



# CHILD-HEADED HOUSEHOLDS

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## NOTE

In this publication, “Ministry” and “Minister” refer to the Ministry and Minister responsible for child protection, and “Guide” means this *Guide to the Child Care and Protection Act* (which is published in separate chapters).

EDITION  
2019

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**T**he Minister can officially recognise a household as a child-headed household when there is no parent or adult family member to care for the children in the household. A child-headed household recognised in this way will be placed under the supervision of an adult named by the children’s court or the Minister, or chosen by a NGO designated by the Minister. This adult will provide regular support and monitoring. The child who heads the household may take day-to-day decisions about the household and the children in it as if that child were an adult care-giver. A recognised child-headed household may not be excluded from any aid or services just because it is headed by a child.

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## 1. What is a child-headed household?

**In practice**, a child-headed household is a situation where children live in a household without an adult. They may prefer to stay in the household unit rather than being moved elsewhere, in order to avoid a change of community or school or to prevent the separation of siblings.

Children may live in households without adults for a range of reasons:

- ④ no relatives can be found to take care of the children
- ④ existing relatives refuse to take care of the children
- ④ relatives do not want to move in with the children in the family home following the death of their parents, while the children do not want to move away
- ④ it was the wish of the deceased parent or parents for the children to stay together in the home
- ④ the children wish to retain family assets and prevent property grabbing by relatives
- ④ the children wish to stay together in the family home and there is an older child to take care of the younger siblings.

Child-headed households became more common in Namibia when HIV/AIDS resulted in many children being left as orphans.

**Legally**, in terms of the Child Care and Protection Act, the Minister can officially recognise a household as a child-headed household if no parent or care-giver is available or able to care for the children, and a child in the household is in fact acting as the care-giver for one or more children in the household. The best interests of the children in the household are the key guideline for recognition of a child-headed household. Official recognition is designed to open the door to support for the household, such as access to grants and services, and to enable the designation of an adult supervisor for the household.

◇ Child Care and Protection Act, section 225(1)

◇ Buyi Mbambo, “Child-headed households” in C Frank, J Gallinetti, D Kassan, J O Leary, B Mbambo, J Sloth-Nielsen and A Skelton, “Draft Training Materials on the Children’s Act, Children’s Amendment Act and Regulations, Intermediate Phase/Module 2”, 22 May 2009, page 80

## Risks and challenges faced by child-headed households

- ④ The children are vulnerable to all types of abuse because the family environment that served as a safety net has been eroded.
- ④ The children are often poor or living in poor conditions, which may lead to child labour.
- ④ The children's education may be compromised as they may lack money to pay for schooling.
- ④ Other risks to the children in the household are unemployability because of poor education and lack of skills; diseases, including risk of contracting HIV; entry into commercial sex work or crime; early pregnancy; poor or no shelter; and lack of knowledge about their rights.
- ④ Economic hardships are suffered when parents are not working or money is spent on the health needs of sick family members. Children may be forced to go to work and to take on adult responsibilities in order to support the family.
- ④ Children may have to leave school to care for ailing parents and younger siblings. When one or both parents die, the pressure to leave school may become even greater. Children who remain in school may exhibit absenteeism and poor school performance.
- ④ The children in the household are likely to be malnourished or to fall ill. They are less likely to receive the medical attention and health care that they need. They may suffer from poverty coupled with discrimination or neglect by the adults in whose care they are left after the death of their parents.
- ④ The children may lose their inheritance by being cheated out of their rightful property by relatives and other people.
- ④ The children may experience emotional trauma as they cope with multiple losses in the form of death, sibling dispersal, or relocation and reconstitution of the family after the death of their parents.

◇ adapted from Buyi Mbambo, "Child-headed households" in C Frank, J Gallinetti, D Kassan, J O Leary, B Mbambo, J Sloth-Nielsen and A Skelton, "Draft Training Materials on the Children's Act, Children's Amendment Act and Regulations, Intermediate Phase/Module 2", 22 May 2009, page 81 <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.465.7155&rep=rep1&type=pdf>>

“ In Africa, orphaned and vulnerable children are traditionally cared for by family members; historically, members of the same family are under a (moral) obligation to care for one another and children were assured of being cared for either by their own parents or by a family member. In recent years, however, care for these children has become an insurmountable burden for many families, pushing them beyond their ability to cope. Extended family networks – once the pride of African care for children – have quite simply become overwhelmed by the vastly increasing number of children in need of alternative care. As the availability of alternative care arrangements ensured by the government is limited, these developments initially led to a rise in the number of families headed by aunts or grandparents. However, from the early 1990s an unprecedented rise in the phenomenon of child-headed households has been witnessed. ”

◇ Charlotte Phillips, *Child-headed households: a feasible way forward, or an infringement of children's right to alternative care?*, 2011, pages 9-10 (footnotes omitted)

## 2. Constitutional and international framework

Child-headed households are a form of “family” that warrants support and protection in terms of the **Namibian Constitution**.

