



# WHAT ELSE SHOULD BE INCLUDED IN THE ACT?

## Part 2

### (6) Grants

There are 4 main types of grants available for the care and protection of children in Namibia:

1. child maintenance grants
2. foster care grants
3. allowances paid to children’s homes and places of safety
4. grants for children with disabilities.

The Children’s Act of 1960 makes provision for these grants. This old law will probably be repealed once the draft Child Care and Protection Act is put into place. But the draft law does not include new provisions for grants.

**Child maintenance grants:** A child maintenance grant is available to people who meet the conditions shown in the table on the right. There are a number of problems with these conditions, also shown in the table.

**Foster care grants:** The foster care grant (N\$200/month for the first child and N\$100 for each of the others) is available to a foster parent who has been approved by a court to care for a child who has been found in need of protection. All foster children are eligible to receive grants. A means test is not applied. One problem here is that adoptive parents cannot receive this grant. This creates a financial incentive to avoid adoption, even when it is the child’s best interests to be adopted. Another problem is that foster parents can receive the grant in situations where biological parents cannot. This might encourage fostering arrangements where they are not really necessary.

**Allowances paid to children’s homes and places of safety:** This is a small amount paid to these facilities to offset the costs of caring for each child. Parents are expected to contribute towards these payments if they can afford it.

**Grants for children with disabilities:** The children’s disability grant (N\$200/month) is available for a child with a disability who has a medical certificate and a report from a social worker. No means test is applied. It may be important to allow for supplements to this grant for costs such as wheelchairs, transport to health clinics or special training (such as training in sign language or how to read Braille).

CRITERIA	PROBLEMS
The applicant must be the biological parent of the child.	Care-givers of orphans and vulnerable children cannot access this grant directly. Children whose mothers and fathers are both deceased cannot get the grant.
The applicant must be a Namibian citizen or permanent resident.	Some people in Namibia, particularly at the borders, have lived in Namibia for many years but are not Namibian citizens or permanent residents. These people cannot access the grants.
The applicant must have an income of less than N\$1000/month.	This requirement does not consider how many people must be looked after on this income. A better test would be to link income to the number of dependants.
The applicant must prove that the other parent is dead, imprisoned for more than 6 months or receiving a state grant such as old age pension or disability grant.	There are many cases where the mother or father is untraceable (no death certificate, unknown parentage or no known whereabouts). Also, in some cases both parents are present and doing the best they can to support their children, but they may still be suffering extreme poverty.
The grant is available for up to 6 children per applicant. N\$200 is given for the first child and N\$100 for each of the others. The grant is available up to the age of 21 if the child remains in education.	It is not uncommon for there to be more than 6 children in a family. Children in large families are likely to be in need. The current limitation may even contribute to the separation of siblings as the seventh child onward may be sent away because of the lack of financial support.

#### Possible new provisions on grants

- Ⓞ *Waiver of school fees:* It has been suggested that all children who are receiving state grants should be automatically exempted from school fees.
- Ⓞ *Emergency maintenance grants:* It has also been suggested that Children’s Courts could be provided with a budget for short-term emergency maintenance needs such as food aid. This would be a temporary measure, giving the recipients time to apply for an ordinary state grant through the usual channels.

#### ISSUES FOR DISCUSSION

- Ⓞ What criteria should be applied for state grants for children?
- Ⓞ Who should get grants to care for children? Should there be one kind of child care grant, or different kinds of grants depending on who is caring for a child?
- Ⓞ Does Namibia need any new kinds of grants, such as a basic income grant for all children?

## (7) Other provisions on children with disabilities

The proposed law contains no definition of “disability”. However it prohibits unfair discrimination on the basis of disability of a child or a family member of the child. It says that Children’s Courts are accessible to disabled children and children with special needs. It also says that the effect of a disability should be taken into account in determining a child’s best interests. When a Children’s Court finds that a child with a disability or a chronic illness is in need of protection, the court may order that the child be placed in a facility which is equipped for this problem, if this would be in the child’s best interests.

What other provisions are needed on children with disabilities? Here are some suggestions: (a) Provide programmes to develop the capacity of parents and care-givers to care for children with disabilities and chronic illnesses. (b) Include special provisions for registering facilities for children with disabilities or chronic illnesses. (c) Treat a disabled child who is being unlawfully confined or ill treated as a child in need of protection, and provide appropriate care and assistance.

Ghana and Sierra Leone both have laws saying that no one is allowed to treat a disabled child in an undignified manner and that disabled children have the right to the treatment, care and education they need to develop their maximum potential. Kenya has a similar law. South African law requires that children with disabilities or chronic illnesses must be treated with dignity, encouraged to be self-reliant and enabled to participate actively in community life – including social, cultural, religious and educational activities.

### ISSUES FOR DISCUSSION

- ⑨ What problems do children with disabilities experience in Namibia?
- ⑨ Does the proposed law need any additional provisions on children with disabilities?

## (8) Refugee and immigrant children

The draft Child Care and Protection Act currently does not contain any special provisions on refugee or immigrant children. Refugee children are already partially dealt with by the Namibia Refugees (Recognition and Control) Act 2 of 1999. The United Nations Convention on the Rights of the Child states that countries should take appropriate measures to assist refugee children. To achieve this, the following suggestions should be considered for the new law:

- ⑨ Refugee children who are not accompanied by an adult should be able to apply for asylum on their own. Children who are with family members should also be able to act alone if necessary. Children acting on their own should have a right to legal representation at state expense, and their applications should receive top priority.
- ⑨ An unaccompanied refugee or immigrant child should be automatically treated as a child in need of protection. Any other refugee or immigrant child could also be treated as a child in need of protection if appropriate, in the same way as Namibian children.
- ⑨ Harboursing or assisting children who are illegally present in Namibia should not be a criminal offence. Otherwise, people may be afraid to come to their aid.

### ISSUES FOR DISCUSSION

- ⑨ What problems do refugee and immigrant children experience in Namibia?
- ⑨ What legal protections do refugee or immigrant children need?

## WHAT DO YOU THINK?

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