

ABBOZZ TA' LIĠI msejjah

ATT sabiex jissostitwixxi l-Att dwar il-Protezzjoni tat-Tfal (Harsien Alternattiv), Kap. 569, biex jipprovdi għal ordnijiet għall-protezzjoni tal-minuri, biex jistabbilixxi harsien alternattiv u protezzjoni xierqa għall-minuri mcaħħda mill-harsien tal-ġenituri jew li huma f'riskju li hekk jiġu mcaħħda u l-hwejjeġ l-oħra kollha li huma anċillari jew inċidentali għal dan jew konnessi miegħu.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħarġet b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2018 dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv).

Titolu fil-qosor, għan u bidu fis-seħh.

(2) L-għan ta' dan l-Att huwa li f'kull mument għandu jkun imħares, protett u mogħti prijorità l-aqwa interess tal-minuri u li tkun żgurata l-permanenza tal-kura mogħtija lill-minuri fl-iqsar żmien possibbli.

(3) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-seħh f'dik id-data li l-Ministru għall-Familja, Drittijiet tat-Tfal u s-Solidarjetà Soċjali jista', b'avviż fil-Gazzetta, jistabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

DISPOŻIZZJONIJIET PRELIMINARI

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'oħra:

Tifsir.

"Aġenzija" tfisser dik l-aġenzija nazzjonali responsabbli sabiex fost l-oħrajn thares il-benessri tal-minuri, magħrufa wkoll bħala Aġenzija Appoġġ, u li taħtha għandu jkun hemm tal-anqas żewġ diretturi li wieħed ikun responsabbli għall-protezzjoni tal-minuri kif dispst fl-

artikolu 3, u d-Direttur l-iehor ikun responsabbli għall-gid tal-minuri f'ħarsien alternattiv kif dispost fl-artikolu 36;

L.S. 12.20.

"Avukat tat-Tfal" tfisser avukat mahtur skont ir-regolament 3 tar-Regolamenti dwar il-Qorti Ċivili (Sezzjoni tal-Familja), il-Prim'Awla tal-Qorti Ċivili u l-Qorti tal-Magistrati (Għawdex) Ġurisdizzjoni Superjuri) (Sezzjoni tal-Familja), li għandu jaqdi l-funzjonijiet mogħtija lilu skont l-artikolu 25;

"Awtorità Ċentrali" tfisser dik l-entità li fil-jum tad-dhul fis-seħħ ta' dan l-Att tkun responsabbli biex twettaq il-funzjonijiet msemmija fl-artikolu 42;

Kap. 582

"Awtorità ta' *Standards* ta' Ħarsien" tfisser l-awtorità stabbilita permezz tal-Att dwar l-Awtorità ta' *Standards* ta' Ħarsien Soċjali;

"Bord tal-Appell" tfisser il-Bord tal-Appell imwaqqaf skont l-artikolu 64;

"Bord għall-*Fostering*" tfisser il-bord imwaqqaf bis-saħħa tal-artikolu 38;

"Bord ta' Revizjoni" tfisser il-Bord ta' Revizjoni għall-Ħarsien tal-Minuri, stabbilit skont l-artikolu 31;

"Ċentru Terapewtiku u Sikur" ifisser iċ-ċentru mwaqqaf skont l-artikolu 26 ta' dan l-Att;

"*foster care*" tfisser it-tqeghid ta' minuri taħt il-ħarsien ta' familja, li ma tkunx dik tal-minuri, li tkun magħżula, kwalifikata, approvata u sorveljata biex tipprovdi ħarsien għal perijodu ta' żmien u skont il-pjan ta' ħarsien;

"*foster care* transkonfini" tfisser:

(a) il-kura mogħtija minn *foster carer* li hu ċittadin Malti, lil minuri li mhux ċittadin Malti u li hu residenti f'Malta; jew

(b) il-kura mogħtija minn *foster carer* li mhux ċittadin Malti u li l-approvazzjoni tiegħu minn awtorità barranija hija rikonoxxuta mill-Awtorità Ċentrali, permezz tal-Aġenzija, għall-minuri li hu residenti f'Malta;

"*foster carer*" tfisser persuna waħda jew aktar approvata mill-Bord għall-*Fostering* biex minuri jitqiegħed taħt *foster care* magħha;

"ftehim ta' *foster care*" tfisser ftehim magħmul skont l-artikolu 51;

"ġenitur" tfisser l-omm jew il-missier tal-minuri jew xi persuna oħra li, b'dispożizzjoni espressa tal-liġi, ikollha r-responsabbiltà ta' ġenitur għal dak il-minuri;

"ħaddiem soċjali ewlieni" tfisser il-ħaddiem soċjali maħtur mill-Aġenzija biex isegwi l-iżvilupp u l-benessri tal-minuri taħt ħarsien alternattiv u biex jikkordina u jsegwi l-progress ta' pjan ta' ħarsien dwar dak il-minuri;

"ħaddiem soċjali reġistrat" jew "ħaddiem soċjali" għandu jkollhom l-istess tifsira mogħtija lilhom bl-artikolu 2 tal-Att dwar il-Professjoni tax-Xogħol Soċjali; Kap. 468.

"ħarsien alternattiv" tfisser it-tqegħid ta' minuri taħt il-ħarsien ta' persuna jew entità, li ma tkunx il-ġenitur tal-minuri, liema tqegħid ikun ġie ordnat mill-Qorti jew li huwa riżultat ta' deċiżjoni amministrattiva, u t-terminu ta' "*carer* alternattiv" għandu jinftiehem f'dan is-sens;

"ħarsien u protezzjoni" tfisser dak il-ħarsien u protezzjoni li huwa raġonevolment mistenni mingħand ġenitur lejn il-minuri tiegħu bil-għan li jippromwovi l-potenzjal sħiħ tiegħu, filwaqt li jitqiesu l-ħiliet, ix-xeħtiet naturali u aspirazzjonijiet tal-minuri;

"kuntratt soċjali" ifisser ftehim bil-miktub bejn id-Direttur jew kull entità li l-Ministru jista' jordna b'avviż fil-Gazzetta, flimkien mal-ġenituri tal-minuri jew kwalunkwe persuna oħra interessata fil-benessri tal-minuri;

"Ministru" tfisser il-Ministru responsabbli għad-drittijiet tal-minuri;

"minuri" tfisser persuna li tkun taħt l-età ta' tmintax-il sena.

"minuri mhux akkumpanjat" tfisser minuri li jasal f'Malta mhux akkumpanjat minn adult li jkun responsabbli għalih sew taħt il-liġi sew b'konswetudni, għal dak iż-żmien kollu li matulu dak il-minuri ma jkunx effettivament taħt il-kura ta' dak l-adult u tinkludi kull minuri li jithalla mhux akkumpanjat wara li jkun daħal f'Malta;

"ordni ta' emerġenza" tfisser ordni maħruġa skont l-artikolu 19;

"ordni ta' ħarsien" tfisser ordni maħruġa skont l-artikolu 18(1)(a);

"ordni għall-protezzjoni" tfisser ordni waħda jew iżjed maħruġa skont l-artikolu 18;

"ordni ta' superviżjoni" tfisser ordni maħruġa skont l-artikolu 18(1)(b);

"ordni ta' tneħħija" tfisser ordni maħruġa skont l-artikolu 18(1)(d);

"ordni ta' trattament" tfisser ordni maħruġa skont l-artikolu 18(1)(ċ);

"organizzazzjoni akkreditata" tfisser kull organizzazzjoni li tkun akkreditata mill-Awtorità Ċentrali skont dan l-Att biex torganizza taħriġ u tiċċertifika persuni bħala adatti biex jaġixxu ta' *foster carers*;

"permanenza li tkun relazzjonali, fiżika u legali" tinkludi li l-minuri jhossu maħbub, protett, sikur u sostnut mal-persuni li jgħix magħhom, li jkun hemm stabbiltà fl-ambjent fiżiku fejn jgħix il-minuri u fil-konnessjonijiet tiegħu mal-komunità, kif ukoll arrangamenti legali assoċjati mal-permanenza, speċjalment għal dak li jirrigwardja kura u kustodja.

"pjan ta' ħarsien" tfisser pjan imfassal skont l-artikolu 12 biex jippromwovi l-iżvilupp u l-benessri tal-minuri;

"pjan konkorrenti" jfisser pjan ta' ħarsien alternattiv li jinkludi fih il-pjan ta' ħarsien imfassal skont l-artikolu 12 kif ukoll il-pjan ta' permanenza alternattiv imfassal skont l-artikolu 23, u li għandu jkollu l-iskop li jippromwovi l-iżvilupp u l-benessri tal-minuri u li jiddetermina l-parametri tal-pjan ta' ħarsien u ż-żmien meta jiġi mibdul fi pjan ta' permanenza alternattiv;

"pjan ta' permanenza alternattiv" ifisser pjan sistematiku, konkret u f'waqtu għal kull minuri li jgħix f'ħarsien alternattiv u, jew li huwa protett b'ordni ta' ħarsien, bil-għan li jippromwovi stabbiltà u kontinwità fil-kura u ħarsien alternattiv tal-minuri; u

Kap. 287.

"Qorti" tfisser il-Qorti tal-Minorenni mwaqqfa skont l-Att dwar il-Qorti tal-Minorenni.

TAQSIMA I

FUQ IL-PROTEZZJONI TAL-MINURI

Titolu I

*Sub-titolu I*FUQ ID-DIRETTUR RESPONSABBLI GĦALL-PROTEZZJONI
TAL-MINURI

3. (1) Għandu jkun hemm Direttur li jkollu responsabbiltà li jiproteġi minuri f'riskju, magħruf bħala Direttur (Protezzjoni Minuri).

Direttur
responsabbli
għall-
protezzjoni tal-
minuri.

(2) Għandu jkun hemm ukoll uffiċjali oħra tal-Uffiċċju tad-Direttur li jeżerċitaw u jeżegwixxu dawk is-setgħat, funzjonijiet u responsabbiltajiet kollha delegati jew mogħtija lilhom mid-Direttur (Protezzjoni Minuri).

(3) Fl-eżerċizzju u fl-eżekuzzjoni tas-setgħat, funzjonijiet u responsabbiltajiet kollha delegati jew mogħtija lilhom kif intqal qabel, l-uffiċjali tad-Direttur għandhom, sakemm ma jkunx jidher xort'oħra, ikollhom dawk l-istess setgħat, funzjonijiet u responsabbiltajiet li l-ligi timponi fuq jew tagħti lid-Direttur (Protezzjoni Minuri).

(4) Fl-eżerċizzju u fl-eżekuzzjoni tas-setgħat, funzjonijiet u responsabbiltajiet tagħhom, id-Direttur u l-uffiċjali msemmija fis-subartikolu (2) jistgħu jitolbu l-assistenza tal-Pulizija Eżekuttiva skont l-Att dwar il-Pulizija, kull meta jqisu li jkun hekk meħtieġ.

Kap.164.

4. Bla ħsara għall-funzjonijiet li jistgħu jkunu mogħtija lilu b'dan l-Att, jew b'xi ligi oħra, il-funzjoni tad-Direttur (Protezzjoni Minuri) tkun li jinvestiga kull ħsara allegata, jew riskju ta' ħsara, fir-rigward ta' xi minuri u li jieħu dik l-azzjoni li tista' tidher xierqa għall-protezzjoni tal-minuri. Fl-eżerċizzju tal-funzjonijiet tiegħu, id-Direttur (Protezzjoni Minuri) għandu:

Funzjonijiet tad-
Direttur
(Protezzjoni
Minuri).

(a) jaġixxi fl-aħjar interessi tal-minuri f'riskju, anke jekk dak il-minuri mhux ċittadin ta' Malta;

(b) jaċċerta ruħu dwar il-fehmiet u x-xewqat tal-minuri f'riskju;

(ċ) jikkollabora ma' dawk kollha involuti fil-protezzjoni tal-minuri f'riskju;

(d) jinvestiga dwar jekk xi azzjoni meħuda dwar il-minuri f'riskju kinitx xierqa;

(e) jipprovdi gwida lill-ġenituri u lill-familja tal-minuri f'riskju; u

(f) minn żmien għal żmien joħroġ linji gwida dwar dak li jista' jitqies bħala ħsara sinifikanti jew riskju ta' ħsara sinifikanti.

Kordinazzjoni
mad-
Dipartiment tal-
Edukazzjoni u
entitajiet oħra.

5. (1) Id-Direttur (Protezzjoni Minuri) għandu jagħmel laqgħat regolari b'intervalli xierqa ma' rappreżentanti tad-Dipartimenti tal-Edukazzjoni u tas-Saħħa, tal-Pulizija u ma' kull persuna jew entità oħra li d-Direttur (Protezzjoni Minuri) iħoss li għandhom responsabbiltà għall-protezzjoni tal-minuri jew ta' xi minuri partikolari, bil-għan li jiddisku u kwalunkwe materja li taqa' taħt dik ir-responsabbiltà u biex jistabilixxu prattiċi u protokoll li għandhom jiġu adottati, kif ukoll biex dawn il-laqgħat regolari jservu bħala kumitat ta' investigazzjoni kongunta bejn kull entità li għandha responsabbiltà għall-protezzjoni tal-minuri jew ta' xi minuri partikolari.

(2) Għandhom jinżammu minuti tal-laqgħat imsemmija fis-subartikolu (1) u l-progress li jsir minn laqgħa għal oħra għandu jkun ikkontrollat mid-Direttur (Protezzjoni Minuri).

(3) Meta laqgħa tinzamm sabiex ikun diskuss il-każ ta' xi minuri partikolari d-Direttur (Protezzjoni Minuri) jista' jeħtieġ kull persuna jew entità li tattendi għal-laqgħa biex tirrapporta dwar il-progress tal-minuri u kopja ta' dak ir-rapport għandha tiġi inkluża fir-reġistru miżmum mid-Direttur (Protezzjoni Minuri) dwar il-minuri.

(4) Kull persuna jew entità li tattendi għal-laqgħa tkun marbuta bil-kunfidenzjalità u m'għandhiex tiżvela lil terzi ebda informazzjoni jew tgħaddi ebda dokument jew estratti minnu li jistgħu jkunu ġew fl-għarfien jew fil-pussess tagħha matul dik il-laqgħa jew b'riżultat tagħha:

Iżda l-iżvelar jew l-għotja msemmija jistgħu jsiru skont awtorizzazzjoni, rikjesta jew ordni ta' xi qorti.

(5) Minn żmien għal żmien il-Ministru responsabbli għall-benessri tal-minuri għandu jniedi strateġija nazzjonali dwar il-protezzjoni u d-drittijiet tat-tfal flimkien mad-Direttur (Protezzjoni Minuri) u l-entitajiet jew dipartimenti li għandhom responsabbiltà għall-protezzjoni, ħarsien jew kura tal-minuri.

Tmexxija tax-
xogħol tal-
kariga.

6. It-twettiq tal-funzjonijiet tad-Direttur (Protezzjoni Minuri), inkluż dak kollu meħtieġ għat-twettiq tagħhom u l-kontroll amministrattiv, għandhom ikunu r-responsabbiltà tad-Direttur (Protezzjoni Minuri).

7. Ir-rappreżentanza legali u ġuridika tad-Direttur (Protezzjoni Minuri) tkun vestita fid-Direttur (Protezzjoni Minuri). Rappreżentanza legali u ġuridika.

Iżda d-Direttur (Protezzjoni Minuri) jista' jiddelega uffiċjali oħra sabiex jeżerċitaw dik ir-rappreżentanza.

Sub-Titolu II

FUQ IL-PROTEZZJONI TAL-MINURI

8. (1) Kull persuna li għandha raġuni taħseb li minuri, imwieled jew li jkun ser jitwieled, qiegħed isofri, jew qiegħed f'periklu li jsolfri, ħsara sinifikanti, tista' tirrapporta dawk iċ-ċirkostanzi li minhabba fihom tqis li għandha dik ir-raġuni lid-Direttur (Protezzjoni Minuri) jew lill-Pulizija Eżekuttiva. Rapporti.

(2) Bla ħsara għal kull dispożizzjoni oħra ta' xi liġi, kull professjonist li matul ix-xogħol tiegħu jkollu għarfien ta' att li jikkostitwixxi reat kriminali li jikkaguna ħsara sinifikanti hekk kif imfissra fis-subartikolu (4) fuq minuri jew fuq tarbija mhux imwielda, għandu jirrapporta minnufih lid-Direttur (Protezzjoni Minuri) jew lill-Pulizija Eżekuttiva u, mingħajr preġudizzju għas-subartikolu (4), ebda rappurtagġ bħal dak meta magħmul *in bona fide* ma jista' jikkostitwixxi reat taht kull liġi li tkun:

Iżda meta rapport isir lil entità jew istituzzjoni, minbarra d-Direttur (Protezzjoni Minuri) jew il-Pulizija Eżekuttiva, dik l-entità jew istituzzjoni għandha tirreġistra bil-miktub ir-rapport u għandha, mingħajr dewmien, u f'kull każ mhux aktar tard minn tlett ijiem minn meta jkun riċevut ir-rapport, tirreferi r-rapport lid-Direttur (Protezzjoni Minuri) jew lill-Pulizija Eżekuttiva.

(3) Kull professjonist li jonqos milli jagħmel rapport imsemmi fis-subartikolu (2) ikun ħati ta' reat u jehel meta jinstab ħati l-piena ta' prigunerija għal żmien ta' mhux anqas minn tliet xhur u mhux aktar minn disa' xhur, jew multa ta' mhux iżjed minn ħamest elef euro (€5,000), jew dik il-multa u prigunerija flimkien.

(4) Għall-finijiet ta' dan l-artikolu u ta' dispożizzjonijiet oħra ta' dan l-Att, "ħsara sinifikanti" tinkludi abbuż, negliġenza, fastidju, trattament ħażin, sfruttament, abbandun, espożizzjoni, u t-traffikar ta' xi persuni kif imsemmi fis-Sub-titolu VIII Bis tat-Titolu VIII tat-Taqsima II tal-Ewwel Ktieb tal-Kodiċi Kriminali. Kap. 9.

9. (1) Id-Direttur (Protezzjoni Minuri) għandu jzomm regjistru li fih jirreġistra r-rapporti kollha li huwa jirċievi skont l-artikolu 8. Regjistru tar-rapporti.

Tmexxija fuq ir-rapporti.

(2) Id-Direttur (Protezzjoni Minuri) għandu, fi żmien hamest ijiem utili minn meta jirċievi rapport, jiddeċiedi, skont l-informazzjoni mogħtija, jekk hemmx raġunijiet biżżejjed jew xort'ohra biex jemmen li l-minuri qiegħed isofri jew qiegħed f'periklu li jsofri ħsara sinifikanti.