General comments issued in terms of the **Convention on the Rights of the Child** have noted the need to provide special support to child-headed households to ensure their access to basic rights and services. For example, *General Comment No. 3* noted that children affected and orphaned by HIV/AIDS may end up in child-headed households when family members cannot care for them. It encourages States to provide support, financial and otherwise, to child-headed households as necessary, and to ensure that they receive community support as well. This Comment also acknowledges that orphans are best protected and cared for when efforts are made to enable siblings to remain together. *General Comment No. 20* on the rights of the child during adolescence notes that adolescent caregivers may need support on the issues of health and nutrition, and appropriate support to assist them in fulfilling their responsibilities towards the children in their care. They may need material assistance in respect of basic needs such as food, clothing and housing. Adolescent caregivers may also need support to realise their own rights to education, play and participation.

It has been noted in respect of the **African Charter on the Rights and Welfare of the Child** that children in child-headed households may be at particular risk of child marriage as well as being in need of social assistance.

The most direct international statement on child-headed households is contained in the **UN Guidelines for the Alternative Care of Children** issued in 2010:

37. Support and services should be available to siblings who have lost their parents or caregivers and choose to remain together in their household, to the extent that the eldest sibling is both willing and deemed capable of acting as the household head. States should ensure, including through the appointment of a legal guardian, a recognized responsible adult or, where appropriate, a public body legally mandated to act as guardian [...] that such households benefit from mandatory protection from all forms of exploitation and abuse, and supervision and support on the part of the local community and its competent services, such as social workers, with particular concern for the children’s health, housing, education and inheritance rights. Special attention should be given to ensuring that the head of such a household retains all rights inherent to his/her child status, including access to education and leisure, in addition to his/her rights as a household head.

### Namibian Constitution

#### Article 14(3):

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

- ◆ Namibian Constitution, Article 14(3)
- ◆ Committee on the Rights of the Child, *General Comment No. 3* (2003)
- ◆ Committee on the Rights of the Child, *General Comment No. 20* (2016)
- ◆ African Commission on Human and Peoples’ Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), *Joint General Comment on Ending Child Marriage*, 2017, paragraph 57
- ◆ UN General Assembly, *Resolution 64/142: Guidelines for the Alternative Care of Children*, A/RES/64/142, 24 February 2010, paragraph 37

## CHILDREN NEEDING SPECIAL PROTECTION

### Children affected and orphaned by HIV/AIDS

“28. Special attention must be given to children orphaned by AIDS, [and] children from affected families, including child-headed households, as these impact on vulnerability to HIV infection. For children from families affected by HIV/AIDS, the stigmatization and social isolation they experience may be accentuated by the neglect or violation of their rights, in particular discrimination resulting in a decrease or loss of access to education, health and social services. The Committee wishes to underline the necessity of legal, economic and social protections for affected children to ensure their access to education, inheritance, shelter, health and social services, as well as to feel secure in disclosing their HIV status and that of their family members when the children deem it appropriate. In this respect, States parties are reminded that these measures are critical to realization of the rights of children and to give them the skills and support necessary to reduce their vulnerability and risk of becoming infected.”

“31. Orphans are best protected and cared for when efforts are made to enable siblings to remain together, and in the care of relatives or family members. The extended family, with the support of the surrounding community, may be the least traumatic and therefore the best way to care for orphans when there are no other feasible alternatives. Assistance must be provided so that, to the maximum extent possible, children can remain within existing family structures. This option may not be available due to the impact HIV/AIDS has on the extended family. In that case, States parties should provide as far as possible for family-type alternative care (e.g. foster care). States parties are encouraged to provide support, financial and otherwise, when necessary, to child-headed households. States parties must ensure that their strategies recognize that communities are at the front line of the response to HIV/AIDS and that these strategies are designed to support communities in their determinations as to how best to provide support to the orphans living there.”

