

# CHILD SAFETY AT PLACES OF ENTERTAINMENT


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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

**I**n certain circumstances, persons who provide entertainment to children must take specified steps to ensure that the entertainment takes place in a safe environment. The rules apply to situations where the majority of people attending the event will be children, and the total number of persons in attendance is expected to be more than 50.

This chapter covers *events attended by children*. See Chapter 26 of this Guide for information about *events involving child participation*. Both sets of rules will apply to some events.

<p>In situations where:</p> <ul style="list-style-type: none"> <li>④ the majority of the people attending the entertainment will be children</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>④ the total number of people in attendance (adults plus children) is expected to be more than 50.</li> </ul>		<p>The person providing or hosting the event must:</p> <ul style="list-style-type: none"> <li>④ determine the number of people who can safely attend the event/venue</li> <li>④ station a sufficient number of adult attendants to ensure that this maximum number is not exceeded</li> <li>④ control the movement of people while they are entering and leaving</li> <li>④ take all other reasonable precautions for the safety of the people attending the event/venue.</li> </ul>
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# 1. International framework

The **Convention on the Rights of the Child** requires States generally to ensure that children have the protection and care that is necessary for their well-being. One area where children may be vulnerable to harm is at large entertainment events, particularly where such events have a profit-making motive. This is the rationale for requiring the organisers of large events for children to take special safety precautions. *The rules are reasonable safety precautions which most event organisers would apply as a matter of common sense. They may overlap with local authority regulations about public events in some cases. They are designed primarily to prevent unscrupulous exploitation of children who attend events by organisers who might care more about money than safety.*

◇ Convention on the Rights of the Child, Article 3

## 2. What events are covered by the safety rules?

- (1) The Child Care and Protection Act requires that **a person providing entertainment to children OR a person hosting any performance or event**, must follow the safety rules where –
- ⊗ the **majority** of the people expected to attend the event are **children AND**
  - ⊗ the **total** number of persons in attendance is expected to be **more than 50**.

The rules apply to events held at any premises or in any enclosure – thus covering both indoor and outdoor events. *For example, these rules would apply to a celebration of the Day of the African Child held in an outdoor stadium, a performance for children at an indoor theatre or an outdoor amphitheatre, a sports event for children or the showing of a children’s movie. The minimum number is designed to exclude small gatherings, such as children’s parties and other private social events.*

- (2) The Minister may make a written designation of **other facilities that provide “entertainment or recreation to children”** for the purposes of requiring such facilities to comply with the safety rules for children – even if they do *not* satisfy the requirement of hosting events attended by more than 50 people, a majority of whom are children. If the Minister designates a facility in this way, then the person in control of the facility is responsible for ensuring that the rules are followed. *For example, the Minister might designate public swimming pools as facilities which must comply with the safety requirements, since swimming pools generally attract a large number of children – even though it may not be the case that the persons who come to swim always include a majority of children.*

◇ Child Care and Protection Act, section 229(1)-(2)

## 3. The safety rules

**Who is responsible for compliance with the rules?:** Responsibility lies with –

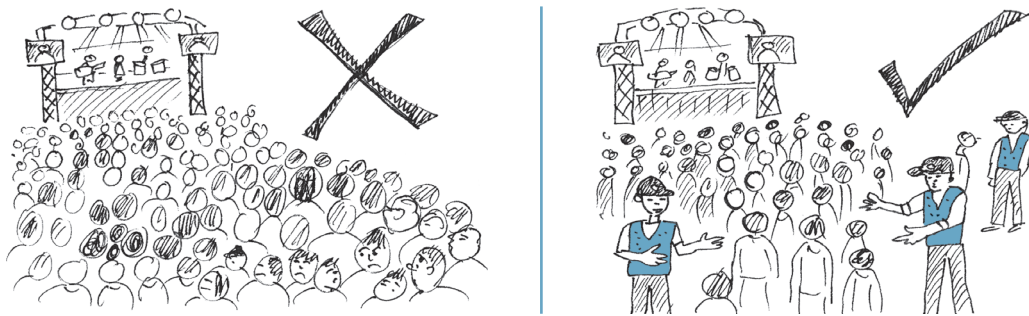
- ⊗ the person providing the entertainment
- ⊗ the person hosting the performance or event
- ⊗ the person in control of a facility designated by the Minister.

*Note that the term “person” can include a “legal person” such as a company. Also, note that the responsibility does not lie with the owner or lessor of the premises unless the owner or lessor is the person organising the entertainment or controlling the facility.*

◇ Child Care and Protection Act, section 229(3)

## THE RULES:

- (1) **No overcrowding:** The responsible person must determine the number of people, including children, who can safely be accommodated at the venue, and in each part of the venue. This rule is designed to prevent congestion which might result in injury.
- (2) **Adult attendants:** The responsible person must station a sufficient number of adult attendants to ensure that the maximum number of people which can be accommodated is not exceeded. For example, imagine a situation at a music performance where children leave their seats and stampede towards the stage to get closer to a popular performer. This could result in injury, or block the entrances and exits.