(3) F'każ li d-Direttur (Protezzjoni Minuri) iqis li hemm raġunijiet biżżejjed kif imsemmi fis-subartikolu (2), huwa għandu jagħmel dawk l-investigazzjonijiet u evalwazzjonijiet li huwa jqis meħtieġa sabiex jiddeċiedi jekk il-minuri jkunx fil-bżonn ta' ħarsien u protezzjoni u, jekk huwa jqis li m'hemmx dawk ir-raġunijiet, hu għandu jagħlaq ir-rapport u jesponi fid-dettall ir-raġunijiet għal dik id-deċiżjoni.

(4) Id-Direttur (Protezzjoni Minuri) għandu jagħmel l-investigazzjonijiet u l-evalwazzjonijiet imsemmija fis-subartikolu (2) fi żmien tletin jum utili, liema żmien jibda għaddej mid-data tad-deċiżjoni tad-Direttur (Protezzjoni Minuri) li l-minuri qed isofri, jew qiegħed f'periklu li jsofri, ħsara sinifikanti:

Iżda l-imsemmi żmien jista', għal raġuni tajba, jiġi estiż mid-Direttur (Protezzjoni Minuri) għal sittin jum utili ieħor.

(5) Meta d-Direttur (Protezzjoni Minuri) jiddeċiedi li l-minuri hu fil-bżonn ta' ħarsien u protezzjoni, id-Direttur (Protezzjoni Minuri) għandu jieħu kull miżura meħtieġa sabiex jipproteġi lil dak il-minuri, li, mingħajr preġudizzju għal kull azzjoni oħra li d-Direttur (Protezzjoni Minuri) jidhirlu hija xierqa li jieħu, tista' tinkludi waħda jew iktar minn dawn li ġejjin:

(a) jirrakkomanda l-għotja ta' servizzi ta' appoġġ għall-minuri, waqt li jikkunsidra l-bżonnijiet partikolari tal-minuri u jara li dawk ir-rakkomandazzjonijiet jitwetqu;

(b) jirrakkomanda l-għotja ta' servizzi ta' appoġġ għall-ġenituri tal-minuri jew għal kull persuna oħra li tidher li jkollha responsabbiltà għal dak il-minuri u jara li dawk ir-rakkomandazzjonijiet jitwettqu;

(ċ) johroġ linji gwida dwar ir-responsabbiltajiet ta' ġenitur;

(d) jitlob lill-Qorti tagħmel ordni ta' emerġenza;

(e) jitlob lill-Qorti tagħmel ordni xierqa għall-protezzjoni tal-minuri;

(f) iġib rapport għall-għarfien tal-Pulizija Eżekuttiva sabiex isiru aktar investigazzjonijiet f'kull każ li jinvolvi abbuż

jew abbandun ta' minuri; jew

(g) jagħmel denunzja lill-Pulizija Eżekuttiva dwar reat li proċedimenti dwaru jistgħu jittieħdu *ex officio* mill-Pulizija Eżekuttiva skont il-liġi.

10. Fit-twettiq tal-funzjonijiet tiegħu skont l-artikolu 9, id-Direttur (Protezzjoni Minuri) jista':

Setgħat
investigattivi
tad-Direttur
(Protezzjoni
Minuri).

(a) jidhol u jispezzjona l-lok fejn ikun qiegħed jinżamm il-minuri;

(b) ikellem lill-minuri;

(ċ) jitlob li tingħatalu kull informazzjoni li tista' tkun raġonevolment meħtieġa għall-investigazzjoni;

(d) jistaqsi lil kull persuna li jidhirlu li hija involuta fil-ħarsien tal-minuri fuq kull materja relatata mal-investigazzjoni;

(e) jikseb ritratti, filmati u kull xorta oħra ta' reġistrazzjoni bħala evidenza; u

(f) jikseb kull xorta ta' dokument, kif imfisser fl-Att Kap. 249. dwar l-Interpretazzjoni, bħala evidenza.

11. (1) Meta jiġi biex iqis liema azzjoni jieħu d-Direttur (Protezzjoni Minuri) għandu jara jekk ikunx possibbli li jintlaħaq ftehim permezz ta' kuntratt soċjali sabiex tiġi riżolta kwistjoni li tikkonċerna l-bżonn tal-minuri għall-ħarsien u protezzjoni mingħajr ma jsir rikors lill-Qorti biex tinħareġ xi ordni għall-protezzjoni.

Kuntratt soċjali
dwar ir-
responsabbiltà
tal-ġenituri.

(2) Il-kuntratt soċjali msemmi fis-subartikolu ta' qabel dan għandu jkun iffirmit mill-partijiet għalih u għandu jibda jseħh mid-data tal-firem tagħhom.

(3) Id-Direttur (Protezzjoni Minuri) jista' jiftiehem dwar dawk il-pattijiet u kundizzjonijiet li jidhirlu li huma xierqa u, b'mod partikolari, id-Direttur (Protezzjoni Minuri) jista' jiftiehem fuq pattijiet u kundizzjonijiet dwar:

(a) it-ttrattament ta' abbuż minn sustanzi jew vizzji oħra matul il-perijodu operattiv tal-kuntratt soċjali;

(b) it-ttrattament għall-persuna bi problemi ta' aġir abbużiv;

(ċ) *counselling* jew trattament ieħor psikoloġiku jew xi forma oħra ta' trattament mediku;

- (d) eżamijiet għal abbuż minn sustanzi;
- (e) korsijiet bil-għan li jtejbu l-hiliet tal-ġenituri tal-minuri;
- (f) l-għoti ta' appoġġ u *counselling* lill-minuri;
- (g) l-għoti ta' assistenza medika u edukattiva lill-minuri;
- (h) il-metodu tal-monitoraġġ għall-konformità mal-kuntratt soċjali; u
- (i) l-involviment tal-familja estiża u ta' persuni oħra importanti fil-ħajja tal-familja fl-ippjanar u t-twettiq ta' pjan ta' ħarsien, kif ikun fl-aħjar interess tal-minuri:

Iżda l-kuntratt soċjali għandu jispeċifika il-perijodu li jkun operattiv, kif ukoll iċ-ċirkostanzi li fihom id-Direttur (Protezzjoni Minuri) jista' jippreżenta rikors għal wieħed jew iktar mill-ordnijiet imsemmija fl-artikolu 18:

Iżda wkoll, il-kuntratt soċjali ma għandux jipprovdi dwar l-għoti ta' responsabbiltajiet ta' ġenitur għall-minuri.

(4) Mal-firem, id-Direttur (Protezzjoni Minuri) għandu jinnotifika lid-Direttur (Ħarsien Alternattiv) sabiex dan tal-aħħar jaħtar haddiem soċjali sabiex isegwi l-iżvilupp u l-interessi tal-minuri skont il-kuntratt soċjali u għal dan il-għan il-haddiem soċjali għandu wkoll jissorvelja l-konformità tal-partijiet kollha mal-kuntratt soċjali.

(5) Id-Direttur (Protezzjoni Minuri) jista' wkoll jinnotifika entitajiet oħra biex huma jipprovdu appoġġ lill-ġenituri skont il-kuntratt soċjali.

(6) Il-kuntratt soċjali għandu jibqa' fis-seħħ għall-perijodu fih speċifikat sakemm ma jkunx terminat qabel jgħaddi dak il-perijodu mid-Direttur (Protezzjoni Minuri) billi jinnotifika b'dan lill-partijiet l-oħra.

(7) Meta d-Direttur (Protezzjoni Minuri) ikun jixtieq jemenda l-kuntratt soċjali, id-Direttur (Protezzjoni Minuri) jista' jbidel xi waħda mill-kundizzjonijiet tal-kuntratt soċjali bi qbil bil-miktub mal-partijiet kollha.

(8) Id-Direttur (Protezzjoni Minuri) għandu, f'kull ħin, jikkunsidra l-fehmiet tal-minuri jekk meqjus li jkollu fehim biżżejjed.

(9) Id-Direttur (Protezzjoni Minuri) jista' jawtorizza bil-miktub lil

kull entità li l-Ministru jkun indika b'avviż fil-Gazzetta biex tvarja l-kuntratt soċjali skont l-aħjar interessi tal-minuri u liema tibdiliet għandhom jiġu approvati bil-miktub mill-partijiet kollha biex ikollhom effett:

Iżda għall-għanijiet ta' dan l-artikolu d-Direttur (Protezzjoni Minuri) jista' jagħzel li jibqa' parti minn dak il-kuntratt soċjali meta jqis li dak ikun fl-aħjar interessi tal-minuri.

12. (1) Sabiex jiġi mfassal pjan ta' ħarsien skont id-dispożizzjonijiet ta' dan l-Att, id-Direttur (Protezzjoni Minuri) għandu jlaqqa' dawk kollha involuti fil-każ biex jiġi stabbilit pjan ta' ħarsien. Pjan ta' ħarsien.

(2) Il-pjan ta' ħarsien jista' jinkludi dawn li ġejjin:

(a) il-partikolaritajiet rilevanti li jidentifikaw lill-minuri;

(b) ir-raġunijiet li għalihom l-ordni għall-protezzjoni tkun giet mitluba;

(c) l-għanijiet tal-pjan ta' ħarsien u, jekk applikabbli, dawk tat-tqegħid tal-minuri f'ħarsien alternattiv;

(d) it-trattament u l-assistenza li l-ġenituri tal-minuri għandhom jirċievu bil-ħsieb li jitnaqqsu jew ikunu revokati l-effetti tal-ordni għall-protezzjoni tal-minuri;

(e) il-lok u l-frekwenza tal-kuntatt tal-minuri mal-familja tiegħu;

(f) jekk applikabbli, il-lok fejn il-minuri għandu jirrisjedi;

(g) ħwejjeg li għandhom x'jaqsmu mal-edukazzjoni, is-saħħa, il-manteniment u l-benessri tal-minuri; u

(h) kopja ta' kull deċiżjoni rilevanti mogħtija mill-Qorti.

(3) Il-pjan ta' ħarsien għandu, f'kull każ, ikun preparat bil-parteciġazzjoni tal-minuri, jekk meqjus li jkollu fehim biżżejjed, u bil-parteciġazzjoni ta' kull persuna jew entità oħra li d-Direttur (Protezzjoni Minuri) jista' jqis li jkun xieraq fiċ-ċirkostanzi tal-każ.

(4) Il-pjan ta' ħarsien għandu jiġi ppreżentat fl-atti tal-kawża dwar ordni għall-protezzjoni permezz ta' nota u kull tibdil fil-pjan m'għandux jibda jgħodd sakemm in-nota dwar dan ma tkunx giet ippreżentata fir-reġistru tal-Qorti.

(5) Meta jkun hemm pjan ta' ħarsien u l-kunsens ta' ġenitur ikun għadu meħtieġ għal xi haġa meħtieġa biex ma ssirx ħsara sinifikanti għas-saħħa u l-edukazzjoni tal-minuri, u dak il-ġenitur ma jagħtix il-kunsens tiegħu mingħajr raġuni valida, id-Direttur (Protezzjoni Minuri) jew kull entità li l-Ministru jista' jordna b'avviż fil-Gazzetta jistgħu jaġixxu mingħajr il-kunsens ta' dak il-ġenitur u jieħdu kwalunkwe deċiżjoni fl-aħjar interess tal-minuri.

(6) Kull parti interessata tista', permezz ta' rikors lill-Qorti, titlob sabiex id-deċiżjoni meħuda skont is-subartikolu (5) tiġi mħassra, revokata jew mibdula u l-Qorti għandha tisma' u tiddeċiedi dwar ir-rikors mingħajr dewmien.

(7) Il-pjan ta' ħarsien għandu jkun suġġett għal reviżjonijiet mill-Bord ta' Reviżjoni skont id-dispożizzjonijiet ta' dan l-Att.

TITOLU II

FUQ IL-QORTI TAL-MINORENNI

Sub-titolu I

FUQ IL-PROCEDURI QUDDIEM IL-QORTI TAL-MINORENNI

Qorti tal-Minorenni.
Kap. 287.

13. Mingħajr ħsara għal kull dispożizzjoni taħt l-Att dwar il-Qorti tal-Minorenni jew ta' kull liġi oħra, il-Qorti għandha kompetenza biex tisma' u tiddeċiedi l-każijiet kollha li skont dan l-Att mhumiex kompetenza ta' xi organu ieħor mwaqqaf taħtu.

Seduti tal-Qorti, smiġh tal-proċeduri u deċiżjonijiet.

14. (1) Il-Qorti għandha tisma' l-każijiet kollha miġjuba quddiemha bis-saħħa ta' dan l-Att f'dawk il-postijiet preskritti mill-Ministru permezz ta' regolamenti sabiex iservu bħala *Children's House*.

(2) Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Ministru jista' wkoll b'regolamenti jippreskrivi l-proċedura li għandha tiġi segwita għall-każijiet kollha li jinstemgħu ġewwa *Children's House*.

Aċċess għall-atti.

15. Hlief għall-partijiet fil-kawża jew għall-avukat jew prokuratur legali tal-partijiet li għandhom ikollhom aċċess liberu u sħiħ għalihom, l-atti tal-proċeduri u d-dokumenti relattivi tal-Qorti m'għandhomx ikunu aċċessibbli għal terzi hlief bil-permess tal-Qorti, li tista' tgħaddi dawk il-partijiet rilevanti tal-atti tal-proċeduri skont iċ-ċirkostanzi tal-każ u jekk fl-aħjar interess tal-minuri.

Smiġh tal-minuri.

16. (1) Meta fil-proċeduri li jolqtu lill-minuri l-Qorti tqis li l-minuri ikollu fehim biżżejjed, qabel ma tiegħu deċiżjoni il-Qorti

għandha tiegħu konsiderazzjoni tax-xewqat u l-fehmiet tal-minuri, fl-aħjar interessi tiegħu, biex:

(a) tiżgura li l-minuri irċieva kull informazzjoni rilevanti, inkluż iżda mhux limitat għall-informazzjoni dwar proċeduri li ttiehdu, jew li jistgħu jittiehdu, fir-rigward tal-minuri u r-raġunijiet għalihom;

(b) tikkonsulta mal-minuri b'mod xieraq għall-fehma tiegħu, sakemm il-Qorti ma tkunx tal-fehma li huwa raġonevolment ċar li dan ikun kontra l-aħjar interessi tal-minuri;

(ċ) tagħti l-opportunità lill-minuri jesprimi l-fehmiet tiegħu u tikkunsidrahom:

Iżda l-Qorti għandha, sakemm ma tkunx semgħet lill-minuri fil-gurnata appuntata għas-smiġh tal-kawża, tisma' lill-minuri mhux aktar tard mit-tieni seduta fis-smiġh tal-kawża.

(2) Meta l-Qorti ma tkunx hi stess li tikkonsulta lill-minuri, hi għandha tiżgura li l-persuna li tikkonsulta lill-minuri tkun irċeviet taħriġ xieraq sabiex tagħmel dawk il-konsultazzjonijiet, u fil-każ ta' minuri mhux akkumpanjati, il-Qorti għandha tiżgura wkoll illi l-persuna li tikkonsulta lil dawn il-minuri għandha s-sensittività lingwistika u kulturali xierqa.

(3) Il-persuna li tagħmel il-konsultazzjoni skont is-subartikolu preċedenti għandha ttejjji rapport dwar l-istess konsultazzjoni u għandha tippreżentah lill-Qorti fl-atti tal-proċeduri b'dak il-mod u sa dak iż-żmien li l-Qorti tista' tordnalha.

(4) Il-fehmiet tal-minuri li jkun determinabbli jew, meta dawn il-fehmiet ma jkunux jistgħu jiġu determinati, ir-raġunijiet għal dan, għandhom jitniżżlu fl-atti tal-kawża mill-Qorti.

(5) Il-fehmiet tal-minuri għandhom jiġu determinati b'sensittività u b'mod li ma tiġix ikkaġunata ħsara lill-minuri.

(6) F'kull proċedura quddiem il-Qorti, il-Qorti għandha tikkunsidra:

(a) il-fehmiet tal-minuri, jekk il-minuri huwa meqjus illi għandu fehim biżżejjed;

(b) il-ħtiġiet fiżiċi, emozzjonali u edukattivi tal-minuri u l-kapaċità tal-ġenituri, jew ta' persuni oħra xierqa, li jikkontribwixxu għal dawk il-ħtiġiet;

(c) l-effett li bidla fiċ-ċirkustanzi jista' jkollha fuq il-minuri;

(d) l-età, l-isfond u l-karatteristiċi tal-minuri li l-Qorti tqis rilevanti;

(e) il-ħsara li l-minuri soffra jew li jista' jsofri; u

(f) kull haġa rilevanti oħra.

(7) Il-Qorti għandha tiffissa l-ħin li fih il-minuri għandu jagħti x-xhieda tiegħu skont is-subartikolu (8) u għal dan il-għan għandha tisma' lil dak il-minuri f'postijiet preskritti skont l-artikolu 14.

(8) Ix-xhieda tal-minuri għandha tingabar minn esperti li għandhom ikunu nominati mill-Ministru sabiex jiffurmaw parti minn lista ta' esperti li jistgħu jinhatru mill-Qorti f'każijiet ta' din in-natura, - u s-smiġħ tal-minuri għandu kemm jista' jkun isir f'seduta waħda filwaqt li jkun żgurat ukoll li d-drittijiet tal-partijiet kollha involuti jkunu protetti.

(9) Għall-kontroezami tal-minuri l-mistoqsijiet mill-avukati difensuri għandhom isiru lill-esperti msemmija fis-subartikolu (8) quddiem il-Qorti u l-Qorti għandha tara li tingabar ix-xhieda meħtieġa skont is-subartikolu (8) u l-liġi tal-provi:

Izda f'każijiet eċċezzjonali biss, parti fil-proċeduri tista' teħtieġ li l-Qorti terġa' tisma' lill-minuri għall-finijiet ta' kontroezami ulterjuri u għal dan il-għan il-Qorti għandha tgħaddi għal dak is-smiġħ bl-istess metodi msemmija f'dan is-subartikolu.

(10) Il-Ministru jista' b'regolamenti jippreskrivi l-proċedura ta' kif għandhom jiġu nominati l-esperti msemmija fis-subartikolu (8).

Sub-titolu II

FUQ L-ORDNIJET GĦALL-PROTEZZJONI TAL-MINURI

Proċedura għall-
ħruġ ta'
ordnijiet.

17. (1) Id-Direttur (Protezzjoni Minuri) jista', permezz ta' rikors, jitlob lill-Qorti toħroġ ordni għall-protezzjoni ta' minuri skont kif dispost fl-artikolu 18.