◆ Committee on the Rights of the Child, *General Comment No. 3* (2003), paragraphs 28, 31

### Adolescent-headed families

“55. A significant number of adolescents are the primary caregivers of their families, either because they themselves are parents or because their parents have died or disappeared or are absent. Articles 24 [highest attainable standard of health] and 27 [standard of living adequate for the child’s physical, mental, spiritual, moral and social development] of the Convention require that adolescent parents and caregivers be provided with basic knowledge of child health, nutrition and breastfeeding, and appropriate support to assist them in fulfilling their responsibilities towards the children they are responsible for and, when needed, material assistance with regard to nutrition, clothing and housing. Adolescent caregivers need extra support in order to enjoy their rights to education, play and participation. In particular, States should introduce social protection interventions at key stages of the life cycle and respond to the specific requirements of adolescent caregivers.”

◆ Committee on the Rights of the Child, *General Comment No. 20* (2016), paragraph 55

### Protection from risk of child marriage

“[57] Special measures should be taken to ensure that children in child headed households receive necessary social assistance and are protected from the risk of child marriage.”

◆ African Commission on Human and Peoples’ Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), *Joint General Comment on Ending Child Marriage*, 2017, paragraph 57

### 3. Criteria for recognising child-headed households

The Child Care and Protection Act sets out four criteria for official recognition of a child-headed household by the Minister:

- (1) The parent or care-giver of the household –
  - ⊗ is chronically or terminally ill
  - ⊗ has abandoned the children
  - ⊗ is imprisoned
  - ⊗ has died.
- (2) There is no adult family member available to care for the children in the household.
- (3) A child has assumed the role of care-giver for some other child in the household.
- (4) It is in the best interests of the children in the household.

Note that there is **NO** requirement that the children in a child-headed household must be related by blood or in any other particular way.

One criteria is that a child must have *in fact* assumed the role of care-giver for the other children in the household. There is no explicit mention of the *ability* of the child-head to carry out that role effectively. However, the child-head's fitness and capacity would form part of the fourth requirement that the recognition of the household as a child-headed household must be in the best interests of the other children in the household. If the child at the head of the household is not able to provide proper care for the other children, then the best interests standard could not be met.

◇ Child Care and Protection Act, section 225(1)



I am 17 years old. My brother is age 13 and my sister is age 11. Both our parents were killed in a car accident recently, and we have no close relatives. We want to stay together in our family home. I will be soon be 18, and I am almost finished with my schooling. I feel sure that I can take good care of my brother and sister, because I always helped my parents with them before they died. My mother's best friend lives next door. She does not have room to take us in, but she could act as our adult supervisor. I am going to apply to have our household recognised as a child-headed household. Then I can apply for State grants on my own. This will also help me to get access to other State services without any problems, such as enrolling my siblings in school and getting health services for them at the clinic.

## Is it in the “best interests” of children to be in a child-headed household?

Various factors can be considered in deciding whether or not it is in the best interests of children to stay in a child-headed household. These factors include:

- ④ the nature of the personal relationship among the siblings
- ④ the attitude of the siblings towards being in the child-headed household
- ④ the capacity of the older sibling to provide for the needs of the younger children, including their emotional and intellectual needs, bearing in mind that many such older siblings may have already been taking care of their younger siblings during the illness of the parent or caregiver, meaning that ongoing responsibilities are extensions of responsibilities already assumed
- ④ the likely effect that placement in another setting may have on the children in the household, including the likely effect of any separation from other siblings
- ④ the need for the child to maintain a connection with his or her siblings and family traditions.

It may *not* be in the best interests of the children to remain in a child-headed household in these circumstances:

- ④ There is a child with a disability or a child who suffers from chronic illness, requiring constant care and there is no support for his or her care.
- ④ The older child is not of sufficient maturity to take charge of the needs of the children in the household (for instance, where the child is not developmentally mature enough to understand the decision or the responsibilities involved, has unrealistic expectations, lacks experience in caring for a household and making decisions, or is unable to understand advice given).
- ④ There is no stable home environment – such as a lack of rules, boundaries, discipline or the sense of a family unit which typifies a household.
- ④ There is a threat to the children’s safety.
- ④ Being in a child-headed household will deprive the older sibling(s) of opportunities for education, work or other developmental opportunities.

