the Chief Justice may amend or develop any such forms or registers as he may deem necessary for proper operationalisation of the Act and these Rules.

Revocation
GN No.
251 of 2014

125. Law of the Child (Juvenile Court Procedure) Rules, 2014 are hereby revoked.

SCHEDULES

FIRST SCHEDULE

INFORMATION TO BE RECORDED ON A CRIMINAL CASE FILE

(Made under Rule 17)

- (1) A criminal case file shall contain the following information:
- (a) parties of the case (Republic -versus - name of the child)
 - (b) the category of case
 - (c) the name of the court and the location (District and Region);
 - (d) case number and year;
 - (e) details about the child, including:
 - (i) the name of the accused child;
 - (ii) the gender of the accused child;
 - (iii) the ethnicity of the accused child;
 - (iv) the accused child's date of birth, if available; and
 - (v) the child's place of residence,
 - (f) date of commencement of hearing;
 - (g) charge against the accused child and the date the charge was read (each charge to stand separately);
 - (h) plea;
 - (i) findings;
 - (j) date of findings
 - (k) sentence;
 - (l) notice of any appeal made and the date of any such appeal;
 - (m) the name of the Magistrate;
 - (n) the name of the prosecutor;
 - (o) the name of any advocate or guardian ad litem or parent or other representative of the child; and
 - (p) any other information for the time being applicable
- (2) Without prejudice to the requirement under paragraph (1), during the proceedings of the case the court shall ensure that it takes records of the following information;
- (a) details of the parents including -
 - (i) the name of the child's mother, father, guardian or other carer;
 - (ii) the parents' place of residence if different to that of the child;
 - (iii) the parents' telephone number and email address, if available;
 - (b) other information such as -

- (i) that the child was granted or denied bail, and, in the case of denial, the reasons for such denial ;
 - (ii) the calling for records or forward of case to the High Court
 - (iii) diversion that has been considered/recommended by the prosecutor;
 - (iv) recommendation by the magistrate to the prosecutor to consider diversion and the outcome of that recommendation;
 - (v) date of each hearing and the directions, orders or decisions taken;
 - (vi) the presence or absence of the accused child at each hearing;
 - (vii) the parent or guardian who attended the hearing;
 - (viii) a request that was made for the assistance of an interpreter or any other request for assistance;
 - (ix) adjournment that is requested, the reason for the request and whether an adjournment was granted;
 - (x) details of any charge withdrawn or dismissed;
 - (xi) a social enquiry report ordered and provided,
- (c) such other information as the Chief Justice may from time to time require or that the Registrar of the court of Appeal considers appropriate.

SECOND SCHEDULE

INFORMATION TO BE RECORDED ON A CIVIL CASE FILE

(Made under Rule 18)

- (1) A civil case file shall contain the following information -
 - (a) the name of the applicant/s and all parties to the proceedings, including the name of any party joined part way through the proceedings;
 - (b) the category, number and year of the case;
 - (c) the court and location (District and Region);
 - (d) date of filing the application/ case;
 - (e) relevant court fees paid, number and date of receipt;
 - (f) date of ruling/judgment;
 - (g) notice of appeal (if any) and the date of the appeal;
 - (h) the name of magistrate;
 - (i) the name of the advocate, guardian ad litem or other representative;
 - (j) such other information as the Chief Justice may from time to time require or that the Registrar of the court of Appeal considers appropriate.
- (2) Without prejudice to paragraph (1), during the proceedings the court shall make sure the following information is recorded in the file -
 - (a) the date of birth of any child who is the subject of the proceedings, if available;
 - (b) the name of the child's parents;
 - (c) the child's ordinary residence;
 - (d) the parents' place of residence if different to that of the child;
 - (e) the parents' contact details;
 - (f) the calling of records or forward of case to the High Court;
 - (g) the date of each hearing and the directions, orders or decisions taken;
 - (h) a request for the assistance of an interpreter or any other request for assistance;
 - (i) a request for adjournment, the reasons thereof and whether the adjournment was granted; and
 - (j) determination, direction, order or judgment.

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

THIRD SCHEDULE

FORMS

JCR Form No. 1

TITLE OF PROCEEDINGS

.....

IN THE JUVENILE COURT OF (Region)

AT

MISCL CIVIL/CRIMINAL APPLICATION/CIVIL CASE No.....

OF 20.....