(2) Ir-rikors imsemmi fis-subartikolu (1) għandu, minbarra l-partikolaritajiet rilevanti li jidentifikaw lill-minuri u, kif applikabbli, lill-ġenituri tal-minuri, jinkludi:

(a) il-fatti rilevanti għall-każ u għat-talbiet li jinsabu fir-rikors;

(b) rapport li jkun fih il-konklużjonijiet tal-investigazzjonijiet u l-evalwazzjonijiet relattivi;

(ċ) meta possibbli, indikazzjoni ta' xi forma oħra disponibbli ta' ħarsien;

(d) dawk id-dokumenti l-oħra li jkunu meħtieġa sabiex isaħħu t-talba;

(e) talba biex tinħareġ ordni għall-protezzjoni; u

(f) meta meħtieġ, it-talba sabiex il-Qorti tipprovdi għall-ħarsien immedjat tal-minuri skont kif jidhirlu xieraq fiċ-ċirkustanzi tal-każ.

(3) Il-Qorti għandha tagħti kull provvediment provvizorju dwar ir-rikors imsemmi fi żmien erbgħa u għoxrin siegħa.

(4) Kull deċiżjoni, ordni jew provvediment tal-Qorti fuq rikors imsemmi f'dan l-artikolu għandhom ikunu bbażati esklussivament fuq ir-rikors promotur.

(5) Meta tirċievi ir-rikors skont dan l-artikolu l-Qorti għandha tinnomina Avukat tat-Tfal u għandha mbagħad tappunta r-rikors għas-smiġh fi żmien għaxart ijiem utili u tordna n-notifika immedjata lid-Direttur (Protezzjoni Minuri), lill-ġenituri tal-minuri, lill-Avukat tat-Tfal nominat minnha, , u, jekk applikabbli, lill-kustodju speċjali, bid-data tas-smiġh.

(6) Il-Qorti għandha, matul l-ewwel seduta, tisma' t-talba tad-Direttur (Protezzjoni Minuri), il-provi li jsaħħu dik it-talba, u jekk tħoss li jkun xieraq lill-ġenituri tal-minuri, lill-Avukat tat-Tfal u, jekk applikabbli, lill-kustodju speċjali.

(7) Meta l-Qorti tkun sodisfatta li t-talbiet huma ġustifikati, il-Qorti għandha taġġorna l-każ għal data oħra, li ma tkunx aktar tard minn xahrejn mid-data tal-ewwel smiġh, u d-Direttur (Protezzjoni Minuri) għandu jipprepara pjan ta' ħarsien sa dik id-data:

Iżda meta r-rikors ikun għal ordni ta' ħarsien il-Qorti għandha, wara li tikkonsulta mad-Direttur (Ħarsien Alternattiv), tistabbilixxi l-post fejn il-minuri għandu jirrisjedi sakemm jiġi preparat il-pjan ta' ħarsien:

Iżda wkoll meta l-ġenituri jhossu li jistgħu jirribattu allegazzjoni fil-konfront ta' għom permezz tal-produzzjoni ta' xhieda u sottomissjonijiet, huma għandhom jithallew iħarku x-xhieda jew iresqu 'l quddiem kull tip ta' prova jew sottomissjoni oħra rilevanti.

(8) Meta l-Qorti tkun sodisfatta li l-pjan ta' ħarsien hu xieraq fiċ-ċirkostanzi tal-każ, hi għandha tagħti d-deċiżjoni finali tagħha dwar irrikors imsemmi fis-subartikolu (1) fi żmien xahrejn mill-preżentata tiegħu billi tawtorizza u timponi l-ordnijiet relattivi u dan bla ħsara għal dawk il-kundizzjonijiet l-oħra li l-Qorti jidhrilha xierqa li timponi u dan inkluż li tafda l-kura u kustodja tal-minuri f'idejn terzi persuni.

Ordnijiet għall-protezzjoni tal-minuri.

18. (1) Fil-każijiet li fihom id-Direttur (Protezzjoni Minuri) jaġixxi sabiex tkun magħmula ordni għall-protezzjoni ta' minuri, il-Qorti tista' tagħmel waħda jew iżjed mill-ordnijiet li ġejjin:

(a) ordni ta' ħarsien li permezz tagħha tafda l-kura u kustodja tal-minuri lil dik il-persuna jew entità li l-Qorti jidhrilha xierqa;

(b) ordni ta' superviżjoni li tqiegħed lill-minuri taht is-superviżjoni tal-entità indikata mid-Direttur (Protezzjoni Minuri) għal żmien speċifikat fl-ordni u taht dawk il-kundizzjonijiet li l-Qorti jidhrilha xieraq li timponi, inkluż l-allokkazzjoni tar-responsabbiltà tal-ġenitur jew xi aspetti tagħha lil dik il-persuna jew persuni kif il-Qorti tħoss li huwa xieraq;

(ċ) ordni ta' trattament li tordna lill-ġenituri tal-minuri jirċievu kura għall-abbuż minn sustanzi, jew trattament għal vjolenza domestika, jew kura psikjatrika jew psikoloġika jew kwalunkwe trattament, kura jew għajna li l-Qorti, wara li tisma' l-esperti fil-qasam, jidhrilha xieraq li timponi;

(d) ordni ta' tneħħija li permezz tagħha tordna l-iżgumbrament tal-awtur tal-ħsara sinifikanti lill-minuri mil-lok fejn ikun joqgħod dak il-minuri, liema ordni ta' tneħħija jista' wkoll jipprovdi għall-protezzjoni tal-minuri, u dan mingħajr preġudizzju għad-dispożizzjonijiet ta' kull liġi oħra.

(2) Qabel ma tgħaddi għad-deċiżjoni tagħha l-Qorti għandha tikkunsidra, sakemm ikun possibbli:

(a) il-fehmiet tal-minuri, meta jitqies li għandu fehim biżżejjed;

(b) il-fehmiet tal-ġenituri;

(ċ) il-fehmiet tal-kustodju speċjali;

(d) il-kapaċità tal-ġenituri li jharsu l-benessri u l-iżvilupp armonjuż tal-minuri;

(e) in-natura u l-kwalità tar-rabta bejn il-minuri u l-

familja tiegħu;

(f) il-grad ta' ħsara li giet imgarrba jew li tista' tiġi mgarrba mill-minuri;

(g) it-tul ta' żmien li l-familja tal-minuri tkun damet tircievi servizzi ta' appoġġ u trattament;

(h) il-grad ta' vulnerabbiltà tal-minuri;

(i) l-isfond kulturali, lingwistiku u religjuż tal-minuri; u

(j) ir-relazzjonijiet tal-minuri ma' ħutu.

(3) Għall-għanijiet tas-subartikolu (1)(a), il-Qorti għandha tqis:

(a) jekk hemmx nuqqasijiet fil-kura ta' kuljum tal-minuri jew nuqqasijiet f'dak li hu kuntatt personali u sigurtà li l-minuri jinħtieġ fl-età u l-iżvilupp tiegħu;

(b) jekk il-minuri li jkun marid, diżabbli jew fi bżonn ta' għajjnuna speċjali, hux qiegħed jingħata t-trattament u l-kura speċjalizzata li jinħtieġ;

(ċ) jekk il-minuri huwiex f'riskju ta' abbandun; u

(d) jekk, b'mod ġenerali, il-minuri huwiex f'riskju li jsofri ħsara sinifikanti.

(4) Fil-każijiet fejn isir provvediment għall-għoti ta' xi responsabbiltajiet ta' ġenitur lil xi persuna minbarra l-ġenituri tal-minuri, il-Qorti għandha tagħti preferenza lill-familja tal-minuri, sakemm il-Qorti ma tkunx tal-fehma li huwa raġonevolment ċar li dan ikun kontra l-aħjar interessi tal-minuri.

19. (1) Meta d-Direttur (Protezzjoni Minuri) ikollu informazzjoni raġonevoli li twaslu biex ikun konvint li l-minuri ikun qiegħed isofri ħsara sinifikanti, id-Direttur (Protezzjoni Minuri) jista', bl-għajjnuna tal-Pulizija Eżekuttiva, minnufih jipproċedi bit-tneħħija tal-minuri minn dak il-post li fih tkun qiegħda ssir dik il-ħsara sinifikanti u dan mingħajr ebda ħtieġa ta' xi forma ta' awtorizzazzjoni.

Ordni ta' emerġenza.

(2) Fi żmien erbgħa u għoxrin siegħa minn meta jkun ħa azzjoni skont is-subartikolu (1), id-Direttur (Protezzjoni Minuri) għandu jippreżenta rikors quddiem il-Maġistrat tal-għassa sabiex provvizorjament jikkonvalida jew jirrevoka t-tneħħija tal-minuri kif hemm imsemmi.

(3) Id-digriet provviżorju mogħti mill-Maġistrat skont dan l-artikolu għandu jiġi notifikat minnufih lid-Direttur (Protezzjoni Minuri), lill-Pulizija Eżekuttiva, lill-Avukat tat-Tfal nominat, lid-Direttur (Ħarsien Alternattiv), lill-ġenituri tal-minuri u, jekk applikabbi, lill-kustodju speċjali.

(4) Ir-rikors imsemmi fis-subartikolu (2) għandu jkun fih tifsira qasira iżda ċara tal-fatti tal-każ u talba sabiex il-Qorti tikkonferma d-deċiżjoni tad-Direttur (Protezzjoni Minuri).

(5) Wara li jingħata digriet provviżorju skont is-subartikolu (2), l-atti tal-proċess għandhom minnufih jintbagħtu lill-Qorti sabiex tkompli bil-prosegwiment tal-każ.

(6) Il-Qorti għandha tappunta r-rikors għas-smiġh mhux aktar tard minn għaxart ijiem utili minn meta tirċievi l-atti tal-proċess.

(7) Il-Qorti tista' tordna lid-Direttur (Protezzjoni Minuri) jagħmel dawk l-investigazzjonijiet neċessarji sabiex tiġi stabbilita liema azzjoni għandha tittiehed biex jiġi salvagwardat il-benessri tal-minuri.

(8) Minnufih malli tkun informata mid-Direttur (Protezzjoni Minuri) li hemm il-bżonn it-tneħħija ta' minuri minn post ta' riskju skont dan l-artikolu, id-Direttur (Ħarsien Alternattiv) għandu jqiegħed lill-minuri f'ħarsien alternattiv waqt li investigazzjonijiet oħra skont l-artikolu 9 jkunu għadhom pendenti.

(9) Kull investigazzjoni skont dan l-artikolu għandha tkun konkluża fi żmien tletin jum utili mid-data tal-ewwel smiġh:

Iżda, għal raġuni xierqa u wara li jsir rikors lill-Qorti, dan il-perijodu jista' jiġi mġedded mill-Qorti għal perijodu ieħor ta' għaxart ijiem utili.

(10) Meta jikkonkludi l-investigazzjoni, id-Direttur (Protezzjoni Minuri) għandu jippreżenta rapport lill-Qorti fejn fih għandu jfisser x'azzjoni jemmen li hemm bżonn li tittiehed dwar il-minuri u raġunijiet għall-istess bżonn.

(11) B'żieda mar-rapport imsemmi fis-subartikolu (10), id-Direttur (Protezzjoni Minuri) għandu jipprepara u jippreżenta pjan ta' ħarsien li għandu jinkludi fih rakkomandazzjonijiet dwar liema ordni ta' protezzjoni huwa jqis fl-aħjar interessi tal-minuri.

(12) Il-Qorti għandha, malli tirċievi r-rapport u l-pjan ta' ħarsien imsemmija fis-subartikoli (10) u (11), tistabbilixxi data li ma tkunx aktar tard minn għaxart ijiem utili mid-data ta' meta jkunu preżentati r-rapport u l-pjan ta' ħarsien biex tisma' lid-Direttur (Protezzjoni

Minuri), lill-ġenituri tal-minuri, lill-minuri, lill-Avukat tat-Tfal, lill-kustodju speċjali meta applikabbli, u lil kull persuna jew persuni oħra li l-Qorti jidhrilha xieraq.

(13) Wara li tikkunsidra r-rapport, il-pjan ta' ħarsien u x-xhieda kollha, il-Qorti għandha tawtorizza jew tiċhad dik l-ordni jew ordnijiet li d-Direttur (Protezzjoni Minuri) ikun irrakkomanda fil-pjan ta' ħarsien, u tista' tiddeċiedi wkoll dwar l-ġhoti ta' responsabbiltajiet ta' ġenitur lil xi persuna kif jidrilha xieraq:

Iżda, meta l-Qorti tawtorizza dik l-ordni jew ordnijiet rakkomandati mid-Direttur (Protezzjoni Minuri) taħt dan l-artikolu, il-każ għandu jiġi riferut lill-Bord ta' Reviżjoni fi żmien ħamest ijiem utili.

20. (1) Kull persuna li tiġi f'kuntatt ma' minuri mhux akkumpanjat għandha tirreferi lil dak il-minuri lid-Direttur (Protezzjoni Minuri) li għandu jinnotifika lill-Uffiċjal Prinċipali tal-Immigrazzjoni biex jirreġistra dak il-minuri u biex joħroġ dokument ta' identità għal dak il-minuri.

Minuri mhux akkumpanjati.

(2) Id-Direttur (Protezzjoni Minuri) għandu, minnufih wara li l-minuri ikun reġistrat u jinħarġulu d-dokumenti ta' identifikazzjoni opportuni, jitlob lill-Qorti sabiex tipprovdi għat-tutela u, jew għall-kurazija tal-minuri skont iċ-ċirkostanzi tal-każ u fl-aħjar interess tal-minuri.

(3) Meta fost il-qraba tal-minuri ikun hemm persuni li skont il-fehma tal-Qorti jkunu kompetenti, il-Qorti għandha taħtar waħda jew iżjed minn dawn il-persuni u, minn fost dawk il-persuni u dejjem skont l-aħjar interessi tal-minuri, għandha tingħata preferenza lill-eqreb qarib skont il-konsangwinità u fin-nuqqas għal dawk b'affinità.

(4) Għall-għanijiet ta' dan l-artikolu għandhom *mutatis mutandis* japplikaw id-dispożizzjonijiet tal-Kodiċi Ċivili dwar tutela u kurazija u bla ħsara għas-setgħat, funzjonijiet u dmirijiet li huma mogħtija lit-tutor u, jew kuratur taħt dawk id-dispożizzjonijiet jew għas-setgħat, funzjonijiet u dmirijiet li jistgħu jkunu mogħtija lilu skont xi liġi, it-tutor u, jew kuratur għandu jkun responsabbli biex jassisti u jappoġġa lill-minuri mhux akkumpanjat u b'mod partikolari li:

Kap. 16.

(a) jidentifika l-persuni jew l-entitajiet li hemm bżonn li jkunu involuti fil-kura, kustodja u protezzjoni tal-minuri;

(b) jikkordina l-isforzi ta' dawk il-persuni u entitajiet minnu identifikati;

(ċ) jiżgura li l-minuri jkun offrut kura, akkomodazzjoni,

edukazzjoni u kura medika, kif ikun xieraq;

(d) jiżgura li l-minuri jkollu rappreżentanza u assistenza legali u ġuridika xierqa fir-rigward tal-*istatus* ta' residenza tiegħu, it-talba tiegħu għall-ażil, jew xi proċeduri legali jew amministrattivi oħra, inkluż l-amministrazzjoni tal-patrimonju tiegħu; u

(e) jiżgura li kull deċiżjoni dwar il-minuri tittieħed fl-aħjar interessi tiegħu.

(5) Id-Direttur (Protezzjoni Minuri) għandu jirreferi lill-minuri mhux akkumpanjat lill-awtoritajiet kompetenti biex huma jagħmlu dawk l-investigazzjonijiet u evalwazzjonijiet li jkun jidhrilhom li huma xierqa biex jiddeterminaw huwiex minuri u minuri mhux akkumpanjat.

(6) Meta jirċievi l-konklużjonijiet tal-investigazzjonijiet u evalwazzjonijiet mingħand l-awtoritajiet kompetenti, li jistabilixxu li l-applikant huwa fil-fatt minuri mhux akkumpanjat, it-tutor u, jew kuratur għandu, b'rikors, jagħmel talba lill-Qorti biex toħroġ ordni għall-protezzjoni skont dan l-Att.

(7) Malli tirċievi talba bħal dawk imsemmija fis-subartikoli (2) u (6), il-Qorti għandha taħtar Avukat tat-Tfal għall-minuri mhux akkumpanjat u għandha tappunta s-smiġh tar-rikors fi żmien għaxart ijiem utili.

(8) Malli tappunta s-smiġh kif imsemmi fis-subartikolu preċedenti, il-Qorti għandha minnufih tinnotifika lill-Aġenzija, jew dawk l-awtoritajiet kompetenti jew entitajiet oħra responsabbli għall-ġid tal-persuni li jfittxu protezzjoni internazzjonali, skont il-każ, bid-data tas-smiġh.

(9) Il-Qorti għandha, mal-ewwel smiġh, tisma' t-talba, il-provi li jsaħħu t-talba, il-minuri mhux akkumpanjat, it-tutor u, jew kuratur u lill-Avukat tat-Tfal.

(10) Meta l-Qorti tkun sodisfatta li l-applikant huwa fil-fatt minuri mhux akkumpanjat, il-Qorti għandha tiddifferixxi l-każ għal ġurnata oħra li ma tkunx aktar tard minn xahar mill-ewwel smiġh, u d-Direttur (Protezzjoni Minuri), għandu, f'dak il-perijodu li jifdal sal-ġurnata tad-differiment, tipprepara pjan ta' ħarsien u d-dispożizzjonijiet tal-artikolu 12 għandhom japplikaw *mutatis mutandis*.

(11) Meta l-Qorti tkun sodisfatta li l-pjan ta' ħarsien ikun xieraq

fiċ-ċirkostanzi tal-każ, il-Qorti għandha toħroġ ordni għall-protezzjoni, bla ħsara għal dawk il-kundizzjonijiet l-oħra li l-Qorti jidhrilha xieraq li timponi, inkluż li tafda l-kura u kustodja lill-Aġenzija jew lil xi awtorità jew entità kompetenti li l-Qorti jidhrilha xierqa.

(12) Malli l-Qorti toħroġ ordni għall-protezzjoni kif imsemmi fis-subartikolu preċedenti, il-Qorti għandha mbagħad tirreferi l-każ lill-Bord ta' Revizjoni għar-revizjoni skont id-dispożizzjonijiet ta' dan l-Att.

21. (1) Bla ħsara għas-setgħat tal-Qorti li tagħmel ordni għall-protezzjoni, il-Qorti tista' wkoll, fuq talba tal-qraba tal-minuri, jew ta' xi wieħed mill-professjonisti li jkun qiegħed jassisti lill-minuri, jew tal-*carers* alternattivi, jew ta' xi persuna oħra qariba ta' dak il-minuri, jew ta' persuna oħra li għandha interess fil-minuri, tagħmel ordni għall-kustodju speċjali:

Ordni għall-kustodju speċjali.