◆ adapted from Buyi Mbambo, “Child-headed households” in C Frank, J Gallinetti, D Kassan, J O Leary, B Mbambo, J Sloth-Nielsen and A Skelton, “Draft Training Materials on the Children’s Act, Children’s Amendment Act and Regulations, Intermediate Phase/Module 2”, 22 May 2009, pages 85-86

## 4. Procedure for recognition of a child-headed household

**Who can apply?:** The **child heading a household** or **any other person acting in the best interests of the child heading a household** may apply for recognition of the household as a child-headed household.

For example, the application might be made by a social worker who is familiar with the situation, a pastor or a member of the community.

Note that there is **NO MINIMUM AGE** for the child who is recognised to head the household. The flexibility of this approach recognises that children mature at different stages.

**Application procedure:** The application should be made to a **designated social worker** on **Form 24A**, which is appended to the Child Care and Protection Regulations, or in a similar manner.

A “**designated social worker**” is a State or private social worker authorised by the Minister to carry out specific tasks.

◆ Child Care and Protection Act, section 33

**Evaluation by social worker:** A designated social worker must **evaluate the circumstances of the children in the household** within 14 days of receiving the application for designation of a household as a child-headed household. The designated social worker can also make this evaluation on his or her own initiative.

For example, the social worker might evaluate the circumstances of the children in a household and then advise and assist with the application for official recognition.

The evaluation must make **recommendations on three issues:**

- (1) It must recommend whether or not the household should be designated as a child-headed household, and give reasons for the recommendation.
- (2) It must recommend a specific person to act as an adult supervisor for the household or a non-governmental organisation which can be authorised to provide an adult supervisor.
- (3) It must recommend whether the child acting as the head of the household or the adult supervisor should be authorised to collect any grants due to the children in the household.

The evaluation and recommendations must be made on **Form 24B**, which is appended to the Child Care and Protection Regulations, or in a similar manner.

**Child participation:** The designated social worker who did the evaluation must **submit a copy of Form 24B to the child heading the household**. If the child disputes any aspects of the evaluation or its recommendations, the child may make **written or oral representations to the Minister**.

Participation in the process by the other children in the household is not explicitly addressed, but the evaluation should incorporate their views where possible to comply with the overarching principle of child participation.

**Monitoring:** As part of the process of recognition, the **Minister must assign a designated social worker to conduct regular monitoring** of the recognised household.

**Identifying adult supervisor:** As part of the process of recognition, the **Minister must designate an adult supervisor OR** alternatively the **Minister must identify a non-governmental organisation to assign an adult supervisor** to the household. This is discussed in detail in the following section of this chapter.

