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Amendment of shared custody regulations during lockdown

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MEDIA STATEMENT

8 April 2020

MINISTER OF SOCIAL DEVELOPMENT SENDS DIRECTION FOR AMENDMENT OF SHARED CUSTODY REGULATIONS DURING LOCKDOWN

In support of President Cyril Ramaphosa's declaration of COVID-19 as a national disaster, the Minister of Social Development – Ms Lindiwe Zulu, issued directions prohibiting movement of children between co-holders of parental responsibilities and rights on 30 March 2020.

This was as an effort to address, prevent and combat the spread of COVID-19 in terms of Section 10 (5) of the Regulations of Disaster Management and to ensure that the children's wellbeing is protected and their best interests upheld during the lockdown.

"This prohibition of movement was never intended to limit or prohibit contact with the child/ children or to punish parents as the Department believes in family strengthening and preservation. According to the Children's Act, 2005 (Act No. 38 of 2005), the Department of Social development is responsible for the protection of children and promotion of their rights. However, the implementation of the directions brought an outcry to the co-holders of parental responsibilities and rights," said Minister Zulu.

To ensure that rights and concerns of co-holders of parental responsibilities are considered, Minister Lindiwe Zulu issued a directive to amend the regulations on 7 April 2020.

The amendment of the directions 6(m)(i) and (ii) issued on the 30 March 2020 reads as follows:

6 (m) Directions to contain the spread of COVID-19 in exercising the care and contact by persons who are co-holders of parental responsibilities and rights or a caregiver during the lockdown period

(i) Movement of children between co-holders of parental responsibilities and rights or a caregiver, as defined in the Children's Act, 2005 (Act No. 38 of 2005) during the lockdown period, is prohibited, except where arrangements are in place for a child to move from one parent to another, in terms of-

(aa) a court order; or

(bb) where a parental responsibilities and rights' agreement or parenting plan, registered with the family advocate is in existence –

provided that there is no person who is known or reasonably suspected to have come into contact with any other person known or reasonably suspected to have contracted COVID-19 in the household which the child has to move to.

(ii) The court order or the agreement referred to in sub-paragraph (bb) or a certified copy thereof must be in the possession of the parent or caregiver transporting the child concerned.

These changes aim to ensure that the existing parenting plans, made an order of the court and those registered with the Family Advocate's office, are implemented whilst exercising precautionary measures that will prevent the spread of COVID-19 infection whilst promoting the best interests of the child/children.

“As the Minister of Social Development, I hope that these changes are welcomed and respond to the outcry by the co-holders of parental responsibilities and rights, the caregivers,” concluded Minister Zulu.

ISSUED BY THE NATIONAL DEPARTMENT OF SOCIAL DEVELOPMENT