Iżda meta fost il-persuni li jkunu qed japplikaw għall-kustodju speċjali jkun hemm qraba tal-minuri, u l-Qorti tiddeċiedi li dawn il-qraba huma persuni kompetenti, il-Qorti għandha tagħti preferenza lil dawn il-qraba, u meta tagħmel dan għandha dejjem tagħmlu skont l-aħjar interessi tal-minuri:

Iżda wkoll, fin-nuqqas ta' qraba li l-Qorti tqis kompetenti, il-Qorti tista' tiegħu konsiderazzjoni ta' persuni oħra li għandhom interess fil-minuri, u dan dejjem skont l-aħjar interessi tal-minuri.

(2) Il-persuni hawn taħt imsemmija ma jistgħux jiġu maħtura bħala kustodju speċjali:

(a) dawk li ma jkunux saru tal-età magġorenni;

(b) il-falluti mhux rijabilitati;

(ċ) dawk li jkunu kkundannati għall-piena ta' prigunerija għal żmien ta' aktar minn sena, jew għal kull piena, tkun li tkun, fuq delitti li jmissu l-bonordni tal-familja, jew fuq delitt ta' frodi;

(d) dawk li huma magħrufa bħala nies ta' kondotta hażina, jew li jidher raġonevolment ċar li mhumiex nies ta' min jafdahom jew traskurati; u

(e) kull persuna oħra li l-Qorti tista' tqis li ma tkunx xierqa fiċ-ċirkostanzi tal-każ, wara li tagħti raġunijiet għalfejn.

(3) Qabel tagħmel ordni skont is-subartikolu (1), il-Qorti għandha tinnotifika lill-Aġenzija, li għandha ttejjji rapport lill-Qorti dwar jekk,

skont il-fehma tagħha, dawk indikati mir-rikorrenti jkunux adegwati jew xort'ohra biex ikunu kustodji speċjali.

(4) Il-Qorti tista' talloka lill-kustodju speċjali dawk id-drittijiet u responsabbiltajiet ta' ġenitur li hija tqis li jkun xierqa għall-ħarsien tal-minuri u l-Qorti għandha wkoll tiddeċiedi jekk dawk id-drittijiet u responsabbiltajiet hekk allokatu għandhomx ikunu eżerċitati biss mill-kustodju speċjali bl-esklużjoni tal-ġenituri.

(5) F'każ ta' nuqqas ta' qbil bejn il-ġenituri u l-kustodju speċjali dwar hwejjeġ ta' importanza partikolari, il-ġenituri jew il-kustodju speċjali jistgħu jirrikorru għall-Qorti fejn jindikaw dawk id-direzzjonijiet li fil-fehma tagħhom jidhrilhom xierqa fiċ-ċirkostanzi.

(6) Il-Qorti għandha tiddeċiedi l-kwistjoni fuq rikors skont is-subartikolu preċedenti wara li tkun semgħet lill-ġenituri, lill-kustodju speċjali u lill-minuri, jekk dan ikun meqjus li għandu fehim biżżejjed:

Iżda fil-każ ta' periklu imminenti jew preġudizzju serju għall-minuri il-kustodju speċjali jista' jieħu dawk il-miżuri li huma urgenti mingħajr ebda awtorizzazzjoni u f'dan il-każ għandu jinforma l-Qorti bid-deċiżjoni tiegħu.

(7) Il-Qorti tista' tahtar iktar minn kustodju speċjali wieħed għall-minuri u hija tista', *ex officio* jew fuq rikors ta' wieħed jew aktar mill-kustodji speċjali, tispeċifika r-responsabbiltajiet ta' ġenitur mogħtija lil kull kustodju speċjali dwar il-minuri.

(8) Meta tahtar aktar minn kustodju speċjali wieħed, il-Qorti tista' wkoll tiddeċiedi jekk kustodju speċjali għandux ikollu d-dritt li jeżerċita r-responsabbiltajiet ta' ġenitur mogħtija lil bl-esklużjoni ta' kull persuna li l-Qorti tista' tagħżel li teskludi.

(9) Kull kustodju speċjali hekk maħtur skont dan l-artikolu jkollu dritt għal dawk is-servizzi ta' appoġġ li l-Ministru għandu minn żmien għal żmien jippreskrivi b'regolamenti.

(10) Kustodju speċjali maħtur skont dan l-artikolu għandu, kemmil darba hekk jiġi ordnat mill-Qorti, jagħti rendikont tal-amministrazzjoni tiegħu tal-interessi tal-minuri skont kif tordnal l-Qorti.

(11) Il-Qorti tista' tissospendi jew tneħhi kustodju speċjali għal xi waħda mir-raġunijiet imsemmijin fis-subartikolu (2), jew minħabba li jonqos milli jagħti rendikont meta jmissu, jew minħabba li r-rendikont mogħti ikun skorrett, jew għal raġuni oħra xierqa.

(12) F'kull każ skont dan l-artikolu, il-Qorti għandha fuq kollox

tħares l-interessi tal-minuri.

22. (1) Ordni għall-protezzjoni għandha tibqa' fis-seħħ sakemm il-minuri jagħlaq l-età ta' tmintax-il sena jew sakemm tiġi revokata mill-Qorti.

Validità tal-ordnijiet għall-protezzjoni tal-minuri.

(2) Il-Qorti tista' tirrevoka xi ordni għall-protezzjoni malli tirċievi rakkomandazzjoni favur dan, kif mogħtija skont l-artikolu 33(5) mill-Bord ta' Reviżjoni.

(3) Il-Qorti għandha, qabel tirrevoka ordni skont is-subartikolu preċedenti, tqis, kif applikabbli:

(a) ir-rakkomandazzjoni tal-Bord ta' Reviżjoni u r-raġunijiet mogħtija għaliha;

(b) il-fehmiet tal-minuri, jekk meqjus li għandu fehim biżżejjed;

(ċ) il-fehmiet tal-Avukat tat-Tfal;

(d) il-fehmiet tal-ġenituri tal-minuri;

(e) il-fehmiet tal-ħaddiem soċjali ewlieni;

(f) il-fehmiet tal-*carer* alternattiv;

(g) il-fehmiet tal-kustodju; u

(h) il-fehmiet ta' kull persuna oħra li l-Qorti jidhrilha xieraq.

(4) Meta l-Qorti tqis li jeżistu raġunijiet biżżejjed sabiex tkun revokata xi ordni għall-protezzjoni, il-Qorti għandha tirreferi l-każ lill-Bord ta' Reviżjoni sabiex jipprepara pjan ta' integrazzjoni mill-ġdid u għal dak il-għan għandhom japplikaw *mutatis mutandis* id-dispożizzjonijiet tal-artikolu 35.

(5) Meta l-Qorti tqis li ma jeżistux raġunijiet biżżejjed sabiex tkun revokata xi ordni għall-protezzjoni, il-Qorti għandha tordna li jitkomplew ir-reviżjonijiet quddiem il-Bord ta' Reviżjoni u għandha tagħti raġunijiet għalfejn.

(6) Għall-għanijiet tas-subartikoli (4) u (5), il-Qorti għandha tqis:

(a) l-età tal-minuri;

(b) ix-xewqat tal-minuri u l-konsiderazzjoni li għandha tagħti lil dawn ix-xewqat skont l-età u l-maturità tal-minuri;

(c) it-tul ta' żmien li l-minuri kien ilu fil-ħarsien tal-*carers* alternattivi preżenti;

(d) ir-rabta tal-minuri mal-ġenituri tiegħu u l-*carers* alternattivi preżenti;

(e) il-kapaċità tal-ġenituri tal-minuri li jipprovdu livell xieraq ta' ħarsien għall-minuri; u

(f) ir-riskju ta' ħsara psikoloġika li jista' jsofri l-minuri jekk l-arranġamenti tal-ħarsien preżenti jinbidlu jew jiġu revokati.

Pjan ta'
permanenza
alternattiv.

23. (1) Il-Qorti tista' tagħti digriet li jordna li pjan ta' permanenza alternattiv huwa, fiċ-ċirkostanzi tal-każ, fl-aħjar interess tal-minuri.

(2) Il-pjan ta' permanenza alternattiv għandu jkun preparat mid-Direttur (Protezzjoni Minuri) u għandu jidhol fis-seħħ skont kemm ikun sar avvanz f'dak kollu li jirrigwarda l-artikolu 12(2)(d).

(3) Il-pjan ta' permanenza alternattiv għandu jkun maħsub biex jitnaqqsu jew ikunu revokati l-effetti tal-ordni għall-protezzjoni tal-minuri u għandu jipprovdi għall-permanenza li tkun relazzjonali, fiżika u legali.

(4) Il-Qorti tista' tagħti d-digriet imsemmi fis-subartikolu (1) fuq rikors tad-Direttur (Protezzjoni Minuri), magħmul flimkien ma' talba għal ordni għall-protezzjoni u mal-istess rikors id-Direttur (Protezzjoni Minuri) għandu wkoll jippreżenta l-pjan ta' permanenza alternattiv għall-konsiderazzjoni tal-Qorti:

Iżda l-Qorti tista' wkoll tagħti digriet kif imsemmi fis-subartikolu (1) fuq rakkomandazzjoni tal-Bord ta' Reviżjoni skont l-artikolu 33(7).

(5) Qabel tagħti digriet skont dan l-artikolu l-Qorti għandha tikkunsidra l-fehmiet u x-xewqat tal-minuri, jekk meqjus li għandu fehim biżżejjed, u ta' kull persuna jew entità oħra li l-Qorti tista' tqis rilevanti, bil-għan li jiġu salvagwardjati l-fehmiet u x-xewqat tal-minuri.

(6) Meta l-Qorti tagħti digriet skont dan l-artikolu hija tista' wkoll tagħti lill-*carers* alternattivi setgħat ta' ġenitur, partikolarment dwar kwistjonijiet ta' edukazzjoni, saħħa, reliġjon u safar:

Iżda l-Qorti tista' wkoll timponi xi kundizzjoni oħra li jidhrilha xieraq li timponi fiċ-ċirkostanzi tal-każ.

(7) Kull reviżjoni tal-pjan ta' permanenza alternattiv għandha ssir tal-anqas darba fis-sena permezz ta' rapport magħmul mill-haddiem soċjali ewlieni, liema rapport għandu jkun preżentat lill-Bord ta' Reviżjoni.

(8) Għall-għanijiet tas-subartikolu preċedenti, l-imsemmi bord għandu, kull meta jidhirli xieraq li hekk jagħmel, isejjaħ lil kull persuna jew entità biex tidher quddiemu u jippreżenta kull dokument li jista' jehtieg:

Iżda l-Bord ta' Reviżjoni għandu jkollu s-setgħa li jisma' lill-minuri f'kull żmien li matulu l-pjan ta' permanenza alternattiv ikun fis-seħh, biex jaċċerta ruħu dwar il-benessri ta' dak il-minuri.

24. (1) Skont id-dispożizzjonijiet ta' dan l-artikolu u fuq rikors tal-Aġenzija jew ta' kull persuna interessata, il-Qorti tista' tagħti digriet li jordna li minuri taħt ordni għall-protezzjoni jista' jingħata għall-adozzjoni u dan anke fin-nuqqas tal-kunsens tal-ġenituri:

Digriet biex minuri jkun jista' jingħata għall-adozzjoni.

Iżda minkejja kull dispożizzjoni ta' xi liġi oħra, adożzjoni wara ordni skont dan l-artikolu tista' tkun miftuħa u mingħajr restrizzjonijiet ta' età.

(2) Ir-rikors msemmi fis-subartikolu preċedenti għandu, minbarra l-partikolaritajiet rilevanti li jidentifikaw lill-minuri u, jekk applikabbli, lill-ġenituri tal-minuri, ikun fih wkoll ir-raġunijiet għal dik it-talba u meta ġenituri adottivi prospettivi jkunu ġew identifikati mill-Aġenzija r-rikors għandu jkun fih wkoll il-partikolaritajiet li jidentifikawhom:

Iżda meta fost il-persuni identifikati bħala ġenituri adottivi prospettivi jkun hemm il-*carers* alternattivi, l-Aġenzija tista' fir-rikors tagħti preferenza lil dawk il-*carers*, dejjem skont l-aħjar interessi tal-minuri.

(3) Ir-rikors imsemmi f'dan l-artikolu għandu jkun notifikat lill-ġenituri tal-minuri li jkollhom għoxrin ġurnata min-notifika għall-preżentata tar-risposta tagħhom.

(4) Wara l-preżentata tar-risposta msemmija fis-subartikolu (3) jew wara li jgħaddi ż-żmien mogħti għaliha kif hemm imsemmi, il-partijiet għandhom jiġu notifikati bid-data tas-smiġ tar-rikors.

(5) Qabel tagħti digriet li jordna li l-minuri taħt harsien alternattiv għandu jingħata għall-adozzjoni, il-Qorti għandha:

(a) tisma' u taċċerta l-fehmiet u x-xewqat tal-minuri, jekk meqjus li jkollu fehim biżżejjed;

(b) tisma' lil kull persuna li tkun giet fdata kwalunkwe forma ta' kura u kustodja tal-minuri li għandu jingħata għall-adozzjoni;

(c) tisma' lill-ġenituri ta' dak il-minuri;

(d) tisma' lill-Avukat tat-Tfal, lill-ħaddiem soċjali ewlieni u lil kull persuna oħra li tqis rilevanti;

(e) tqis jekk l-għoti għall-adozzjoni ikunx fl-aħjar interessi tal-minuri;

(f) tqis jekk hemmx prospetti raġonevoli li l-ġenituri jsiru kapaċi li jieħdu ħsieb lill-minuri; u

(g) tqis il-ħsieb tal-ġenituri dwar jekk il-minuri għandux jingħata għall-adozzjoni:

Izda l-fatt li ma jkunx hemm il-kunsens tal-ġenituri ma għandux, meħud waħdu, ikun ta' xkiel biex il-minuri jingħata għall-adozzjoni.

(6) Meta l-Qorti tagħti digriet li jordna li l-minuri għandu jingħata għall-adozzjoni hija għandha tagħti r-raġunijiet għal din id-deċiżjoni.

Kap. 16.

(7) F'kull każ fejn l-Aġenzija fir-rikors tagħha tkun ukoll identifikat il-ġenituri adottivi prospettivi, il-Qorti għandha tirreferi d-digriet, flimkien mar-rikors, lill-qorti li bil-liġi jkollha s-setgħa li tagħmel digrieti għall-adozzjoni u d-dispożizzjonijiet tal-Kodiċi Ċivili dwar l-adozzjonijiet għandhom *mutatis mutandis* japplikaw, bla ħsara għad-dispożizzjonijiet ta' dan l-Att.

Sub-titolu III

FUQ L-AVUKAT TAT-TFAL

Avukat tat-Tfal.

25. (1) Bla ħsara għall-funzjonijiet tal-Avukat tat-Tfal li joħroġu minn xi liġi oħra, l-Avukat tat-Tfal għandu:

(a) jagħti parir legali u assistenza lill-minuri;

(b) jistabilixxi u jippreżenta l-fehmiet tal-minuri quddiem xi qorti jew xi awtorità amministrattiva;

(c) jipprovdi spjegazzjonijiet lill-minuri dwar il-konsegwenzi li jkunu possibbli f'każ ta' konformità mal-fehmiet tiegħu jew tagħha; u

(d) jipprovdi lill-minuri kull informazzjoni rilevanti:

Izda l-Avukat tat-Tfal għandu jagħti lill-minuri l-ispjegazzjonijiet u l-informazzjoni rilevanti kollha kif imsemmi fil-paragrafi (b) u (ċ) biss meta l-minuri ikun meqjus li għandu fehim biżżejjed.

(2) L-Avukat tat-Tfal għandu jirċievi dak it-taħriġ rilevanti li minn żmien għal żmien jista' jiġi preskritt b'regolamenti magħmulin mill-Ministru responsabbli għall-ġustizzja sabiex ikunu effettivament rappreżentati u salvagwardjati l-fehmiet u x-xewqat tal-minuri.

TITOLU III

FUQ IĊ-ĊENTRU TERAPEWTIKU U SIKUR

26. (1) Għandu jitwaqqaf Ċentru Terapewtiku u Sikur fi hdan dik l-entità msemmija mill-Ministru permezz ta' avviż fil-Gazzetta, bil-għan li minuri b'diffikultajiet gravi fl-imġiba tagħhom jiġu miżmuma f'post b'ambjent sikur u adegwat bil-ħsieb li jiġu mogħtija dik it-terapija u għajjnuna meħtieġa sabiex ikunu jistgħu jirritornaw fis-soċjetà u jippartecipaw fiha b'mod xieraq.

Ċentru
Terapewtiku u
Sikur.

(2) Il-prerekwiziti biex minuri jkun jista' jitqiegħed taht programm fi hdan iċ-Ċentru Terapewtiku u Sikur huma li:

(a) l-minuri ħarab jew ikun probabbli li jerga' jaħrab u, jekk il-minuri hekk jaħrab ikun probabbli li l-benessri fiżiku, psikoloġiku u morali tiegħu jkun f'riskju; jew

(b) jkun probabbli li l-minuri jgħib ruħu b'mod li jista' jwegġa' lill-nifsi; jew

(ċ) jkun probabbli li l-minuri jagħmel ħsara lil persuni oħra.

27. (1) Bla ħsara għal kull liġi oħra, meta haddiem soċjali wara li jsir jaf li minuri jkun jinsab f'riskju immedjat ta' ħsara sinifikanti minħabba diffikultà fl-imġiba tiegħu skont xi waħda mill-kundizzjonijiet miġjuba fl-artikolu 26(2), huwa għandu jirreferi dan il-każ lid-Direttur ta' dik l-entità msemmija fl-artikolu 26(1) sabiex fl-aħjar interessi tal-minuri huwa jitneħħa immedjatament minn dak ir-riskju u jitqiegħed taht programm fi hdan iċ-Ċentru Terapewtiku u Sikur.

Dhul immedjat.

(2) Id-deċiżjoni meħuda skont is-subartikolu (1) għandha tiġi approvata mid-Direttur flimkien mad-Direttur (Protezzjoni Minuri) tal-entità msemmija fl-artikolu 26(1) u minn żewġ professjonisti

anzjani fi ħdan l-Aġenzija.

(3) Id-Direttur tal-entità msemmija fl-artikolu 26(1) għandu jiżgura li ċ-Ċentru Terapewtiku u Sikur iwettaq evalwazzjoni speċjalizzata rigward ir-riskji għall-minuri fi żmien tlitt ijiem mid-dhul immedjat tal-minuri fl-istess ċentru, liema evalwazzjoni speċjalizzata għandha tiġi preżentata flimkien mar-rikors msemmi fis-subartikolu (4).