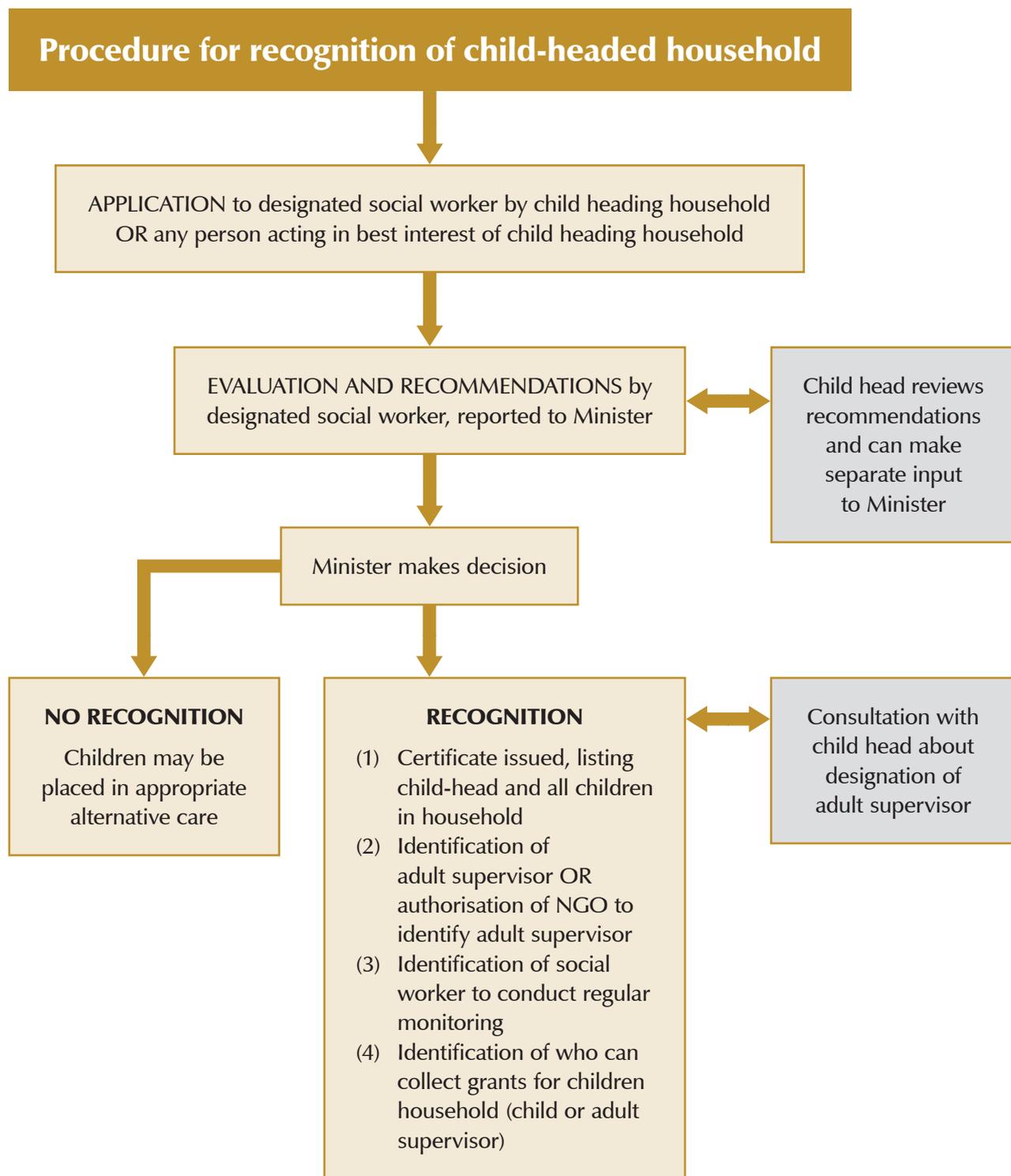
**Certificate:** If the Minister recognises a child-headed household, the Minister must issue a **certificate** to the child recognised as the head of the household on **Form 24C**, which is appended to the Child Care and Protection Regulations. This certificate must specify the child who is heading the household and state:

- (a) the full names of all children in the household
- (b) the name of the adult supervisor OR the non-governmental organisation authorised to designate an adult supervisor
- (c) the name of the social worker assigned by the Minister to monitor the household
- (d) whether the child as the head of the household or the adult supervisor is authorised to collect any grant payable to a child in the household.

**Child head of household:** The child who is the head of a recognised child-headed household may take all day-to-day decisions relating to the household and the children in the household as if that child were an adult care-giver. Furthermore, this child head of household may not be excluded from any aid, relief or other programme for poor households provided by an organ of state just because he or she is not an adult.

These rules state the key benefits of recognition of a household as a child-headed household.

- ◆ Child Care and Protection Act, section 225(1)-(2), (7)-(8)
- ◆ Child Care and Protection Regulations, regulation 86(1)-(4) and (7)-(8)



## Child-headed households versus other forms of care

The possibility of formal legal recognition of child-headed households is a new development in the law, designed to support a family form which exists in practice in Namibia. However, the Child Care and Protection Act also provides improved avenues for other forms of care. For instance, it provides accessible mechanisms for the appointment of a custodian and/or guardian for children who have no one to care for them. It also provides new options for kinship care and a new approach to foster care which creates a pool of available foster parents. As the various options for the care of children in a family-like environment become more well-known, it is possible that the number of child-headed households in Namibia may decrease.

- ◆ See Buyi Mbambo, “Child-headed households” in C Frank, J Gallinetti, D Kassan, J O Leary, B Mbambo, J Sloth-Nielsen and A Skelton, “Draft Training Materials on the Children’s Act, Children’s Amendment Act and Regulations, Intermediate Phase/Module 2”, 22 May 2009, page 84 (discussing similar developments in South African legislation)

## 5. Adult supervisors

**Necessity for adult supervision:** Every child-headed household must be placed under the supervision of an adult chosen by the children’s court, the Minister or a non-governmental organisation designated by the Minister.

The option of identifying an NGO instead of an individual is designed for a situation where it may be hard to identify an adult in the community who can provide the necessary supervision.

