



10 REASONS WHY THE ACT IS SO IMPORTANT

Children cannot care for themselves or protect themselves in the same way that adults can. This means that children are an extremely vulnerable group and need special attention. This is particularly important in Namibia, where more than one out of three persons are under age 15.

- 1. The Child Care and Protection Act replaces outdated legislation.** Previously, the main law governing the care and protection of children in Namibia was the Children's Act of 1960 inherited from South Africa. This previous law did not adequately cover issues such as the HIV/AIDS epidemic, the sharp rise in international child trafficking, the high level of sexual abuse against Namibian children or the large number of child-headed households – to name but a few current issues of concern. The Child Care and Protection Act provides mechanisms to address these and many other problems faced by children in Namibia today.
 - 2. The Child Care and Protection Act brings national legislation in line with Namibia's international commitments.** Namibia is a party to the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. According to the Namibian Constitution, provisions in international agreements automatically become part of Namibian law – but they can be more effectively implemented if they are incorporated into national legislation. One aspect of the harmonisation with international law is the lowering of the age of majority to 18.
 - 3. The Child Care and Protection Act makes the best interests of the child the key consideration in matters concerning the child.** Decisions about the care and protection of children can be complicated. The best interests standard can reduce conflict and simplify decision-making because the deciding factor must always be what is best for the child. The best interests standard is part of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, but Namibia's previous laws on child protection did not apply this standard consistently.
 - 4. The Child Care and Protection Act recognises the importance of child participation, and sets out children's rights and responsibilities.** In the past, children were often treated as objects instead of people with their own rights, responsibilities and opinions. Both the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child say that children have a right to participate in decisions that affect their lives. The African Charter also says that the rights of children come with matching responsibilities. The Child Care and Protection Act gives effect to these international principles.
 - 5. The Child Care and Protection Act provides for new structures which give children better protection.** For example, it provides for a National Advisory Council composed of experts from different ministries and sectors, and a Children's Advocate within the Office of the Ombudsman. These institutions will improve co-ordination and monitoring of child protection initiatives.
-

-
- 6. The Child Care and Protection Act provides mechanisms for the care and protection of children which are appropriate to the reality of families in Namibia.** For example, the Act recognises kinship care, where relatives or close family friends care for children in the place of the parents. This means that kinship care-givers no longer have to go through long legal processes to access grants for the children in their care. The Act provides for parenting plans which will allow the different people with parental responsibility for a child to formalise agreements between themselves. The Act also recognises the existence of child-headed households and makes provision for such households to function under the supervision of a suitable adult or child protection organisation.
-
- 7. The Child Care and Protection Act provides stronger and more detailed provisions on the care of children who do not live with their parents or extended family.** For example, it regulates foster care (where a child is placed by a court with an unrelated family for temporary care), children's homes, day-care centres and child detention centres (previously known as reform schools), for the housing and rehabilitation of young offenders and children with unmanageable behavioural problems. Minimum standards of care are prescribed for all these forms of alternate care.
-
- 8. The Child Care and Protection Act provides protection to children in key areas that were not adequately covered by the previous law.** For example, it regulates grants for children. It applies safeguards for vulnerable witnesses to children's court proceedings, to make them less traumatic for children. It provides a legal procedure for a parent to leave an unwanted baby in a safe place without fear of prosecution for abandonment, to help combat baby-dumping. It also clarifies the law on consent to medical interventions on children and the medical examination of abused children.
-
- 9. The Child Care and Protection Act introduces safeguards to regulate intercountry adoption.** Following the 2004 High Court ruling that adoptions cannot be restricted to Namibian citizens alone, Namibia experienced an increase in requests for intercountry adoptions. However, the previous law did not have sufficient safeguards to prevent abuses such as baby-selling. The Child Care and Protection Act introduces detailed steps that must be followed before a child can be adopted by people from another country, including steps to ensure that there is no suitable adoptive family for the child within Namibia. These procedural improvements support Namibia's accession to the Hague Convention on Intercountry Adoption, which helps countries cooperate to prevent unscrupulous international adoption practices.
-
- 10. The Child Care and Protection Act introduces new offences with strong penalties to protect children against mistreatment.** These offences include new restrictions on the sale of alcohol to children, child trafficking and exploitation of children. These strengthened offences are intended to deter people from taking advantage of children's vulnerability.
-