(4) Meta minuri jitqiegħed b'mod immedjat taħt programm fi ħdan iċ-Ċentru Terapewtiku u Sikur skont dan l-artikolu, id-Direttur (Protezzjoni Minuri) għandu jippreżenta rikors quddiem il-Qorti fi żmien tliet ijiem minn dak it-tqegħid u l-Qorti għandha tikkonvalida jew tirrevoka d-deċiżjoni mehuda mingħajr dewmien.

Talba għad-dhul fiċ-Ċentru Terapewtiku u Sikur.

28. Meta jkun hemm xi waħda miċ-ċirkostanzi msemmija fl-artikolu 26(2) imma ċ-ċirkostanzi ta' każ jidhru li ma jeħtigux tqegħid immedjat skont l-artikolu 27, id-Direttur (Protezzjoni Minuri) jista' wkoll jippreżenta rikors sabiex il-Qorti tkun tista' tawtorizza d-dhul ta' minuri fiċ-Ċentru Terapewtiku u Sikur.

Talba għat-tneħhija miċ-Ċentru Terapewtiku u Sikur.

29. (1) Kull persuna interessata li ma taqbilx mad-deċiżjoni li minuri jitqiegħed fi ħdan iċ-Ċentru Terapewtiku u Sikur tista' tippreżenta rikors quddiem il-Qorti u titlob li tirrevoka dik id-deċiżjoni.

(2) Ir-rikors imsemmi fis-subartikolu (1) għandu jiġi notifikat lid-Direttur (Protezzjoni Minuri) u lid-Direttur tal-entità msemmija fl-artikolu 26(1), li għandhom fi żmien ħamest ijiem utili, jew f'dak il-perijodu li l-Qorti jidrilha xieraq, jipprezentaw r-risposta tagħhom.

(3) Il-Qorti għandha tiddeċiedi dwar ir-rikors imsemmi fis-subartikolu (1) mingħajr dewmien.

(4) Ir-rikors imsemmi fis-subartikolu (1) ma għandux jissospendi l-eżekuzzjoni tad-deċiżjoni li għaliha tkun qed issir oġġezzjoni.

Setgħa tal-Qorti.

30. (1) F'kull proċedura ta' natura kriminali quddiemha, il-Qorti tista', fl-għoti tas-sentenza, titlob lid-Direttur (Protezzjoni Minuri) iqis il-każ referut lilu sabiex jikkunsidra u jiddeċiedi dwar jekk dak il-minuri għandux jitqiegħed fiċ-Ċentru Terapewtiku u Sikur jew le:

Iżda meta d-Direttur (Protezzjoni Minuri)jiġi biex iqis il-każ kif imsemmi f'dan is-subartikolu d-Direttur (Protezzjoni Minuri) għandu jikkonsulta u jgħib l-approvazzjoni tad-Direttur tal-entità msemmija fl-artikolu 26(1) u ta' żewġ professjonisti anzjani fi ħdan l-Aġenzija.

(2) Meta jiġi deċiż li każ huwa wieħed li fih ikun xieraq li minuri jitqiegħed fiċ-Ċentru Terapewtiku u Sikur skont dan l-artikolu, u jkun hemm waħda miċ-ċirkostanzi msemmija fl-artikolu 26(2), id-Direttur (Protezzjoni Minuri) għandu jippreżenta rikors fl-atti tal-kawża li fiha jagħti l-kundizzjonijiet għal dak it-tqegħid, liema kundizzjonijiet għandhom jiġu awtorizzati mill-Qorti sabiex isehh dak it-tqegħid.

TITOLU IV

FUQ IL-BORD TA' REVIŻJONI GĦALL-ĦARSIEN TAL-MINURI

31. (1) Għandu jitwaqqaf bord li jkun magħruf bħala l-Bord ta' Revizjoni għall-Ħarsien tal-Minuri, li jkun magħmul minn hames persuni maħturin mill-Ministru u li għandu jkun magħmul kif ġej:

Bord ta'
Revizjoni għall-
Ħarsien tal-
Minuri.

(i) *Chairperson* li jkollu *warrant* ta' avukat u jkollu mill-inqas hames snin esperjenza professjonali fil-liġi tal-familja jew tal-minuri;

(ii) membru wieħed li jkun kwalifikat f'xi waħda mill-professjonijiet tas-saħħa mentali jew medika, bi preferenza tingħata lill-persuni li jkollhom mill-inqas hames snin esperjenza;

(iii) membru wieħed li jkun haddiem soċjali reġistrat u li jkollu mill-inqas hames snin esperjenza professjonali fix-xogħol soċjali;

(iv) membru wieħed li jkun kwalifikat fit-terapija tal-familja, bi preferenza tingħata lill-persuni li jkollhom mill-inqas hames snin esperjenza; u

(v) persuna b'esperjenza professjonali f'xi qasam relatat mal-ħarsien tat-tfal li tkun nominata mill-Kummissarju għat-Tfal.

(2) Il-membri tal-Bord ta' Revizjoni għandhom iżommu l-kariga għal perijodu ta' erba' snin mid-data tal-ħatra u membru jista' jinħatar mill-ġdid.

(3) Membru tal-Bord ta' Revizjoni jista' jitneħħa mill-kariga mill-Ministru jekk dak il-membru ma jkunx tajjeb biex ikompli fil-kariga jew ma jkunx kapaċi biex jaqdi, jew ma jkunx qed jaqdi b'mod xieraq, id-dmirijiet tiegħu bħala membru.

(4) Il-ħatra ta' xi persuna bħala membru tal-Bord ta' Reviżjoni u t-terminazzjoni tal-ħatra jew ir-riżenja ta' dik il-persuna, kif ukoll kull funzjoni addizzjonali oħra mogħtija lill-Bord ta' Reviżjoni mill-Ministru, għandha tkun notifikata fil-Gazzetta, u għandha tiġi fis-seħħ minnufih:

Iżda n-nuqqas li jiġu ppubblikati l-ħatra jew it-terminazzjoni, skont il-każ, m'għandhomx jippreġudikaw il-validità ta' dik il-ħatra jew it-terminazzjoni.

Funzjonijiet u setgħat tal-Bord ta' Reviżjoni.

32. (1) Il-Bord ta' Reviżjoni għandu jkollu dawk il-funzjonijiet u s-setgħat kif mogħtija lilu taħt dan l-Att jew taħt xi liġi oħra, jew kif preskritt minn żmien għal żmien mill-Ministru permezz ta' avviż fil-Gazzetta.

(2) Bla ħsara għas-setgħat u funzjonijiet maħluqa taħt dan l-Att jew taħt xi liġi oħra, is-setgħat u l-funzjonijiet tal-Bord ta' Reviżjoni għandhom jinkludu dawk li:

(a) jagħmel reviżjonijiet perjodiċi tal-pjan ta' ħarsien;

(b) jeżamina rapporti bil-miktub mill-ħaddiem soċjali ewlieni;

(c) jagħmel rakkomandazzjonijiet lill-Qorti dwar is-sitwazzjoni tal-minuri u tal-familja tiegħu, inkluż tal-kapaċità attwali u potenzjali tal-familja li tiegħu ħsieb lill-minuri, sabiex il-Qorti tkun tista' tiddeċiedi, fl-aħjar interessi tal-minuri, jekk l-integrazzjoni mill-ġdid tal-minuri fil-familja tiegħu tkunx possibbli jew le;

(d) jagħmel rakkomandazzjonijiet lill-Qorti fuq l-bżonn ta' ordni għall-protezzjoni tal-minuri, kif ikun meħtieġ minn żmien għal żmien;

(e) ivarja l-pjan ta' ħarsien fejn u meta jqis li hemm bżonn;

(f) f'każ ta' nuqqas ta' qbil dwar il-ħarsien tal-minuri fuq ħwejjeġ ta' importanza partikolari, jieħu deċiżjonijiet li jqis li huma fl-aħjar interessi tal-minuri, wara li jagħti raġunijiet għal dan; u

(g) jeżercita sorveljanza ġenerali fuq il-minuri.

(3) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, u għal dawk ir-regolamenti li jistgħu jsiru taħt dan l-Att, il-Bord ta' Reviżjoni għandu jirregola l-proċedura tiegħu nnifsu:

Iżda meta jkun hemm il-ħtieġa li jinstema' minuri l-bord għandu jiltaqa' fil-postijiet stabbiliti skont l-artikolu 14.

(4) Bla ħsara għal kull liġi oħra, bil-għan li jwettaq il-funzjonijiet tiegħu taħt dan l-Att il-Bord ta' Revizjoni għandu jkollu s-setgħa ta' aċċess għal kull dokumentazzjoni rilevanti għall-każ u li jitlob l-għajnuna ta' kull persuna, u dan kull meta l-Bord ta' Revizjoni iqis li dan jista' jgħin fl-eżerċizzju tal-funzjonijiet tiegħu.

33. (1) L-ewwel revizjoni tal-pjan ta' ħarsien għandha ssir quddiem il-Bord ta' Revizjoni mhux aktar tard minn erba' xhur mid-data tal-ordni għall-protezzjoni tal-minuri, u kull revizjoni sussegwenti għandha ssir mill-inqas darba kull sitt xhur. Revizjonijiet.

Iżda l-ħaddiem soċjali ewlieni jew il-kustodju speċjali tal-minuri, skont il-każ, jista' jressaq talba b'urgenza lill-Bord ta' Revizjoni sabiex jirrevedi l-każ qabel jagħlaq il-perijodu ta' sitt xhur u dan minħabba li l-minuri ikun qed isofri, jew qiegħed f'periklu li jsufri, ħsara sinifikanti fit-tqegħid taħt ħarsien jew bħala riżultat tal-pjan ta' ħarsien:

Iżda wkoll, f'kull każ, il-Bord ta' Revizjoni għandu jappunta t-talba għas-smiġh mhux aktar tard minn ħamest ijiem utili mill-prezentata tat-talba, u għandu, wara li jisma' l-partijiet involuti, jagħti d-deċiżjoni fuq it-talba b'urgenza.

(2) Il-ħaddiem soċjali ewlieni għandu, matul l-ewwel revizjoni, jipprezenta lill-Bord ta' Revizjoni pjan konkorrenti għall-minuri. L-imsemmi pjan għandu fl-istess waqt ifisser il-ħtiġijiet li l-ġenituri għandhom jissodisfaw għall-integrazzjoni mill-ġdid jew għall-unifikazzjoni mill-ġdid tal-minuri ma' dawk il-ġenituri, u jistabbilixxi wkoll pjan alternattiv ta' permanenza:

Iżda l-ħaddiem soċjali ewlieni għandu jagħmel kull sforz raġonevoli sabiex il-minuri jkun integrat mill-ġdid jew unifikat mill-ġdid mal-ġenituri u għandu dejjem jagħmel dan skont l-aħjar interessi tal-minuri.

(3) Il-Bord ta' Revizjoni għandu fil-ġurnata appuntata għal kull revizjoni tal-każ, jisma' lill-ġenituri tal-minuri, lill-ħaddiem soċjali ewlieni, lill-*carer* alternattiv u, jekk applikabbli, lill-kustodju speċjali, biex jiddetermina jekk ikunx qiegħed isir progress skont il-pjan ta' ħarsien:

Iżda l-Bord ta' Revizjoni jista', kull meta jqis li hu fl-aħjar interessi tal-minuri li hekk jagħmel, jew kull meta l-minuri jesprimi xewqa mal-ħaddiem soċjali ewlieni jew kull persuna oħra li għandha kuntatt mal-minuri li jinstema' mill-Bord ta' Revizjoni, jisma' lil dak

il-minuri u, għal dan il-għan, jista' wkoll jistabbilixxi jum u hin li jkun differenti mill-jum u l-hin appuntat għar-reviżjoni.

(4) Għall-qadi tal-funzjonijiet tiegħu l-Bord ta' Reviżjoni jista' wkoll jikkonsulta ma' dawg il-professjonisti, jew persuni oħra, li jidhirlu xieraq u għal dan il-għan jista' wkoll jistieden lil dawg il-professjonisti, jew persuni oħra, biex jattendu kif indikat lilhom għal-laqgħat tal-Bord ta' Reviżjoni.

(5) Id-deċiżjoni tal-Bord ta' Reviżjoni tista' tkun jew li kien hemm progress biżżejjed sabiex jiġġustifika r-revoka ta' xi ordni għall-protezzjoni jew li ma jkunx hemm dak il-progress:

Iżda fil-każ li jkun hemm dak il-progress, il-Bord ta' Reviżjoni għandu jagħmel rakkomandazzjoni lill-Qorti sabiex din tkun tista' tordna dik ir-revoka jew le wara li tisma' lill-partijiet interessati.

(6) Meta l-Bord ta' Reviżjoni jiddeċiedi li ma kienx hemm progress biżżejjed sabiex jiġġustifika r-revoka ta' xi ordni għall-protezzjoni, u jkunu għaddew sentejn mid-data li fiha jkun gie pprezentat lill-Bord ta' Reviżjoni l-pjan konkorrenti mill-ħaddiem soċjali ewlieni, il-Bord ta' Reviżjoni għandu jgħaddi biex jiddeċiedi jekk ikun hemm jew ma jkunx hemm prospetti raġonevoli għall-integrazzjoni mill-ġdid jew l-unifikazzjoni mill-ġdid tal-minuri mal-ġenituri.

(7) F'każ li l-Bord ta' Reviżjoni jiddeċiedi li jkun hemm prospetti raġonevoli kif meħtieġ mis-subartikolu (6), huwa għandu jkompli bir-reviżjonijiet perjodiċi, bla ħsara għal xi varjazzjonijiet għall-pjan ta' ħarsien li jqis li jkunu meħtieġa fiċ-ċirkostanzi tal-każ:

Iżda f'każ li l-Bord ta' Reviżjoni jiddeċiedi li ma jkunx hemm prospetti raġonevoli kif meħtieġ mis-subartikolu (6), huwa jista' jirrakkomanda lill-Qorti li l-pjan permanenti alternattiv għandu jibda jseħħ:

Iżda wkoll, il-Bord ta' Reviżjoni jista' jirrakkomanda lill-Qorti li l-pjan permanenti alternattiv għandu jibda jseħħ f'kull żmien li fih il-minuri ikun taħt ordni ta' ħarsien meta dan ikun meqjus li hu fl-aħjar interess tal-minuri li dan isir:

Iżda wkoll, meta jkun fl-aħjar interess tal-minuri li l-pjan permanenti alternattiv jibda jseħħ minnufih wara li jkunu saru l-ordnijiet imsemmija fil-*proviso* ta' qabel dan, ir-rakkomandazzjoni f'dak is-sens għandha ssir mid-Direttur (Protezzjoni Minuri).

(8) Qabel tgħaddi għas-sentenza finali, il-Qorti għandha tisma' l-

fehmiel ta' kull persuna li tqis rilevanti, u b' mod partikolari l-fehmiel tal-minuri, jekk meqjus li jkollu fehim biżżejjed.

(9) Il-ħaddiem soċjali ewlieni, il-ġenituri tal-minuri, jew jekk applikabbli, il-kustodju speċjali, jistgħu, fi żmien ħamest ijiem utili mid-deċiżjoni tal-Bord ta' Reviżjoni li ma kienx hemm progress biżżejjed li jiġġustifika rakkomandazzjoni lill-Qorti għar-revoka ta' xi ordni, jitlob lill-Qorti għar-reviżjoni tad-deċiżjoni tal-bord:

Iżda, mingħajr preġudizzju għal miżuri oħra li joħroġu mid-dispożizzjonijiet ta' din jew xi liġi oħra, meta jidher ċar li t-talba għal din ir-reviżjoni hija frivola jew vessatorja, il-Qorti tista' tikkundanna lir-rikorrent iħallas l-ispejjeż u jħallas penali ta' mhux anqas minn mitejn u ħamsin euro (€250) iżda mhux iktar minn elfejn u ħames mitt euro (€2,500):

Iżda wkoll meta l-Qorti tikkonferma li ma jeżistux raġunijiet biżżejjed sabiex tkun revokata xi ordni għall-protezzjoni tal-minuri, kull talba sussegwenti għar-reviżjoni tad-deċiżjoni tal-Bord ta' Reviżjoni għandha titħalla biss wara l-għeluq ta' tnax-il xahar mid-data li fiha d-deċiżjoni tkun magħmula:

Iżda wkoll l-ebda talba, jew talbiet ulterjuri, m'għandha tiġi milqugħa mill-Qorti wara li jkun sar digriet li pjan ta' permanenza alternattiv ikun fl-aħjar interess tal-minuri.

(10) Kull rakkomandazzjoni skont dan l-artikolu għandha ssir permezz ta' nota lill-Qorti.

34. (1) Mingħajr preġudizzju għad-dispożizzjonijiet tal-artikolu 23 meta l-ħaddiem soċjali ewlieni, il-ġenituri tal-minuri, il-*carer* alternattiv jew, jekk applikabbli, il-kustodju speċjali, jitlobu varjazzjoni fil-pjan ta' ħarsien, il-Bord ta' Reviżjoni għandu jiddeciedi dwar il-ħtieġa jew xort'oħra li hekk jagħmel.

Varjazzjonijiet fil-pjan ta' ħarsien.

(2) Il-Bord ta' Reviżjoni għandu, wara li jisma' l-persuni kollha involuti, jiddeciedi dwar il-mod kif il-pjan ta' ħarsien għandu jkun varjat u għandu jordna lill-ħaddiem soċjali ewlieni biex jagħmel il-varjazzjonijiet stabbiliti mill-bord għall-pjan ta' ħarsien.

(3) Meta l-Bord ta' Reviżjoni jiddeciedi li varjazzjoni fil-pjan ta' ħarsien hija meħtieġa huwa għandu jagħti r-raġunijiet għad-deċiżjoni tiegħu f'rapport li jagħmel parti minn dik id-deċiżjoni.

35. (1) Għall-għanijiet tal-artikolu 22(4), il-Bord ta' Reviżjoni għandu, bi ftehim mal-ħaddiem soċjali ewlieni, il-ġenituri tal-minuri, il-*carer* alternattiv u, jekk applikabbli, il-kustodju speċjali, jindika bil-miktub l-għanijiet tal-integrazzjoni mill-ġdid u l-metodu li bih il-

Integrazzjoni mill-ġdid.

minuri għandu jkun integrat mill-ġdid mal-familja tiegħu.