- ◆ Child Care and Protection Act, section 225(2)

### Requirements for adult supervisor:

An adult supervisor must –

- be **willing** to provide the required supervision of the household
- have some **social connection** with the child heading the household and the other children in the household
- live in reasonably **close proximity** to the household
- have a **police clearance certificate** issued not more than one year prior to being designated to serve as the adult supervisor.

A **police clearance certificate** shows that the adult supervisor has not been convicted of certain serious crimes. Police clearance certificates are explained in detail in Chapter 27 of this *Guide*.

### Relevant crimes

- ▷ murder
- ▷ rape
- ▷ indecent assault
- ▷ incest
- ▷ kidnapping
- ▷ any statutory sexual offence
- ▷ any offence relating to the manufacture, distribution or possession of pornography
- ▷ any offence relating to human trafficking
- ▷ abduction, excluding the wrongful removal or retention of a child by a parent with parental responsibilities
- ▷ assault with intent to cause grievous bodily harm

- ◆ Child Care and Protection Act, section 238(8)

The adult supervisor will provide regular support and monitoring for the child-headed household.

The adult supervisor does not live in the household, but is expected to make regular visits in order to fulfil the duties of a supervisor. This is the reason for the requirement that the adult supervisor must live near the child-headed household.

- ◆ Child Care and Protection Act, section 225(3)
- ◆ Child Care and Protection Regulations, regulation 86(6)

**Identification of adult supervisor:** There are three possible procedures for identification of an individual to supervise a child-headed household.

- (1) **Designation by Minister:** The Minister may designate an individual to be the adult supervisor for the household, on the basis of the recommendation made by the social worker who did the evaluation of the household.
- (2) **Designation by NGO authorised by Minister:** The Minister may authorise a non-governmental organisation to designate an adult to supervise the household.
- (3) **Designation by children’s court:** A child living in a child-headed household, or a child who lacks a suitable care-giver, may be a child in need of protective services. If a child is before a children’s court in a child protection proceeding, the children’s court can place the child in a child-headed household, or order that a child living in a child-headed household should remain there. In either case, the children’s court may designate an adult supervisor for the child-headed household.

The relationship between the provisions on child-headed households and the provisions on children’s court orders regarding such households is not entirely clear. The children’s court does not have power to designate a household as a child-headed household; this power lies only with the Minister – and the Minister is required to designate an adult supervisor or to authorise an NGO to do this at the time of recognising the child-headed household. It may be that a child protection proceeding arises due to some problem in the household where the adult supervisor has not fulfilled his or her duties properly, or where the adult supervisor has died or become unavailable. In such a case, the court might need to designate a new adult supervisor during the child protection proceeding.

- ◆ Child Care and Protection Act, sections 145(3)(g) and (h), 225(2)

**Child participation in selecting adult supervisor:** In any of these three procedures, the **views of the child heading the household** must be considered before a person is designated as an adult supervisor.

- ◆ Child Care and Protection Regulations, regulation 86(5)

**Certificate of designation:** A person designated as an adult supervisor by any of the three procedures for designation will receive a **certificate** from the designating authority on **Form 24D**, which is appended to the Child Care and Protection Regulations. This certificate will indicate

whether the adult supervisor is authorised to collect any grant payable to a child in the household. A copy of the certificate must be given to the child heading the household.

A copy of the certificate from the Minister which recognised the household as a child-headed household must be attached to the certificate designating an individual as an adult supervisor. (The authority for collecting grants for the household should be consistent in both certificates.)

◇ Child Care and Protection Regulations, regulation 86(9)-(10)

**Duties of adult supervisor:** The regulations prescribe a list of duties for adult supervisors of child-headed households:

- (a) The adult supervisor must facilitate **medical, psychological, social and emotional support and services** to members of the household when required.
- (b) The adult supervisor must ensure that children in the household **attend school** if education is legally compulsory for them, and **monitor the school reports** of such children.

Article 20(3) of the Namibian Constitution states that children are not allowed to leave school until they have completed their primary education or reached age 16, whichever comes first. Laws enacted by Parliament can make exceptions to this rule on grounds of health or other considerations pertaining to the public interest.

