



# OTHER CHILD PROTECTION MEASURES

The draft Child Care and Protection Act includes provisions on the following issues:

1. child-headed households
2. worst forms of child labour
3. child safety at places of entertainment
4. crimes relating to abuse and neglect.

## (1) Child-headed households

The proposed law identifies a child-headed household as a household where all three of the following circumstances are present:

1. The parent or care-giver of the household is terminally ill or 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.

When a child-headed household is identified, it must be placed under the supervision of an adult named by the Children's Court, or an adult named by a state agency or an NGO designated by the Minister. The child who heads the household may still make day-to-day decisions about the household and the children in it. Where adult intervention is required, the child who heads the household should be consulted. The other children in the household should also be consulted if they are mature enough to express a meaningful opinion. The designated state agency or NGO may collect and administer any grants to which the household is entitled. The draft law does not allow the individual adult who is supervising the household to administer the grant.

### ISSUES FOR DISCUSSION

- ④ What criteria should be used to identify child-headed households?
- ④ What kind of special support does a child-headed household need?
- ④ Who should collect and administer grants for child-headed households?
- ④ What role should a supervising adult have?
  - ④ Should the adult be able to control the spending of a grant provided to the children?
  - ④ Should the children be able to make complaints about this adult if necessary? If so, to whom?

## (2) Worst forms of child labour

Article 15 of the Namibian Constitution protects children against exploitative labour practices. Namibia has also signed the International Labour Organisation (ILO) Convention on the Prohibition and Immediate Elimination of the Worst Forms of Child Labour. In this Convention, the worst forms of child labour are defined as:

- ④ child trafficking and slavery
- ④ commercial sexual exploitation of children
- ④ children being used by adults to commit crime
- ④ work which is likely to harm the health, safety or morals of children.

The Labour Act 11 of 2007 gives effect to the Constitution and the ILO Convention. It is illegal to employ a child under the age of 14, and there are restrictions about the type of employment children allowed for children between the ages of 14 and 18.

The proposed Child Care and Protection Act would complement the Labour Act by providing additional provisions on the worse forms of child labour. These are worded in very general terms, without much definition or detail:

- ④ It would be a crime to offer or use a child for commercial sexual exploitation.
- ④ It would be a crime to offer or use a child for criminal activities, including drug production and trafficking.
- ④ It would be a crime to force a child to perform labour for any person, whether or not it is for reward.
- ④ It would be a crime to encourage or force a child to do work likely to harm the child's health, safety or morals or work that might interfere with the child's well-being, education, health or development.

## ISSUES FOR DISCUSSION

- ⑨ What types of “work” or “labour” are children being forced to do in Namibia?
- ⑨ Should the law include specific offences relating to the use of children in pornography? child prostitution? any other specific forms of child sexual exploitation?
- ⑨ What types of public entertainment or profitable activities should parents be able to consent to for children (such as acting, modelling, advertisements, beauty pageants or other performances)?
  - ⑨ Should children be able to consent independently to such activities, and if so at what age?
  - ⑨ If such activities are allowed, should there be any legal requirement for the earnings to be held in trust for the children concerned (perhaps if the earnings exceed a certain amount), or used for their benefit?
- ⑨ What should happen in a case where a child is begging voluntarily (as opposed to being forced to beg)? What should happen if a child is accompanying a parent who is begging?
- ⑨ What should happen to a child engaged in informal work, such as street trading?
- ⑨ Should there be specific rules about work performed by the child within the child’s own family or household, if that work might be harmful to the child in any way?

### (3) Child safety at places of entertainment

In certain circumstances, places of entertainment must take steps to ensure that children are entertained in a safe environment.

In situations where:

- ⑨ access to the venue involves stairs, escalators or lifts;
  - ⑨ the majority of the people attending the entertainment will be children;
- AND
- ⑨ the total number of people in attendance (adults plus children) is expected to be more than 50.

The owner/entertainment provider must:

- ⑨ determine the maximum number of people who can be safely accommodated on the premises;
  - ⑨ station a sufficient number of adult attendants to ensure that this maximum number is not exceeded;
- AND
- ⑨ control the movement of people while they are entering and leaving and take other reasonable safety precautions.

## ISSUES FOR DISCUSSION

- ⑨ What events should be covered by rules designed to protect child audiences?
- ⑨ What steps should the host of the event be required to take to protect children?

### (4) Crimes relating to abuse and neglect

The draft Child Care and Protection Act repeats the current law on abuse and neglect. It is a crime for a parent, guardian, care-giver or any person who voluntarily takes care of a child to abandon the child, abuse the child or deliberately neglect the child. It is also a crime for anyone who is legally liable for a child’s maintenance to fail to provide the child with adequate food, clothing, lodging and medical assistance – if the person has the means to provide these things.

## ISSUES FOR DISCUSSION

- ⑨ Are there any other crimes against children which should be included in the new law?
- ⑨ Are there any other protective provisions which should be included in the new law?

## TELL US YOUR OPINION ON CHILD PROTECTION MEASURES

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