(2) Meta l-Bord ta' Reviżjoni jiddeċiedi li l-għanijiet tal-pjan ta' integrazzjoni mill-ġdid ikunu milhuqa huwa għandu jippreżenta nota f'dak is-sens fl-atti tal-każ u jibgħat l-atti lill-Qorti, li għandha tagħti deċiżjoni fuq ir-rakkomandazzjoni tal-Bord ta' Reviżjoni.

(3) Il-Qorti għandha tirrevoka l-ordni għall-protezzjoni jekk meta tirċievi l-atti msemmija fis-subartikolu preċedenti hi tkun sodisfatta li l-għanijiet ikunu seħħew, bla ħsara għal dawk il-kundizzjonijiet li jidhrilha xieraq li timponi:

Iżda l-Qorti tista', qabel tipproċedi biex tagħmel dik ir-revoka, tisma' lil kull persuna li hija tista' tqis li jkun xieraq fiċ-ċirkostanzi tal-każ:

Iżda wkoll il-Qorti għandha f'kull każ tisma' lill-minuri jekk meqjus li jkollu fehim biżżejjed.

(4) Fid-deċiżjoni tagħha l-Qorti tista' tordna l-integrazzjoni mill-ġdid tal-minuri mal-ġenituri filwaqt li żżomm fis-seħħ l-ordni għall-protezzjoni għal perijodu li jidhrilha xieraq.

TAQSIMA II

FUQ IL-HARSIEN ALTERNATTIV

TITOLU I

FUQ ID-DIRETTUR RESPONSABBLI GĦALL-ĠID TAL-MINURI F'HARSIEN ALTERNATTIV

Direttur
responsabbli
għall-ġid tal-
minuri f'harsien
alternattiv

36. (1) Għandu jkun hemm Direttur responsabbli sabiex jippromwovi l-iżvilupp u l-ġid tal-minuri f'harsien alternattiv, magħruf bħala Direttur (Harsien Alternattiv).

(2) Bla ħsara għal kull funzjoni oħra li jistgħu jkunu mogħtija lill-lid-Direttur (Harsien Alternattiv) taħt dan l-Att jew taħt xi liġi oħra, lid-Direttur (Harsien Alternattiv) għandha taqdi dawk il-funzjonijiet u twettaq dawk id-dmirijiet li l-Ministru jista' jippreskrivi minn żmien għal żmien b'regolamenti taħt dan l-artikolu.

(3) Ir-rappreżentanza legali u ġuridika tad-Direttur (Harsien Alternattiv) tkun vestita fid-Direttur (Harsien Alternattiv);

Iżda d-Direttur (Harsien Alternattiv) jista' jiddelega uffiċjali oħra sabiex jeżerċitaw dik ir-rappreżentanza.

TITOLU II

FUQ L-AWTORITÀ TA' *STANDARDS* TA' HARSJEN

37. Bla hsara għall-funzjonijiet u r-responsabbiltajiet stabbiliti fl-Att dwar l-Awtorità ta' *Standards* ta' Harsien Soċjali jew f'xi liġi jew regolamenti oħra, l-Awtorità għandha, għall-għanijiet ta' dan l-Att, ikollha r-responsabbiltà li:

Responsabbiltajiet ta' l-Awtorità ta' *Standards* ta' Harsien. Kap. 582.

(a) tirċievi u tinforma li rċeviet applikazzjonijiet għal liċenza biex jitwaqqaf, ikun operat u miżmum servizz ta' harsien residenzjali għall-minuri;

(b) tagħti jew tirrifjuta xi applikazzjoni għal-liċenza, jew li tirrevoka jew tissospendi l-liċenza ta' xi fornitur ta' servizz ta' harsien residenzjali għall-minuri;

(ċ) tirċievi, tinforma li rċeviet, tinvestiga u tieġu kull azzjoni meħtieġa dwar kull ilment kontra l-Aġenzija, jew kontra xi organizzazzjoni li tippretendi li tkun qed taġixxi bħala tali, jew kontra xi fornitur ta' servizz ta' harsien residenzjali għall-minuri;

(d) timponi dawk il-kundizzjonijiet għal-liċenzjar li tista', minn żmien għal żmien, permezz ta' regolamenti, tiddeċiedi li huma meħtieġa;

(e) tieġu kull miżura li tqis xierqa fiċ-ċirkostanzi jekk xi tqegħid, kemm lokali kemm transkonfini, ikun jikser id-dispożizzjonijiet ta' dan l-Att;

(f) ssegwi u tispezzjona s-servizzi ta' sostenn offruti mill-Aġenzija lill-minuri u lill-*carers* alternattivi;

(g) tispezzjona dawk il-postijiet fejn ikun qed jinżamm il-minuri, jew xi postijiet oħra fejn qed jiġi propost li jinżamm dak il-minuri; u

(h) ssegwi u tispezzjona s-servizzi offruti mill-*carers* residenzjali lill-minuri li qegħdin taħt il-kura tagħhom.

TITOLU III

FUQ IL-BORD GĦALL-*FOSTERING*

38. (1) Għandu jkun hemm bord, magħruf bħala l-Bord għall-*Fostering*, maħtur mill-Ministru, li jkun magħmul minn hames membri kif ġej:

Twaqqif tal-Bord għall-*Fostering*.

(a) *Chairperson* li għandu jkollu mill-inqas hames snin esperjenza professjonali fil-prattika tal-*foster care*;

(b) persuna waħda li jkollha mill-inqas erba' snin esperjenza professjonali fil-qasam soċjali;

(c) persuna waħda li hi, jew kienet, *foster carer* għal perijodu ta' mill-anqas tliet snin;

(d) persuna waħda li hija haddiema soċjali bi tliet snin esperjenza fil-qasam tal-*foster care*; u

(e) persuna li hija adulta li għamlet minn tal-inqas tliet snin tgħix fil-*foster care*.

(2) Il-membri msemmija fis-subartikolu ta' qabel dan jistgħu jinhatru f'kull żmien waqt li l-Bord għall-*Fostering* ikun kostitwit.

(3) Il-membri tal-Bord għall-*Fostering* għandhom jinhatru mill-Ministru għal perijodu ta' sentejn u għandhom ikunu eligibbli għall-ħatra mill-ġdid bħala membri wara l-iskadenza tat-terminu tal-kariga tagħhom.

(4) Kull membru tal-Bord għall-*Fostering* jista' jitneħħa mill-Ministru jekk dak il-membri ma jibqax idoneu biex ikompli f'dik il-kariga jew ikun sar inkapaċi jwettaq id-doveri tiegħu bħala membru.

(5) Fil-każ li xi membru tal-Bord għall-*Fostering* jirriżenja jew xort'ohra jhalli l-kariga tiegħu qabel ma jiskadilu t-terminu tal-ħatra, il-membri mahtur minfloku għandu jinhatar għaž-żmien tal-ħatra oriġinali li jkun għadu ma skadiex.

(6) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att u ta' kull regolament li jsir tahtu, il-Bord għall-*Fostering* għandu jirregola l-proċedura tiegħu.

(7) F'kull każ, l-għadd ta' membri prezenti meħtieġ biex ikun hemm *quorum* ikun ta' tlieta.

(8) Iċ-*Chairperson* ikollu kemm vot oriġinali u, fil-każ ta' voti ndaqs, vot deċiżiv.

(9) Il-Ministru għandu jahtar persuna biex taġixxi bħala Segretarju tal-Bord għall-*Fostering* u dik il-persuna għandha, bħala parti minn dmirijietha, tkun responsabbli biex iżzomm id-dokumenti rilevanti u għandha tagħmel kull xogħol ieħor relatat mal-funzjonijiet tal-Bord għall-*Fostering* skont kif tista' tkun imqabbdha miċ-*Chairperson*:

Iżda s-Segretarju tal-bord ma jkollux vot.

(10) Il-Bord għall-*Fostering* għandu jiltaqa' kif u meta jkun meħtieġ, iżda mhux inqas minn darba fix-xahar:

Iżda fil-każ ta' talba bil-miktub mill-Ministru jew mill-Aġenzija, liema talba għandha tingħadda lis-Segretarju tal-bord, dan il-bord għandu jiltaqa' mhux aktar tard minn tmienja u erbgħin siegħa wara t-talba.

(11) Fl-eżerċizzju tal-funzjonijiet tiegħu skont dan l-Att il-Bord għall-*Fostering* jista' jikkonsulta professjonisti jew persuni oħrajn kif jidhirlu li jkun xieraq. Għal dan il-għan, il-Bord għall-*Fostering* jista' jistieden lil kull professjonist jew persuni bħal dawk biex jattendu għal-laqgħat tal-bord.

(12) L-atti u d-dokumenti tal-Bord għall-*Fostering*, u l-kontenuti tagħhom, ma jistgħux jintwerew u ma huma aċċessibbli għal hadd, u lanqas ma jistgħu jingħataw kopji tagħhom hliet lill-partijiet ikkonċernati jew lill-avukat jew prokuratur legali li jista' jkun awtorizzat mill-istess partijiet.

(13) Il-Bord għall-*Fostering* għandu darbtejn fis-sena jibgħat lill-Ministru rapporti tal-attivitajiet kollha tiegħu tul is-sitt xhur kalendarji preċedenti, sa mhux aktar tard mill-ewwel hmistax-il jum tax-xahar ta' wara skont il-kalendarju.

39. (1) Il-funzjonijiet tal-Bord għall-*Fostering* għandhom jinkludu li:

Funzjonijiet tal-Bord għall-*Fostering*.

(a) jieħu deċiżjoni dwar jekk il-*foster carers* prospettivi humiex adatti jew le li jkunu *foster carers* skont ir-rakkomandazzjonijiet indikati fir-rapport imħejji mill-haddiem soċjali għal dan il-għan u skont l-artikolu 49(1)(ċ), hawn aktar 'l isfel imsejjaħ *Home Study Report*;

(b) jieħu deċiżjoni dwar jekk *foster carer* ikunx għadu adatt biex jaġixxi bħala tali;

(ċ) jispeċifika liema xorta ta' *foster care* hi adatta biex tingħata minn kull *foster carer*;

(d) jzomm regjistru aġġornat ta' *foster carers*;

(e) jipprovdi dokumentazzjoni uffiċjali lill-*foster carers* li tidentifikahom bħala tali u ittra awtentika li tidentifika l-minuri fil-kura tagħhom;

(f) jeżamina rapporti preparati mill-Aġenzija, wara lment fil-konfront ta' *foster carer*, u li jiehu kull azzjoni li titqies xierqa fiċ-ċirkostanzi; u

(g) jagħmel rakkomandazzjonijiet lill-Ministru għall-implimentazzjoni aktar effettiva tad-dispożizzjonijiet ta' dan l-Att u ta' kull regolament li jsir tahtu.

(2) Il-Bord għall-*Fostering* għandu jkollu aċċess għad-dokumentazzjoni kollha meqjusa rilevanti għall-proċedura tal-*foster care* u hadd ma għandu jfixkel lill-bord fil-qadi ta' xi waħda mill-funzjonijiet tiegħu.

Deċiżjonijiet
tal-Bord għall-*Fostering*.

40. (1) Waqt li jkun qed jwettaq il-funzjonijiet tiegħu taht l-artikolu 39(1)(a), (b), (c) u (f), il-Bord għall-*Fostering* għandu jqis il-*Home Study Reports* u r-*Review Reports* magħmula skont l-artikolu 52 u mgħoddija lilu minn haddiem soċjali tal-Aġenzija u kull dokumentazzjoni oħra kif il-bord jista' jqis xieraq.

(2) Il-Bord għall-*Fostering* għandu wkoll jisma' lill-*foster carer* prospettiv, jew lill-*foster carer*, skont il-każ, lill-minuri jekk meqjus li jkollu fehim biżżejjed, u kull persuna oħra li l-bord jista' jidhirlu li jkun xieraq fiċ-ċirkostanzi tal-każ.

(3) Għal kull deċiżjoni jew azzjoni meħuda skont is-subartikoli (1) u (2), għandhom jinatgħu r-raġunijiet għaliha bil-miktub u għandhom jiġu notifikati lill-*foster carer* prospettiv jew lill-*foster carer*, skont il-każ, u lid-Direttur (Harsien Alternattiv)..

(4) In-notifika msemmija fis-subartikolu preċedenti għandha ssir bil-posta reġistrata fi żmien hamest ijiem utili mid-data tad-deċiżjoni.

(5) Il-Bord għall-*Fostering* għandu jiddeċiedi dwar kull talba mresqa lilu skont dan l-Att mhux iktar tard minn sitt ġimgħat mid-data meta tkun saret it-talba, ħlief jekk skont l-opinjoni tal-bord ikun meħtieġ terminu itwal għal raġuni valida li għandha tingħad u tkun reġistrata fl-atti tal-każ.

(6) Il-*foster carer* jew il-*foster carer* prospettiv, skont il-każ, jista' jappella minn kull deċiżjoni mogħtija mill-Bord għall-*Fostering* taht dan l-Att billi jippreżenta rikors lill-Bord tal-Appell mhux iktar tard minn hamest ijiem utili mid-data tan-notifika tad-deċiżjoni b'posta reġistrata.

TITOLU IV

FUQ L-AWTORITÀ ĊENTRALI DWAR IL-FOSTERING

41. Għandu jkun hemm Awtorità Ċentrali dwar il-*fostering* li tkun dik l-entità li mad-dhul fis-seħh ta' dan l-Att kienet responsabbli għat-twettiq tal-funzjonijiet miġjuba fl-artikolu 42 u, jew b'regolamenti magħmulin taħt dan l-Att:

Awtorità
Ċentrali dwar il-*fostering*.

Iżda, minn żmien għal żmien, il-Ministru jista' jikkonferma dik l-entità jew jidentifika entità oħra bħala l-Awtorità Ċentrali permezz ta' regolamenti u b'dawk l-istess regolamenti l-Ministru jkun jista' jassenjalha funzjonijiet u responsabbiltajiet b'żieda ma' dak miġjub f'dan l-Att fir-rigward tal-Awtorità Ċentrali.

42. Il-funzjonijiet tal-Awtorità Ċentrali għandhom jinkludu li:

Funzjonijiet tal-
Awtorità
Ċentrali dwar il-*fostering*.

(a) tirċievi u tinforma li rċeviet applikazzjonijiet għal akkreditament;

(b) tagħti, tirrifjuta, tissospendi jew tirrevoka l-akkreditament ta' organizzazzjonijiet skont kriterji stabbiliti;

(ċ) tirċievi, tinforma li rċeviet, tinvestiga u tiegħu kull azzjoni neċessarja dwar kull ilment kontra aġenziji akkreditati jew organizzazzjonijiet li jippretendu li jkunu qegħdin jaġixxu bħala tali;

(d) tirċievi talbiet minn persuni barranin li huma approvati bħala *foster carers* barra minn Malta jew minn organizzazzjonijiet akkreditati, liema talbiet għandhom jiġi referuti lill-Aġenzija u l-Aġenzija biss għandha tagħmel l-istħarrig kollu neċessarju meta jsirulha dawk ir-referenzi; u

(e) tirċievi applikazzjonijiet minn organizzazzjonijiet li jkunu jixtiequ jipprovdu *foster care* transkonfini u tiddeċiedi jekk tippermettix li dawn l-aġenziji jqiegħdu minuri f'*foster care*.

43. (1) Kull organizzazzjoni tista' tapplika mal-Awtorità Ċentrali għal akkreditament, fil-forma approvata u mogħtija minn dik l-awtorità, biex tkun tista' tagħti servizzi ta' *foster care*.

Applikazzjoni
għall-ghoti ta'
akkreditament.

(2) L-Awtorità Ċentrali tista', f'kull żmien waqt l-ipproċessar ta' applikazzjoni, titlob li organizzazzjoni tagħtiha dokumenti u informazzjoni meqjusin neċessarji biex taċċerta jekk għandhiex tinghata akkreditament.

Akkreditament ta' organizzazzjoni. **44.** (1) L-Awtorità Ċentrali tista' takkredita organizzazzjoni jekk tkun sodisfatta li l-organizzazzjoni:

(a) għandha fi hdana professjonisti b'esperjenza u kapaċità biżżejjed biex tittratta materji li għandhom x'jaqsmu ma' minuri u familja;

(b) għandha għadd biżżejjed ta' nies li huma mharrġa biex jagħtu servizzi ta' *foster care*; u

(ċ) għandha l-kompetenza amministrattiva u legali biex taqdi l-funzjonijiet li għandhom x'jaqsmu mas-servizzi ta' *foster care*.

(2) Għal kull organizzazzjoni akkreditata mill-Awtorità Ċentrali skont dan l-artikolu għandhom *mutatis mutandis* japplikaw għalihom id-dispożizzjonijiet tal-artikoli 55(2) u 56 sa 59:

Iżda d-dispożizzjonijiet tal-artikoli 56(ċ) u 58(1)(ċ) ma għandhomx japplikaw għall-organizzazzjonijiet akkreditati skont dan l-artikolu.

(3) B'zieda mar-rekwiżiti miġjuba fis-subartikolu preċedenti, il-Ministru jista' jippreskrivi rekwiżiti oħra permezz ta' regolamenti magħmulin għal dak il-għan jew li jistgħu xort' oħra jkunu magħmulin taħt dan l-Att.

Ċertifikat ta' akkreditament. **45.** (1) Meta tagħti akkreditament lil organizzazzjoni l-Awtorità Ċentrali għandha tohrog Ċertifikat ta' Akkreditament li jkun validu għal perijodu ta' sentejn mid-data tal-ħruġ.

(2) Iċ-ċertifikat imsemmi fis-subartikolu (1) jista' jiġi mġedded mill-Awtorità Ċentrali jekk l-organizzazzjoni akkreditata tapplika għal tiġdid sa mhux aktar tard minn xahrejn qabel ma jiskadi l-akkreditament tagħha u t-tiġdid jingħata biss jekk l-organizzazzjoni akkreditata tkun għadha konformi mal-artikoli 43 u 44.

(3) Id-deċiżjoni tal-Awtorità Ċentrali dwar jekk iċ-ċertifikat tal-akkreditament għandux jiġi mġedded għandha tiġi notifikata lill-organizzazzjoni akkreditata fi żmien tliet xhur mid-data tal-applikazzjoni għat-tiġdid.

Ċaħda ta' akkreditament. **46.** (1) L-Awtorità Ċentrali għandha d-dritt li tiċċad applikazzjoni għal akkreditament jew tiġdid tagħha jekk hi tqis li l-organizzazzjoni mhix adatta biex tagħti servizzi ta' *foster care*.

(2) Ċaħda skont is-subartikolu (1), flimkien mar-raġunijiet għaliha, għandha tingħata bil-miktub lill-organizzazzjoni applikanta fi

żmien tliet xhur mid-data tal-applikazzjoni.