In the matter of the Application/Petition for.....

(Under the Law of the Child Act 2009)

Between

.....

(State name of Applicant(s) or (where appropriate) Petitioner(s))

And

.....

(State the name of Respondent(s))

APPLICANT or
where appropriate
PETITIONER

RESPONDENT

.....

(State name of Child where appropriate)

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 2

(Title as in Form 1)

NOTICE OF DATE OF HEARING/MENTION/JUDGEMENT/RULING

TAKE NOTICE that the above mentioned case has been fixed for/hearing/ mention/ ruling/ judgment on theday of20.... at.....

A copy of the Petition/Application lodged in the Juvenile Court at on the day of 20.....is enclosed herewith.

YOU are required to appear in this court without fail and must produce on that day all documents upon which you intend to rely in support of your case.

GIVEN under my hand and SEAL of the court this day of 20....

.....
MAGISTRATE

TO BE SERVED UPON:

.....
.....
.....
.....

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR form No. 3

(Title as in Form 1)

APPLLLICATION FOR CARE/SUPERVISION/INTERIM ORDERS

(Made under Rules 91 (1))

I, A.B.

[name and description of applicant] as the APPLICANT

C.D.

[name and description of respondent (parent, guardian or carer)] as the RESPONDENT

E.F.

[name and description of the co-respondent, if any] as the CO-RESPONDENT

Name of the Child(ren) (Child 1).....

(Child 2).....

Date of birth. (Child 1).....(Child 2).....

Gender (F/M) . (Child 1).....(Child 2).....

Is the child(ren) subject of child protection plan?.....(Yes or No)

Are there any health or disability issues relating to the child?.....(Yes or No)

Who does the child(ren) live with?.....

Name of Father.....

Name of Mother.....

Name of carer.....

Is there parental responsibility?.....(Yes or No)

Are there any contact arrangements in place for this child?.....(Yes or No)

If the answer is yes give details -

Name of contact person.....

Relationship with the child(ren).....

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

Frequency of contact.....

Is it a supervised contact?.....(Yes or No)

Grounds for this application are set forth in the annexed affidavit.

(i).....

(ii).....

Is the child(ren) receiving care that would be reasonably expected from a parent?.....(Yes or No)

Is the child(ren) beyond parental control?.....(Yes or No).

Any other information relevant to the

case.....

.....

.....

..... (give details)

All document filed with this application must be clearly marked with their title and numbered consecutively.

VERIFICATION

I.....do hereby solemnly verify all that is stated herein above is true to the best of my knowledge.

Signed this.....day of.....20.....

.....

APPLICANT

Filed this.....day of.....20.....

.....

MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 4

(Title as in Form 1)
CHAMBER SUMMONS

(Made under **section 89(3)**)

LET ALL THE PARTIES to the above proceeding appear before the Juvenile Court of
.....(Region and District) in
court/chamber on the day of 20..... at o'clock in the
forenoon for the hearing of an application by.....for
the following orders:

- (a) That this Hon. court.....
.....
- (b) That this Hon. court.....
- (c) Any other order(s) this Honourable court and equitable to grant.
This summons is taken on the grounds and reasons set out in the affidavit of
..... which is annexed hereto and on any other grounds and
..... reasons to be adduced with leave of the court, at the
hearing of the application.

GIVEN under my hand and SEAL of the court this day.....of20....

.....
MAGISTRATE

Presented for filing this.....day of.....20.....

.....
COURT CLERK

Drawn and filed by:

.....
.....

To be served upon:

.....

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 5

(Title as in Form 1)

(INTER PARTES OR EX-PARTE)

CHAMBER APPLICATION FOR SEARCH AND PRODUCTION ORDER

(Made under Rules 111)

I, A.B.

[name and description of applicant] as the APPLICANT

C.D.

[name and description of respondent (parent, guardian or carer)] as the RESPONDENT

Name of the Child(ren) (Child 1).....

(Child 2).....

Date of birth. (Child 1).....(Child 2).....

Gender (F/M) . (Child 1).....(Child 2).....

Address

Address or telephone number of contact Person who has care and actual control of a child.....

.....

Details which identify the child.....

Any attempts made to locate the child.....

.....

The grounds for application -

.....

.....

.....(Affidavit)

Signed this.... day of.....20....

.....

APPLICANT

Filed this.....day of.....20....

.....

MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No.6

(Title as in Form 1)
PETITION FOR PARENTAGE

(Made under Rule 56(1))

The petition of A.B. of (address) [showeth-

1. The Petitioner(s) is a natural person and resident of.....and her address of service for purposes of this petition is:
.....
.....
2. Your Petitioner A.B. is by occupation a
.....
3. Your Petitioner A.B. is years of age.
4. The Petitioner(s) is (are) desirous of declaring parentage of the said C.D. under the provisions of the Law of the Child Act.
5. Your Petitioner A.B. claims that the said C.D. are related in the following manner:
 - (a) The said C.D. is the son/daughter of the
 - (b) the father of.....;
 - (c) isyears of age, having been born
at.....on.....;
 - (d) resident at
 - (e) now in the actual custody of
.....
of(address);
6. The Respondent (s)
Full name.....
Date of birth.....
Place of birth.....
Address
7. Reasons for making this application

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

.....
.....
.....
.....
.....

..... [Give details of why you are making this application, including details of the facts you allege to justify making this application]

8. If you are aware of any other court case, which concern the parentage of the person whose parentage is in question.

(a) Name of the court where the proceedings was heard

(b) Case number.....

(c) Parties of the case.....

WHEREFORE the Petitioner prays for the following orders:

(a) Declaration that respondent /petitioner as the father of.....

(b) That respondent/petitioner pay maintenance of..... (including arrears)
fromto.....

(c) To continue pay maintenance until completion of(school)

(d) The petitioner/respondent to have a sole custody of the child(ren)

(e) That the petitioner/respondent be allowed access of the
child(ren).....

(f) Cost of the petition.

(g) Any other relief this Honourable court may deem just and equitable to grant.

Signed this..... day of..... 20.....

.....
PETITIONER

VERIFICATION

All that is stated in paragraphs 1 to 9..... is true based on my knowledge.

Verified at Dar-es-Salaam this.....day of.....20.....

.....
PETITIONER

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 7

(Title as in Form 1)
CHAMBER APPLICATION FOR MAINTENANCE

(Made under Rule 83(1))

I, AB..... the Applicant

A resident of

A[employed/self employed not employed]

That.....the Defendant

Is the father of a child(ren) mentioned below;

The defendant is legally liable to maintain the following child(ren) mentioned below'

1.....Born onat.....

2.....Born on.....at.....

3.....Born onat.....

The child(ren) are/is under my custody and care

The defendant is legally liable to maintain the child(ren) for reasons of

.....

The defendant has not supported the said child(ren) since..... [date] and has -
made no contribution towards maintenance/the following contribution towards maintenance [delete
as appropriate]

I, the Applicant, request that the Defendant be ordered to make the following contribution(s)
towards maintenance: A.....monthly contribution of-

AMOUNT		NAME OF CHILD	BORN
SHS.	IN RESPECT OF		
SHS.	IN RESPECT OF		
SHS	IN RESPECT OF		

The first payment shall be made onand after that on or before
the.....day of each succeeding month. All payments should be made
.....in favour of.....

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

and/or

other contributions

.....

.....[for example
medical, school fees, uniforms, expenses for sport and/or cultural activities, birth expenses and
maintenance for child(ren) from birth]

Signed thisday of.....20.....

.....
APPLICANT

Filed this.....day of.....20.....

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 8

(Title as in Form 1)

CHAMBER APPLICATION FOR CUSTODY OR ACCESS

(Under Rule 63(1))

I, AB..... the Applicant

A resident of

A(employed/self employed not employed)

Is the.....[indicate relationship] of the child(ren) mentioned below -

1.....Born onat.....

2.....Born onat.....

3.....Born onat.....

The child(ren) are/is under the custody and care of C.D

.....
.....[name]

of.....[address]

who is the[indicate the relationship of the person who has custody and care of the child(ren) to the child(ren).

That I the applicant have the right to have custody/access of the child(ren) for reasons of

.....
The applicant is requesting for sole custody of the child(ren)

a.born on.....

b.born on.....

c.born on.....

or

The court to order in favour of the applicant access of the said child(ren) in the following manner –

NAME OF CHILD	MANNER OF ACCESS	ANY OTHER REQUIREMENT	DURATION

Signed thisday of.....20.....

.....
APPLICANT

Filed this.....day of.....20.....