- (3) **Controlled movement:** The responsible person must control the movement of people entering and exiting the venue, moving around inside the venue and moving between different parts of the venue. This rule would help to make sure that children can be evacuated in an orderly way if there was a fire or some other emergency at the venue. It would also help a crush at entrances and exits where children might be injured.
- (4) **Other reasonable precautions:** The responsible person must take all reasonable precautions for the safety of the children and other people attending the entertainment. The Act does not provide any further detail. The precautions should be those which would prevent injury to children. For example, the venue would need to be structurally sound with adequate ventilation and fire control measures. It would need to have a sufficient number of entrances and exits to accommodate the expected number of persons who will attend. A large venue should have clearly-labelled exits.
- (5) **No alcohol or tobacco products provided to children:** No alcohol or tobacco products may be sold, served or otherwise made available to children (persons under age 18 years) at venues or events covered by the rules. This rule overlaps with other prohibitions on underage drinking and smoking. It helps to ensure that there are no gaps in the rules which can be exploited.

**Enforcement:** Police, or persons authorised by a local authority or regional council, are empowered to enter premises in order to inspect the situation, to see if the rules for child entertainments are being followed. This power applies in any situation where they reasonably suspect that a child entertainment or recreation is being provided, or going to be provided.

A person authorised by a local authority or regional council to carry out such an inspection must be given some identification to verify their authority, and must produce that identification on demand. (Police would have the normal police identification.) The person carrying out the inspection may check that the event complies with the rules in the Child Care and Protection Act, or with other structural, safety, health or other requirements imposed by any law.

This person has the power to –

- require any person to disclose information orally or in writing about anything that gives rise to a reasonable suspicion that an offence in terms of the Act may have been committed
- require that such information be given under oath or affirmation
- inspect any relevant record or document
- question a person about a relevant record or document
- copy any relevant or document, or remove it to make copies or extracts
- require a person to produce or deliver any record or document for inspection
- question any person about an article or substance which he or she reasonably suspects may have been used in violation of the Act
- remove such an article or substance if necessary
- record information by any method, including by means of photographs or videos.

A search of a building or structure *used as a residence* may not be carried out without a search warrant, unless the owner or occupier of the residence consents to the search, or there are reasonable grounds to believe that a search warrant would be granted but the delay in obtaining the warrant would defeat the objects of the search. The person carrying out the inspection must provide receipts for anything which is removed, and return anything removed within a reasonable time period unless it is seized as evidence.

**Criminal penalty:** A person who violates the rules commits a crime which is punishable by a fine of up to N\$20 000 or imprisonment for up to 10 years, or both. *Note that the rules against providing alcohol or tobacco products to children can be violated by anyone.* The other rules apply only to the responsible person, and so could only be violated by that person.

◆ Child Care and Protection Act, section 229(3)-(7), read together with section 77(3)-(7)

## Alcohol, tobacco and drugs

These provisions are discussed in detail in Chapter 23 of the *Guide*.

It is illegal for a person **under age 18** to consume, produce or possess **alcoholic beverages**. A person **under age 18** who does any of these things can be fined up to N\$300 and/or required to attend an educational programme on the dangers of underage drinking.

Any person who sells or supplies **alcohol** to an underage person can be fined up to N\$5 000 or imprisoned for up to one year, and be required to attend an educational programme on the dangers of underage drinking. Repeated offences can lead to the loss of a liquor licence, and even to disqualification from ever holding another liquor licence.

It is also illegal for any person, including a parent, to –

- Ⓢ coerce any child **under age 18** to drink an **alcoholic beverage** or to take an **illegal drug**;
- Ⓢ allow or encourage any child **under age 18** to take any **illegal drug**; or
- Ⓢ allow or encourage any child **under age 16** to drink an **alcoholic beverage**.

The penalty is a fine of up to N\$20 000, imprisonment for up to five years, or both. The convicted person may also be required to attend an educational programme on the dangers of underage drinking or drug abuse.

It is illegal for any person to sell or supply any **tobacco products** to persons **under age 18**. The penalty is a fine of up to N\$100 000, or imprisonment for a period of up to five years, or both.

- ◆ Liquor Act 6 of 1998, section 56 and 72(2A)-(2C), as amended by Child Care and Protection Act, section 257(4)
- ◆ Tobacco Products Control Act 1 of 2010, section 18
- ◆ Child Care and Protection Act, section 230