(3) L-organizzazzjoni għandha d-dritt titlob bidla tad-deċiżjoni tal-Awtorità Ċentrali b'rikors quddiem il-Bord ta' Appell, preżentat fi żmien għoxrin gurnata mid-data meta tiġi notifikata kif speċifikat fis-subartikolu (2).

(4) L-organizzazzjoni għandha d-dritt tapplika mill-ġdid lill-Awtorità Ċentrali għal akkreditament jekk ir-raġuni għaċ-ċaħda ma tkunx għada teżisti.

47. (1) L-Awtorità Ċentrali għandha d-dritt tirrevoka l-akkreditament ta' organizzazzjoni f'kull waqt jekk l-organizzazzjoni: Revoka ta' akkreditament.

(a) tressaq talba bil-miktub għar-revoka;

(b) ma tibqax konformi mal-kriterji ta' eliġibilità għal akkreditament;

(ċ) ma tibqax titqies adatta biex tipprovdi servizzi ta' *foster care*;

(d) tkun qiegħda tikser il-kondizzjonijiet għal akkreditament skont id-dispożizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu.

(2) L-Awtorità Ċentrali għandha tinnotifika lill-organizzazzjoni bir-revoka, liema notifika tingħata bil-miktub flimkien mar-raġunijiet għaliha u din ir-revoka għandha tidhol fis-seħh fid-data tan-notifika.

(3) Jekk l-akkreditament ikun revokat għal xi waħda mir-raġunijiet imsemmija fis-subartikolu (1)(b), (ċ) jew (d), l-organizzazzjoni tista' titlob it-tħassir tad-deċiżjoni tal-Awtorità Ċentrali b'rikors quddiem il-Bord ta' Appell, u dan fi żmien għaxart ijiem min-notifika skont is-subartikolu (2).

(4) Jekk l-akkreditament ta' organizzazzjoni jkun revokat, iċ-ċertifikat ta' akkreditament u d-dokumenti kollha relatati mas-servizzi ta' *foster care* isiru proprjetà tal-Awtorità Ċentrali:

Iżda l-Awtorità Ċentrali tista' taħtar organizzazzjoni akkreditata oħra biex ikollha l-kustodja ta' dawk id-dokumenti, tkompli ssegwi l-*foster carers* prospettivi u l-*foster carers*, tkompli tieħu ħsieb u ssegwi t-tqegħid tat-tfal f'*foster care*, u taqdi l-funzjonijiet kollha li kellha l-organizzazzjoni li jkun gie revokat l-akkreditament tagħha skont dan l-artikolu.

48. (1) Tul ix-xahar ta' Jannar ta' kull sena, l-Awtorità Ċentrali Pubblikazzjoni fil-Gazzetta.

għandha tippubblika fil-Gazzetta:

(a) lista tal-aġenziji akkreditati kollha u tispeċifika l-isem sħiħ tagħhom, l-indirizz reġistrat u dettalji rilevanti oħra biex ikun jista' jsir kuntatt magħhom; u

(b) lista ta' aġenziji akkreditati li kellhom l-akkreditament tagħhom revokat tul is-sena kalendarja ta' qabel.

(2) L-Awtorità Ċentrali għandha tippubblika fil-Gazzetta kull bidla fil-kondizzjonijiet meħtieġa għall-akkreditament jew għat-tigdid kull meta twettaq dik il-bidla u dawk it-tibdiliet jidhlu fis-seħh mid-data ta' dik il-pubblikazzjoni.

TITOLU V

Sub-titolu I

FUQ IL-FOSTER CARE

Evalwazzjoni ta' *foster carers* prospettivi.

49. (1) Kif tirċievi applikazzjoni mingħand *foster carer* prospettiv, l-Aġenzija għandha:

(a) tħarreg lill-*foster carer* prospettiv;

(b) tqis jekk il-*foster carer* prospettiv ikunx adatt;

(ċ) thejji rapport fuq is-sitwazzjoni tal-*foster carer* prospettiv li għandu jinkludi kull rakkomandazzjoni opportuna, liema rapport ikun jissejjaħ *Home Study Report*; u

(d) tgħaddi l-*Home Study Report* lill-Bord għall-*Fostering*.

(2) Għall-għanijiet tat-thejjija tal-*Home Study Report*, il-ħaddiem soċjali awtorizzati mill-Aġenzija għandu jagħmel iż-żjarat meħtieġa fir-residenza ordinarja tal-*foster carer* prospettiv.

(3) Iż-żjarat imsemmija fis-subartikolu preċedenti jistgħu jsiru bla avviż u *foster carer* prospettiv għandu jikkopera mal-ħaddiem soċjali u għandu jagħti informazzjoni korretta sa fejn ikun jaf hu, u ma jistax jiċċhad lil ħaddiem soċjali milli jidhol fir-residenza ordinarja tiegħu.

(4) Bla ħsara għal xi dispożizzjoni oħra ta' dan l-Att jew ta' xi liġi oħra, il-*Home Study Report* għandu jinkludi fih dan li ġej:

(a) ċertifikat ta' kondotta maħruġ mill-Kummissarju tal-Pulizija;

(b) rapport magħmul minn tabib registrat dwar l-istat ta' saħha tal-*foster carer* prospettiv;

(ċ) reġistru tal-laqgħat li jkunu saru mill-ħaddiem soċjali mal-familja;

(d) rakkomandazzjoni mill-ħaddiem soċjali dwar jekk il-*foster carer* prospettiv ikunx adatt jew xort' oħra, u r-raġunijiet għaliha; u

(e) kull informazzjoni oħra kif il-bord jista' raġonevolment jeħtieġ.

(5) Meta ħaddiem soċjali fi stadju bikri tal-evalwazzjoni tiegħu għat-thejjija tal-*Home Study Report* ikollu raġunijiet biżżejjed sabiex jaħseb li *foster carer* prospettiv mhux adatt, huwa għandu jippreżenta rapport preliminari lill-Bord għall-*Fostering* u jitlob direzzjoni jekk għandux ikompli bil-*Home Study Report* jew le.

(6) Meta l-Bord għall-*Fostering* jiddeċiedi li l-ħaddiem soċjali għandu jkompli bil-*Home Study Report* huwa għandu jinforma b'dan lill-ħaddiem soċjali li għandu jkompli l-evalwazzjoni tiegħu:

Izda meta l-Bord għall-*Fostering* jaqbel mar-rapport preliminari huwa għandu jagħti deċiżjoni skont dan l-Att u jinnotifika lil dawk imsemmija fl-artikolu 40(3).

50. Bil-għan li tqabbel *foster carer* ma' minuri, l-Aġenzija għandha:

Tqabbel tal-*foster cares* mal-minuri.

(a) tqis il-bżonnijiet individwali tal-minuri;

(b) tqis il-ħiliet u l-esperjenza tal-*foster carer* biex jara l-bżonnijiet partikolari tal-minuri;

(ċ) bla ħsara għall-paragrafu (a), tagħmel kull tentattiv raġonevoli biex iżżomm l-aħwa fl-istess residenza;

(d) bla ħsara għall-paragrafu (a), tagħmel kull tentattiv raġonevoli biex iżżomm ġenitur taħt l-età ta' tmintax-il sena u l-ulied tiegħu jew tagħha fl-istess residenza;

(e) tqis ir-rapport magħmul mill-ħaddiem soċjali; u

(f) tqis jekk xi qraba tal-minuri ikunux kapaċi jieħdu ħsieb lil dak il-minuri.

51. (1) *Foster care* għandu jsir wara ftehim bil-miktub magħmul bejn l-Aġenzija u l-*foster carer*, li jista' jiġi emendat bi qbil

Ftehim ta' *foster care*.

bil-miktub bejn l-Aġenzija u l-*foster carer*:

(2) L-ordni ta' ħarsien, il-pjan ta' ħarsien u ftehim għal tqegħid volontarju skont l-artikolu 68, kif ukoll ir-reviżjonijiet tagħhom, għandhom ikunu annessi mal-ftehim u għandhom jinqraw u jinftiehm bħala parti minn dak il-ftehim.

(3) Il-ftehim għandu jkun iffirmit mill-ħaddiem soċjali u mill-*foster carers* u kopja tiegħu, flimkien mal-parti rilevanti ta' dan l-Att li tipprovdi għad-drittijiet u r-responsabbiltajiet tal-*foster carers* u għad-drittijiet tal-minuri fil-*foster care*, għandha tingħata lill-*foster carers*.

(4) Kopja tal-ftehim imsemmi f'dan l-artikolu tista' tingħata lill-ġenituri tal-minuri biss meta l-Aġenzija tiddeċiedi li dan jkun fl-aħjar interessi tal-minuri.

(5) F'każ ta' nuqqas ta' qbil dwar il-ftehim tal-*foster care*, kwalunkwe parti tista' titlob direzzjoni mingħand il-Bord ta' Revizjoni.

(6) Il-kontenut tal-ftehim bejn il-*foster carer* u l-Aġenzija ma għandux jitqies bħala wieħed permanenti sakemm ma jkunx fih klawsola li tindika b'mod ċar il-kuntrarju.

(7) Il-ftehim jista' jiġi terminat mill-Aġenzija jew mill-*foster carer*, skont il-każ, għal xi waħda jew iktar mir-raġunijiet li ġejjin:

(a) il-*foster carer* ma josservax il-ftehim ta' *foster care*;

(b) il-Bord għall-*Fostering* jiddeċiedi li l-*foster carer* ma għadux kapaċi jipprovdi *foster care*;

(c) it-tqegħid fil-*foster care* ma għadux fl-aħjar interessi tal-minuri;

(d) iċ-ċirkostanzi jagħmluha diffiċli għall-*foster carer* biex ikompli jieħu ħsieb lill-minuri taħt il-ħarsien tiegħu.

Izda l-ftehim jista' jiġi terminat biss wara li jkun gie notifikat il-ħaddiem soċjali ewlieni bl-intenzjoni li ssir dik it-terminazzjoni u jiġi mfassal pjan ta' ħarsien alternattiv li jkun approvat mill-Bord ta' Revizjoni.

Sorveljanza tal-*foster carer*.

52. (1) Matul it-tqegħid taħt *foster care*, l-Aġenzija għandha tinkariga ħaddiem soċjali biex jissorvelja l-*foster carer* registrat magħha.

(2) Il-ħaddiem soċjali għandu jagħmel *Review Report* mill-inqas

darba kull sentejn biex ikun jista' jiġi determinat jekk il-*foster carer* ikunx qiegħed jaqdi l-obbligi tiegħu skont id-dispożizzjonijiet ta' dan l-Att u tal-ftehim ta' *foster care*, bil-għan li jiġi deċiż jekk dan il-*carer* għandux jithalla jkompli jieħu hsieb il-minuri:

Iżda r-*Review Report* għandu jsir qabel ma jgħaddu s-sentejn jekk ikun hemm bżonn li l-*foster carer* jiġi evalwat qabel ma jiskadi dan il-perijodu.

(3) Għat-tnejn tar-*Review Report* il-ħaddiem soċjali għandu jagħmel iż-żjarat meħtieġa fir-residenza.

(4) Iż-żjarat imsemmija fis-subartikolu preċedenti jistgħu jsiru bla avviz u *foster carer* prospettiv għandu jikkopera mal-ħaddiem soċjali u għandu jagħti informazzjoni korretta sa fejn ikun jaf hu, u ma jistax jiċhad lil ħaddiem soċjali milli jidhol fir-residenza.

(5) Il-ħaddiem soċjali li jagħmel iż-żjarat skont dan l-artikolu għandu d-dritt li jkun assistit minn membri tal-Pulizija Eżekuttiva f'każ li jqis li hemm riskju ta' xi xkiel fl-eżerċizzju tar-responsabbiltajiet tiegħu taħt dan l-artikolu.

53. Bis-saħħa ta' dan l-artikolu, mad-drittijiet u r-responsabbiltajiet tal-*foster carers* elenkati fil-ftehim ta' *foster care* għandhom jitqiesu bħala miżjuda u inkluzi, dawn li ġejjin:

Drittijiet u responsabbiltajiet tal-*foster carers*.

(a) li jiffacilitaw il-kuntatt bejn il-minuri u l-familja tiegħu u kull persuna oħra li l-Bord ta' Reviżjoni jista' jqis li hu meħtieġ fl-aħjar interessi tal-minuri;

(b) li jirċievu kull informazzjoni rilevanti, inkluz informazzjoni medika, dwar il-minuri li ser jitqiegħed taħt il-ħarsien tagħhom u jiżguraw li dik l-informazzjoni tinżamm kunfidenzjali;

(ċ) li jirċievu dik l-għajnuna finanzjarja li tista' tkun meħtieġa għall-ħarsien u t-trobbija tal-minuri;

(d) li jirċievu servizzi xierqa ta' appoġġ;

(e) li jikkoperaw mal-entitajiet u l-persuni kkonċernati kollha u li jagħtuhom dik l-informazzjoni li huma jistgħu jqisu li tkun meħtieġa;

(f) li jiżguraw li l-minuri jattendi għal xi trattament li l-Bord ta' Reviżjoni jista' jiddeċiedi li hu meħtieġ għall-ġid tal-minuri;

(g) li jattendu flimkien mal-minuri għar-reviżjonijiet quddiem il-Bord ta' Reviżjoni u jzommu lil dak il-bord aġġornat dwar il-progress li l-minuri ikun qed jagħmel u dwar kull grajja oħra sinifikanti;

(h) li jinnotifikaw lill-Aġenzija u lill-Bord ta' Reviżjoni mill-inqas xahrejn qabel dwar xi tibdil fir-residenza ordinarja tagħhom;

(i) li jitolbu l-approvazzjoni tal-Bord ta' Reviżjoni għall-pjanijiet għas-safar tal-minuri taħt il-ħarsien tagħhom;

(j) li jiżguraw li l-minuri ikun imrobbi f'ambjent li jwassal għas-sigurtà psikoloġika tiegħu, kif ukoll għall-gid fiżiku tiegħu għas-sodisfazzjon tal-Awtorità ta' *Standards* ta' Ħarsien;

(k) li jirrispettaw u jiffacilitaw id-dritt tal-minuri li jipprattika reliġjon tal-għażla tiegħu;

(l) li jirrapportaw kull inċident, ħarba, skartar mill-iskola, feriment, mard jew mewt minnufih kif dawn jiġru lid-Direttur (Ħarsien Residenzjali) jew lill-Bord ta' Reviżjoni;

(m) li jipparteċipaw f'taħriġ kontinwu organizzat mill-Aġenzija;

(n) li jkollhom id-dritt jifthu kont bankarju f'isem il-minuri u li huma għandhom jamministraw bħala missier tajjeb tal-familja; u

(o) li josservaw kull obbligu ieħor li jista' jkun impost fuqhom taħt dan l-Att jew taħt xi liġi oħra.

Adozzjoni ta' minuri taħt *foster care*.

54. (1) Meta minuri jkun ilu fil-kura u kustodja ta' *foster carer* għal aktar minn għaxar snin, il-*foster carer* jista' jitlob li jadotta dak il-minuri billi jippreżenta rikors quddiem il-Qorti ta' Ġurisdizzjoni Volontarja.

(2) Minkejja kull dispożizzjoni oħra tal-liġi, m'għandhom japplikaw ebda restrizzjonijiet dwar l-età għal adozzjoni skont dan l-artikolu.

(3) Adozzjoni skont dan l-artikolu għandha tingħata bil-kundizzjoni li d-drittijiet ta' aċċess għal dak il-minuri jkunu kemm jista' jkun miftuħa għall-ġenituri naturali u għall-aħwa b'konsangwinità.

Sub-titolu II

FUQ L-AĠENZIJA

55. (1) Bla hsara għal xi funzjoni jew responsabbiltà oħra mogħtija lill-Aġenzija skont dan l-Att jew xi liġi oħra, l-Aġenzija taħt dan l-Att għandha: Funzjonijiet tal-Aġenzija.

(a) tqabbel *foster carers* ma' minuri li jkunu ser jitqiegħdu taħt *foster care* skont l-artikolu 50;

(b) tagħmel kull tentattiv raġonevoli biex tqiegħed aħwa mal-istess *foster carer* jekk dan ikun fl-aħjar interess tal-aħwa;

(c) tagħmel kull tentattiv raġonevoli biex tqiegħed genitur minorenni u l-ulied mal-istess *foster carer*;

(d) tiżgura li kull tqegħid taħt *foster care* ikun fl-aħjar interess tal-minuri;

(e) issegwi t-tqegħid kollu taħt *foster care* li jkun sar permezz tagħha u tagħti sostenn lill-*foster carers* matul it-tqegħid taħt *foster care* li jkun sar permezz tagħha;

(f) tikkunsidra u tipproponi tibdil, jekk ikun meħtieġ, għal kull ftehim ta' *foster care*;

(g) tinvestiga lmenti kontra xi *foster carer* skont il-manwal jew proċeduri msemmija fl-artikolu 56 u tagħmel rapport u tgħaddih lill-Bord għall-*Fostering* għal kull azzjoni meħtieġa; u

(h) tinvestiga kull allegazzjoni ta' abbuż fit-tqegħid taħt *foster care*, skont il-manwal jew proċeduri msemmija fl-artikolu 56, u tagħmel rapport skont kif ikun meħtieġ lill-awtorità kompetenti.

(2) L-Aġenzija għandha jkollha wkoll il-funzjonijiet li ġejjin:

(a) li tipprovdi servizz skont *standards*, kriterji, proċeduri u linji gwida stabbiliti mill-Awtorità Ċentrali u skont dawk il-livelli ta' servizz stabbiliti fihom;

(b) li tirċievi u tipproċessa applikazzjonijiet minn persuni li japplikaw biex ikunu reġistrati bħala *foster carers*;

(c) li tipprovdi taħriġ tal-bidu lill-*foster carers* prospettivi u taħriġ kontinwu lill-*foster carers* li jkunu reġistrati

magħha u tagħtihom appoġġ adegwat u kontinwu meta l-Aġenzija tkun qegħdet minuri taħt *foster care* mal-*foster carers*;

(d) li tagħti lill-Awtorità Ċentrali aċċess għal kull dokument li għandu x'jaqsam ma' proċeduri ta' *foster care* ta' xi minuri, inklużi rapporti dwar xi *foster carer* jew *foster carer* prospettivi;

(e) li tagħti lill-Awtorità Ċentrali aċċess għall-kontijiet tagħha u għall-kontijiet verifikati minn awditur;

(f) li fl-aħħar ta' kull sena kalendarja tibgħat rapport lill-Awtorità Ċentrali dwar il-qadi tal-funzjonijiet tagħha;

(g) li tikkonforma ruħha ma' kull funzjoni oħra kif tista' tkun speċifikata mill-Awtorità Ċentrali.