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 9

(Title as in Form 1)

CHAMBERS APPLICATION FOR ENFORCEMENT OF MAINTENANCE/ACCESS ORDER

(Made under Rules 81(1) and 87(1))

In the matter of a maintenance/access made by A.B of I,
F.M., of, do apply to this court for an order for the enforcement of
the [maintenance order or access
order] against on the grounds set forth in the annexed affidavit.

Dated this day of 20.....

.....
APPLICANT

Filed this..... day of20.....

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No.10

(Title as in Form 1)
CHAMBER APPLICATION FOR EXCLUSION ORDER

(Made under Rule 116(3))

The Applicant AB..... applies to
the court for an Exclusion Order in the following terms -

That the Respondent.....[name and address of named
person] be excluded from

.....
..... [address of a child's family home/ other place of residence or area]

. forthwith/from(date) until.....

[date when order shall cease to have effect].

And that the respondent.....

..... [any proposed
mandatory orders requiring acts to be done]

The grounds for this application are set out in the affidavit annexed to this application.

Signed this..... day of.....20.....

.....
APPLICANT

Filed this.....day of.....20.....

.....
MAGISTRATE

To be served upon

.....
.....

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 11

(Title as in Form 1)

CHAMBER APPLICATION TO

VARY, EXTENSION OR DISCHARGE AN ORDER IN EXISTING PROCEEDINGS

I, AB the Applicant (name)..... [name] of
.....[address]

A party to a court proceedings case number..... as an.....

I am making an application to vary, extend or discharge the court order(s) an.....order
dated.....[attach a copy of the order]

If you are applying for an order to be varied, extended or discharged details of the order which you
would like the court to make.....

.....
.....

Reason(s) for the application.....
.....
.....

Respondent to this application:

Name.....

Address.....

Signed this..... day of.....20.....

.....
APPLICANT

Filed this..... day of.....20.....

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 12

THE UNITED REPUBLIC OF TANZANIA

IN THE JUVENILE COURT OF(Region)

AT.....

Criminal Case No.....of.....

The Republic

Versus

.....

(Accused)

WARRANT OF COMMITMENT ON REMAND / REMAND ORDER

(Made under Rule 29 (3))

To the Manager of Retention Home/Superintendent of the Prison.

.....

Whereas.....

Has this day been charged before me with.....

.....

.....

.....

.....

and has been remanded till the.....day of.....20.....

This to authorize and command you to receive the said.....

.....

To produce him before this court ata.m. on the day named.

Dated thisday.....20.....

GIVEN under my hand and SEAL thisday.....20.....

.....

MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 13

THE UNITED REPUBLIC OF TANZANIA

IN THE JUVENILE COURT OF(Region)
AT.....

Criminal Case No.....of.....

The Republic

Versus

.....
(Accused)

PROBATION ORDER

(Made under Rule 51(2))

In the Juvenile Court of.....sitting at.....
the.....day of20.....

WHEREAS.....of.....(hereafter referred to as the offender)
is charged before this court with the offence of..... contrary
to.....and the court thinks that the offence is proved but is of the opinion that
having regard to the [specify -
antecedents, home surroundings, health or mental condition], or to -

(a)	Detail any
.....	extenuating
.....	circumstances
.....	in which the
It is expedient to release the offender on probation:	offence was
AND-	committed

- (a) (the offender having been convicted of the said offence):
- (b) (without proceeding to conviction):

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

THE COURT HEREBY ORDER that the child/offender shall be released subject to the following conditions:

1. That during the period of the Order the child/offender shall submit himself to the supervision of..... [Specify the person(s) who will supervise the child - parent, guardian, relative or social welfare officer and their name]
2. That for the purpose of securing the supervision of the child/offender:
 - (a) the child/offender shall receive at his home or place of residence visits from the Social Welfare Officer weekly or at such other intervals as the Social Welfare Officer may think fit: and, if so required by the Social Welfare Officer attend at his home for the purpose of such visits at times fixed by the Social Welfare Officer, and answer truly all questions put to him by the Social Welfare Officer with regard to his conduct, or residence, and
 - (b) the change of residence shall be reported forthwith to the Social Welfare Officer; and
 - (c) the child/offender shall report to the Social Welfare Officer as directed by the Social Welfare Officer.
3. That.....

List all additional conditions
as to residence and other
matters as the court having
regard to circumstances of the
case consider necessary for
securing the good conduct of
the offender or of prevention
of the same offence of the
commission of other offences

.....
.....
.....
.....
.....
4. This Order shall have effect for a period of.....from the date hereof.