- (c) The adult supervisor must assist the child heading the household to **apply for any grants** for which children in the household may be eligible.
- (d) The adult supervisor must assist members of the household with **legal documentation** when required.
- (e) The adult supervisor must assist the child heading the household with **budgeting** for the use of household resources, if necessary.
- (f) The adult supervisor must **report incidents of abuse** affecting the children in the household to the relevant authority.
- (g) The adult supervisor must **report, or assist with reporting, any death within the household to the police.**
- (h) The adult supervisor must **report any death, serious injury or serious illness in the household to the designated social worker assigned to monitor the household.**
- (i) The adult supervisor must **assist with other issues as appropriate**, in response to a request from any child in the household.

◇ Child Care and Protection Regulations, regulation 87  
◇ Education Act 16 of 2001, section 53  
(in the process of being replaced by a new Education Act)

**Child participation in decisions by adult supervisor:** The adult supervisor may not take any decisions concerning a child-headed household or the children in the household without consulting the **child who is the head of the household** and the **other children in the household** (in light of their age, maturity and stage of development).

◇ Child Care and Protection Act, section 225(6)

**Complaints and withdrawal of adult supervisor:** There are several events that could trigger an investigation into the possible withdrawal and replacement of an adult supervisor:

- (1) The **child who heads a child-headed household or any of the children in the household of sufficient maturity and stage of development** can complain to a designated social worker if they are not satisfied with the way that the adult supervisor is carrying out his or her duties, or if they have any other reasonable complaint about the adult supervisor.
- (2) The **social worker assigned to monitor the child-headed household** may also be dissatisfied with the performance of the adult supervisor.
- (3) The **adult supervisor** may wish to stop acting in this capacity.

In any of these situations, the social worker in question must conduct an **investigation** and report back to the authority who designated the adult supervisor (the clerk of the children's court, the Minister or the non-governmental organisation authorised by the Minister to designate the supervisor). The social worker must make a written recommendation on the way forward, which could be that the designation of the adult supervisor should be withdrawn and a different person designated to play this role.

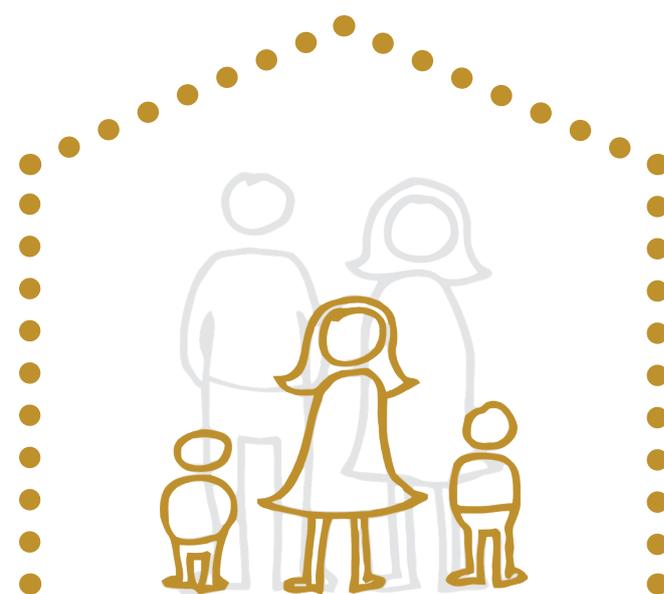
The **authority who made the designation** (the children's court, the Minister or the non-governmental organisation authorised by the Minister) must then consider the recommendation of the social worker and give the adult supervisor an opportunity to be heard or to make written representations. The authority in question may withdraw the designation of the adult supervisor and make a new designation, if it finds this step warranted.

◇ Child Care and Protection Act,  
sections 225(9)-(10)

◇ Child Care and Protection Regulations,  
regulation 88(1)-(3)

## 6. Grants

**Grants:** Grants and other assistance may be collected and administered by the **child heading the household** or by the **adult supervisor**, depending on the authorisation contained in the certificate issued by the Minister at the time of recognising the child-headed household.

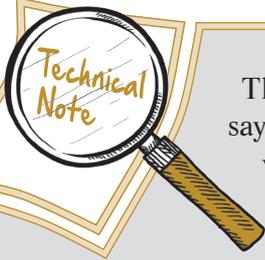


However, if there is **disagreement** between the child heading the household and the adult supervisor regarding the collection or administration of a grant, a **non-governmental organisation designated by the Minister** must collect and administer the grant or other assistance.

Also, if there is an **investigation** underway into the possible withdrawal of the adult supervisor, the social worker who is conducting the investigation may temporarily assign a **community child care worker** to collect any grant for children in the household until the investigation is complete.

**It is a crime to misappropriate grant money or other assistance intended for a child-headed household.** The punishment is a fine of up to N\$20 000 or imprisonment for up to five years, or both.

- ◇ Child Care and Protection Act, sections 225(4)-(5) and (11), 240(3)(d)
- ◇ Child Care and Protection Regulations, regulation 86(8)(d), 88(2)



There seems to be a possible contradiction in the Act here. Section 225(4) says a grant or other assistance can be collected and administered by the child who heads the household or by the adult supervisor. This is consistent with the approach taken by the Child Care and Protection Regulations, in regulation 86(8)(d).

Section 225(5) allows for collection of the grant by an NGO designated by the Minister *if* there is disagreement between the child who heads the household and the adult supervisor on the collection or administration of a grant. In addition, regulation 88(2) of the Child Care and Protection Regulations allows for the temporary collection of a grant by a community child care worker if an investigation into the possible withdrawal of the adult supervisor is underway.

However, section 240(3)(d) says a State maintenance grant for a child in a child-headed household can be received by the child who heads the household, by the adult supervisor, *by an organ of state* or by an NGO designated by the Minister.

The more restrictive wording of sections 225(4) and (5) is consistent with the authority in 240(3)(d), so it makes sense to follow that wording as the operative rule. The reference to “an organ of state” in section 240(3)(d) does not tie up with any of the provisions on child-headed households in the Act and seems to have been erroneously replicated from the similar South African legislation on child-headed households. On the other hand, the reference to “an organ of state” may be intended to encompass the temporary collection of a grant by a community child care worker employed by the Ministry during an investigation.

- ◇ Child Care and Protection Act, sections 225(4)-(5), 240(3)(d)
- ◇ Child Care and Protection Regulations, regulation 86(8)(d)

**Accountability for grant money:** If an adult supervisor collects and administers a State maintenance grant for a child-headed household, that adult must assist the children to prepare a **monthly budget** for spending the grant.

To guard against misappropriation of grant money, the **social worker monitoring the child-headed household must tell the child heading the household the grant amounts** which are available to the children in the household.

The **monitoring social worker must also communicate with the child heading the household at least once every three months**, to make sure that the child is satisfied with the collection of grants on behalf of the children in the household by the designated adult supervisor.

These requirements are aimed at preventing abuses of grant money by the adult supervisor. The requirement that the children and the adult supervisor must work together to prepare a monthly budget also ensures the participation of the child heading the household in its management and functioning, which is consistent with principles about child participation and the evolving capacities of children.

◇ Child Care and Protection Regulations, regulation 89

## 7. Travelling outside Namibia

**Permission from Minister:** A child living in a child-headed household may not leave Namibia without the permission of the Minister. If the Minister gives permission, he or she may impose conditions to protect the child's best interests.

The Minister will make the decision after considering the recommendations of the social worker who is responsible for monitoring the child-headed household.

**Recommendation from social worker:** Any child living in a child-headed household who intends to travel outside Namibia must inform the social worker assigned to monitor the household of the intention to travel and the reasons for the travel at least 30 days before the date of departure. The social worker will make a written recommendation to the Minister on whether the proposed travel should be approved or not.

If the child in question is too young to notify the social worker, the child heading the household or the adult supervisor can do this.

**Monitoring the child's return:** The designated social worker must monitor the return of the child to Namibia and report promptly in writing to the Minister on the child's return, or failure to return.

The social worker will have details about the travel plans. If the child does not return at the expected time, the social worker can arrange an investigation to find out what has happened. Maybe the child is on a bus that broke down on the way home, or maybe the child has fallen ill and been hospitalised in another country.

The rules on travel outside Namibia may be helpful tools to combat the international trafficking of children.

◇ Child Care and Protection Act, sections 225(12)-(13)  
◇ Child Care and Protection Regulations, regulation 90

Thomas, your younger brother has been chosen to represent Namibia on the national soccer team. The match will be in Zimbabwe, two months from now.

That is great news! But our household is a child-headed household. I will help my brother get permission from the Minister for the trip outside the country. We will start the process by contacting the social worker who meets with us regularly.

My younger sister met a man who said that he could help her get a well-paid job as a waitress if she travelled to Thailand with him. Do you think it is a good idea?

This sounds very suspicious to me. I do not think that this is a trip that the Minister should approve