Dated this.....day of20.....

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No.14A

THE UNITED REPUBLIC OF TANZANIA

IN THE JUVENILE COURT OF.....
AT.....

CRIMINAL CASE No.....of 20.....

THE REPUBLIC

VERSUS

.....
(Accused)

APPROVED SCHOOL ORDER

(Made under Rule 54(1))

WHEREAS on the.....day of.....20.....
the above named.....(information as to
whose antecedent is given in the Schedule 2 to these Rules) was charged before me and was
convicted of the offence.....

Punishable under section.....of the.....
.....

AND WHEREAS, the provisions of section 124 of the Law of the Child Act have been complied
with.

IT IS HEREBY ORDERED that the said.....
Shall be committed to custody to the Approved School subject to the provisions of the said Act.

AND IT IS FURTHER ORDERED that the said.....
shall be conveyed as soon as possible to the said school by.....
and there handed over to the custody of the Manager of the School together with a certified copy of
this order.

GIVEN under my hand and the SEAL of this court, this.....day of.....20.....

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No.14B

MATERIAL INFORMATION OF A CHILD FOR COMMITAL ORDER TO
AN APPROVED SCHOOL

(Made under Rule 54(2))

A. GENERAL AND SPECIAL PARTICULARS:

1. Name.....
2. Tribe.....
3. Date of Birth.....4. Religion.....
5. Residence.....
6. Substance of the offence.....
7. Particulars of previous convictions (if any)
8. School last attended (if any).....
9. Employment (if any) with appropriate dates.....
10. Character in employment.....
11. Undesirable associations, if known.....

B. HOME SURROUNDINGS:

12. Name and address of parents or guardian.....
13. Their religion.....
14. Their occupation.....
16. Name and address of any person interested in the child.....
- Any other relevant information.....

I certify that the above particulars are accurate and complete to the best of my knowledge and belief.

.....
MAGISTRATE

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No.15

THE UNITED REPUBLIC OF TANZANIA

IN THE JUVENILE COURT OF

AT.....

CRIMINAL CASE NO.....OF 20.....

REPUBLIC

Versus

.....

REMOVAL ORDER

(Made under Rule 37)

The Manager/ Superintendent

.....

The above named was remanded into custody until the.....day of20.....

You are ordered to produce him/her before this court on the day of,
20..... at.....

GIVEN under my hand and SEAL OF THE court this.....day of.....20.....

.....

MAGISTRATE

Summons to Witness

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No.16

THE UNITED REPUBLIC OF TANZANIA

IN THE JUVENILE COURT OF
AT.....

CRIMINAL CASE NO.....OF 20.....

REPUBLIC

Versus

.....
(Accused)

SUMMONS

(Made under Rule 37(10))

To.....

You are hereby commanded/ordered in the name of the United Republic of Tanzania to attend this court on the.....day of.....20.....at.....am/pm as witness in the above case and not to depart without leave of the court and you are hereby warned that if you shall without just excuse, neglect to obey this summons a warrant will be issued to compel your attendance, and you will furthermore render yourself liable to a fine as shall be determined by the Court.

GIVEN under my hand the SEAL of the court this.....day of20.....

This summons has been issued on the application of.....

.....
MAGISTRATE

Received a duplicate of this summons.....

(To be signed by person on whom summons is served)

Law of the Child (Juvenile Court Procedure)

G.N. No. 182 (contd.)

JCR Form No. 17

(Title as in JCR Form No. 1)

CHAMBER APPLICATION FOR REMOVAL FROM THE JURISDICTION

(Made under Rule 82)

I, A.B. [name and description of applicant as the
APPLICANT]

C.D. [name and description of respondent (parent,
guardian or carer)] as the RESPONDENT.

Name of the Child(ren) (Child 1).....
(Child 2).....

Date of birth... (Child 1).....(Child 2).....

Gender (F/M) . (Child 1).....(Child 2).....

Address

Address or telephone number of contact person who has care and actual control of a
child.....

The grounds for application -

.....
.....

(Affidavit)

Signed this.... day of.....20....

.....

APPLICANT

Filed this.....day of.....20....

.....

MAGISTRATE

Dar es Salaam,
10th May, 2016

MOHAMED C. OTHMAN,
Chief Justice