(3) Bla ħsara għal xi funzjoni jew responsabbiltà oħra mogħtija lilhom skont dan l-Att jew xi liġi oħra, kull organizzazzjoni akkreditata skont dan l-Att għandu jkollha wkoll il-funzjonijiet elenkati fis-subartikolu (2).

Politika u
proċeduri tal-
Aġenzija.

56. L-Aġenzija għandha tiżviluppa, taġġorna u tesegwixxi politika, proċeduri u manwali miktubin li jkunu soġġetti għall-approvazzjoni tal-Awtorità Ċentrali, li għandhom *inter alia* jipprovdu dwar:

(a) proċeduri ta' taħriġ u evalwazzjoni;

(b) forom ta' appoġġ għal *foster carers* u għall-minuri li jkun qiegħdu taħt *foster care*, kemm qabel, waqt u wara t-tqegħid taħt *foster care*;

(ċ) investigazzjoni ta' lmenti kontra xi *foster carer*; u

(d) bdil fiċ-ċirkostanzi tal-*foster carers*.

Informazzjoni
lill-*foster carers*
prospettivi.

57. Qabel ma jibda l-proċess ta' *fostering*, l-Aġenzija għandha:

(a) tinforma lil *foster carers* prospettivi bl-oġġettivi, setgħat u ħidmiet tagħha;

(b) tgħaddi kopja taċ-Ċertifikat ta' Akkreditament lil *foster carers* prospettivi bħala prova tal-akkreditament tagħha; u

(ċ) tinforma lill-*foster carers* prospettivi b'kull rekwizit legali.

58. (1) L-Aġenzija għandha żżomm reġistru wieħed jew aktar li bħala minimu jkunu fihom listi: Żamma ta' reġistri.

- (a) tal-*foster carers* prospettivi reġistrati magħha;
- (b) tal-*foster carers* reġistrati magħha; u
- (ċ) tal-professjonisti li jkunu qed isegwu kull tqegħid taħt *foster care*.

(2) B'żieda ma' dak miġjub fis-subartikolu (1), l-Awtorità Ċentrali tista', billi tinforma bil-miktub lill-Aġenzija, tordna ż-żieda ta' informazzjoni oħra li għandha tigi reġistrata u miżmuma fir-reġistri msemmija fis-subartikolu (1).

59. L-Aġenzija għandha tagħmel kull sforz raġonevoli biex tiżgura li kull haddiem soċjali assenjat biex jaqdi funzjoni dwar proċeduri ta' *foster care* jkun imħarreġ dwarhom b'mod adegwat u jibqa' jirċievi taħriġ kontinwu. Taħriġ ta' haddiem soċjali.

TITOLU VI

FUQ IL-ĦARSIEN RESIDENZJALI

60. (1) Meta t-tqegħid ta' minuri taħt *foster care* ma jkunx fl-aħjar interess tal-minuri, dak il-minuri għandu jirrisjedi f'dar għall-ħarsien residenzjali approvata skont il-liġi. Ħarsien residenzjali.

(2) Dar għall-ħarsien residenzjali għandu jkollha r-responsabbiltà li tippromwovi l-iżvilupp u l-ġid tal-minuri imqiegħed taħt il-ħarsien tagħha.

61. Bla ħsara għal responsabbiltajiet oħra taħt dan l-Att jew taħt xi liġi oħra, id-djar għall-ħarsien residenzjali għandhom ikunu responsabbli biex: Responsabbiltajiet tad-djar għall-ħarsien residenzjali.

(a) jiżguraw li tqegħid f'ħarsien residenzjali jsir bl-aktar mod xieraq għall-minuri;

(b) jiżguraw li l-minuri taħt il-ħarsien tagħhom jirċievi dawk id-drittijiet kollha li jappartjenu lill-minuri kollha għall-ġid tiegħu, għall-iżvilupp tiegħu u biex jintlaħqu l-aspirazzjonijiet tiegħu;

(ċ) jikkollaboraw mal-haddiem soċjali assenjat lill-minuri;

(d) jirrapportaw lill-haddiem soċjali u lill-Bord ta' Reviżjoni dwar kull fatt li jista' jaffetwa il-pjan ta' ħarsien tal-

minuri;

(e) jiffacilitaw kuntatt bejn il-minuri u l-familja tiegħu skont il-pjan ta' ħarsien jew deċiżjoni tal-Bord ta' Reviżjoni;

(f) jipprovdu servizzi residenzjali skont l-*standards*, il-kriterji u l-proċeduri stabbiliti mill-Awtorità ta' *Standards* ta' Ħarsien f'regolamenti għal dan il-għan;

(g) jzommu regjistru ta' minuri imqiegħda taħt il-ħarsien tagħhom, liema regjistru għandu jinkludi rapporti perijodiċi dwar l-iżvilupp tal-minuri;

(h) jipprovdu taħriġ tal-bidu u taħriġ kontinwu lill-impjegati u, jew fornituri ta' servizzi tagħhom;

(i) jinformat lill-Aġenzija dwar kull talba li ssir direttament lilhom għat-tqegħid ta' minuri taħt il-ħarsien tagħhom; u

(j) jiżviluppaw, iżommu, jaġġornaw u jeżegwixxu politika, proċeduri u linji gwida miktubin.

Ftehim ta' tqegħid taħt ħarsien residenzjali.

62. Tqegħid taħt ħarsien residenzjali għandu jsir biss wara ftehim magħmul bejn l-Aġenzija u l-kap tad-dar għall-ħarsien residenzjali.

TITOLU VII

FUQ ID-DRITTIJET TAL-MINURI F'ĦARSIEN ALTERNATTIV

Drittijiet tal-minuri f'ħarsien alternattiv.

63. (1) Minuri li dwaru japplikaw id-dispożizzjonijiet ta' dan l-Att għandu jkun ikkurat, mantnut, mgħallem u edukat skont il-ħiliet, l-aspirazzjonijiet u x-xeħtiet naturali tiegħu.

(2) Il-minuri għandu wkoll f'kull żmien ikollu aċċess regolari għall-ħaddiem soċjali li jkun qed jieħu ħsieb it-tqegħid tiegħu f'ħarsien alternattiv.

(3) Bla ħsara għall-ġeneralità tad-drittijiet imsemmija fis-subartikolu (1) u (2), u ta' xi dritt ieħor tal-minuri, dak il-minuri għandu partikolarment ikollu d-drittijiet li ġejjin:

(a) li jkun ikkonsultat dwar kull deċiżjoni li tolqot lill-b'mod xieraq skont l-età u l-fehim tiegħu;

(b) li jkollu aċċess għal informazzjoni dwar is-sitwazzjoni tal-membri tal-familja tiegħu fin-nuqqas ta' kuntatt magħhom;

(c) li jżomm relazzjoni u kuntatt dirett mal-ġenituri tiegħu, u ma' kull persuna oħra viċin tiegħu, hliet jekk dan ma jkunx fl-aħjar interessi tal-minuri;

(d) li jirċievi nutrizzjoni skont l-*standards* ta' nutrizzjoni rilevanti, kif ukoll skont it-twelmin religjuż tiegħu;

(e) li jirċievi kura medika u appoġġ psikoloġiku xieraq;

(f) li jkollu aċċess għall-edukazzjoni;

(g) li jkun maħsub għall-bżonnijiet speċifiċi tiegħu ta' sigurtà, saħħa, nutrizzjoni, żvilupp u xi bżonn ieħor;

(h) li jiddeċiedi liberament liema religjon isegwi u li jkollu l-bżonnijiet religjużi u spiritwali tiegħu sodisfatti skont hekk;

(i) li jkollu l-privatezza tiegħu rispettata;

(j) li jkollu relazzjoni pożittiva, sigura u mrawma mal-*carers* alternattivi tiegħu; u

(k) id-drittijiet kollha msemmija fil-Konvenzjoni tal-Ġnus Magħquda għad-Drittijiet tat-Tfal.

(4) Minn żmien għal żmien, il-Ministru jista' jaġġorna d-drittijiet imsemmija f'dan l-artikolu b'regolamenti.

TAQSIMA III

FUQ L-APPELLI

TITOLU I

FUQ IL-BORD TAL-APPELL

64. (1) Għandu jkun hemm Bord tal-Appell magħmul minn tliet membri kif ġej: Twaqqif tal-Bord tal-Appell.

(a) *Chairperson* li jkollu *warrant* biex jipprattika l-professjoni ta' avukat f'Malta għal mill-inqas ħames snin; u

(b) żewġ persuni li jkollhom mill-inqas ħames snin esperjenza professjonali fil-benessri tal-minuri.

(2) Il-membri tal-Bord tal-Appell għandhom ikunu maħtura mill-Ministru għal perijodu ta' tliet snin, u jistgħu jitneħħew mill-kariga mill-Ministru għal raġunijiet ta' inkapaċità biex jaqdu l-funzjonijiet

tal-kariga tagħhom jew minhabba imġiba hażina.

Kap. 12. (3) Membru tal-Bord tal-Appell jista' jintalab li jiġi rikuzat jew jista' jastjeni għal xi waħda mir-raġunijiet li għalihom imħallef jista' jintalab li jiġi rikuzat jew jista' jastjeni skont l-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(4) Meta membru tal-Bord tal-Appell jirrikuża jew jastjeni skont is-subartikolu preċedenti, il-Ministru għandu jahtar persuna oħra sabiex tissostitwixxi lil dak il-membru għal dak l-appell li għalih irrikuża jew li għalih astjena.

(5) Persuna ma tikkwalifikax biex tinħatar jew tibqa' fil-kariga bħala membru tal-Bord tal-Appell jekk dik il-persuna tkun imħallef, maġistrat, membru tal-Kamra tad-Deputati jew ta' Kunsill Lokali, jew kandidat għall-elezzjoni għall-Kamra tad-Deputati jew għall-Kunsill Lokali.

Kompetenza u setgħat tal-Bord tal-Appell.

65. (1) Il-Bord tal-Appell ikun kompetenti li, wara talba permezz ta' rikors:

(a) jirrevedi deċiżjonijiet tal-Bord għall-*Fostering*;

(b) jirrevedi deċiżjonijiet tal-Awtorità ta' *Standards* ta' *Ħarsien* li tiċċad, tirrevoka jew tissospendi reġistrazzjoni; u

(ċ) jirrevedi deċiżjonijiet tal-Awtorità Ċentrali rigward akkreditazzjoni, tiġdid tal-akkreditazzjoni, sospensjoni jew revoka ta' akkreditazzjoni.

(2) Il-Bord tal-Appell għandu jaqdi kull funzjoni oħra kif il-Ministru jista' jippreskrivi b'regolamenti li jsiru bis-saħħa ta' dan l-Att.

(3) Biex jaqdi l-funzjonijiet tiegħu, il-Bord tal-Appell għandu jkollu aċċess għad-dokumentazzjoni kollha li għandha x'taqsam mal-proċedura ta' *foster care* u hadd ma jista' jfixklu fil-qadi ta' dawn il-funzjonijiet.

Kap. 12.

(4) Il-Bord tal-Appell għandu jkollu dawk is-setgħat li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma mogħtija lill-Prim'Awla tal-Qorti Ċivili.

(5) Bla ħsara għad-dispożizzjonijiet tas-subartikolu preċedenti, fl-eżerċizzju tal-funzjonijiet tiegħu, il-Bord tal-Appell jista' jsejjaħ lil kull persuna biex tixhed u tipproduċi d-dokumenti neċessarji u għal dak il-għan iċ-*Chairperson* għandu s-setgħa li jamministra l-gurament.

(6) Il-Bord tal-Appell għandu jiddeċiedi l-appell fi żmien sitt ġimgħat mid-data tal-preżentata tar-rikors, sakemm fil-fehma taç-*Chairperson* ma jkunx meħtieġ perijodu itwal għal raġuni valida li għandha tingħata u tiġi reġistrata fl-atti tal-każ.

(7) Deċiżjoni mogħtija mill-Bord għall-*Fostering*, mill-Awtorità Ċentrali jew mill-Awtorità ta' *Standards* ta' Ħarsien, skont il-każ, għandu jkollha effett immedjat kemm-il darba l-Bord tal-Appell ma jiddeċidix li jissospendiha sakemm tingħata d-deċiżjoni finali.

(8) Id-deċiżjoni tal-Bord tal-Appell, u r-raġunijiet għaliha, għandha tingħata bil-miktub u għandha tkun notifikata lill-appellanti, lill-Bord għall-*Fostering*, lill-Awtorità Ċentrali u lill-Awtorità ta' *Standards* ta' Ħarsien, skont il-każ, bil-posta reġistrata fi żmien hamest ijiem utili mid-data li tittiehed dik id-deċiżjoni.

(9) F'każijiet li huma fil-kompetenza tal-Bord tal-Appell skont is-subartikolu (1) ikun hemm dritt ta' appell fuq punt ta' liġi, permezz ta' rikors lill-Qorti tal-Appell ikkostitwita skont l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

Kap. 12.

(10) Ir-rikors imsemmi fis-subartikolu preċedenti għandu jiġi preżentat mhux aktar tard minn h̄mistax-il ġurnata utili mid-data tad-deċiżjoni tal-Bord tal-Appell.

TITOLU II

FUQ IL-QORTI TAL-APPELL

66. 1) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, kull parti fi proċedimenti taħt dan l-Att li tħoss ruħha aggravata minn deċiżjoni tista' tappella billi tippreżenta rikors quddiem il-Qorti tal-Appell kostitwita skont l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili:

Appelli minn deċiżjonijiet.

Kap. 12.

Iżda d-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw meta l-mod ta' kontestazzjoni jew ta' ksib ta' rimedju dwar xi deċiżjoni partikolari ma ġiex eżawrit skont dan l-Att.

(2) L-appell għandu jingieb quddiem il-Qorti tal-Appell permezz ta' rikors li għandu jiġi ppreżentat fi żmien h̄mistax il-ġurnata utili mid-data li fiha tkun ingħatat id-deċiżjoni.

(3) Il-parti appellata għandha tippreżenta r-risposta tal-appell fi żmien h̄mistax il-ġurnata utili minn mindu tiġi notifikata bir-rikors tal-appell.

(4) Il-Qorti tal-Appell għandha tappunta r-rikors għas-smiġħ tal-

partijiet mhux aktar tard minn tletin jum mid-data tan-notifika tar-rikors lill-partijiet, u deċiżjoni finali għandha tingħata fi żmien sittin jum mid-data tal-ewwel smiġ.

(5) Il-Qorti tal-Appell tista' tikkonferma jew tirrevoka d-deċiżjoni tal-Qorti, u tista' timponi dawk il-miżuri l-oħra li jidhrilha xieraq u għandha, kif tagħti s-sentenza finali, tibgħat l-atti lura lill-Qorti biex tittratta l-każ skont l-artikoli 22, 23 jew 24, skont il-każ.

(6) Appell li jsir skont dan l-artikolu ma għandux iwaqqaf l-eżekuzzjoni tad-deċiżjoni li tkun qed tiġi appellata.

Kap. 12.

(7) Hlief fejn dan l-Att jipprovdi xort'oħra, id-dispożizzjonijiet tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili dwar il-Qorti tal-Appell u l-appelli quddiema għandhom japplikaw *mutadis mutandis*:

Iżda l-kawżi għandhom dejjem jinstemgħu bil-magħluq.

TAQSIMA IV

FUQ IX-XOGĦOL SOĊJALI MAL-MINURI

Haddiem soċjali ewlieni.

67. (1) Meta l-Qorti tagħmel xi ordni msemmija fl-artikoli 18 u 19 dwar minuri, hija għandha tinnotifika lid-Direttur (Protezzjoni Minuri) b'dik l-ordni u dik lid-Direttur (Protezzjoni Minuri) għandu jaħtar haddiem soċjali ewlieni mill-aktar fis possibbli.

(2) Mingħajr preġudizzju għal xi responsabilitajiet oħra taħt dan l-Att, jew taħt xi liġi oħra, ir-responsabilitajiet ta' haddiem soċjali ewlieni għandhom jinkludu:

- (a) li jzomm mal-minuri relazzjoni interpersonali;
- (b) li jżur lill-minuri f'intervalli regolari;
- (c) li jissorvelja t-tqegħid tal-minuri u jqis il-gid tiegħu;
- (d) li jikkordina u jsegwi l-progress tal-pjan ta' ħarsien;
- (e) li jzomm registru dettaljat dwar kull minuri taħt il-ħarsien tiegħu;
- (f) li jipparteċipa f'xi reviżjonijiet tal-każ tal-minuri u jirrapporta lill-Bord ta' Reviżjoni dwar il-gid tal-minuri;
- (g) li jidher quddiem, u jirrapporta u jagħmel rakkomandazzjonijiet lill-Bord ta' Reviżjoni fuq materji dwar il-minuri, inkluż il-possibilità ta' integrazzjoni mill-ġdid tal-minuri mal-familja jew, xort'oħra, fuq jekk il-forma ta' ħarsien

alternattiv hijiex adatta għall-minuri u fuq l-iżvilupp u l-implimentazzjoni tal-pjan ta' ħarsien;

(h) li jirrapporta lid-Direttur (Protezzjoni Minuri), u lil kull awtorità kompetenti oħra, dwar każijiet ta' allegat abbuż u dwar kull incident ieħor serju dwar il-ġid tal-minuri; u

(i) li jwettaq il-kundizzjonijiet tal-pjan ta' ħarsien dwar il-provvista ta' servizzi ta' appoġġ lill-minuri, u kull servizz ieħor kif miġjub fil-pjan ta' ħarsien.

68. (1) Meta l-ġenituri ta' xi minuri, minħabba raġuni valida, jipproponu li jagħmlu arranġamenti biex iqieghdu lill-minuri taħt il-kura u l-kustodja ta' xi persuna jew entità oħra, dik il-persuna jew entità oħra għandha tagħti avviż dwar din il-proposta lid-Direttur (Ħarsien Alternattiv). Tqeghid volontarju.

(2) Meta jkun informata skont is-subartikolu (1) lid-Direttur (Ħarsien Alternattiv) għandu jahtar haddiem soċjali biex iżur u jeżamina l-post li fih il-minuri jkun propost li jiġi miżmum, u biex jirrakkomanda jekk il-persuna jew entità proposta li tirċievi dak il-minuri hijiex adegwata biex ikollha l-kura u kustodja tiegħu.

(3) Il-haddiem soċjali maħtur skont is-subartikolu (2) għandu, dwar il-minuri, ikun sugġett għall-istess responsabilitajiet kif disposti fl-artikolu 67(2).

(4) Għall-għanijiet tas-subartikolu (2), il-haddiem soċjali għandu jhejji rapport u għandu mbagħad jinnotifikah, flimkien mal-arranġamenti proposti, lill-Bord ta' Revizjoni.

(5) Meta l-Bord ta' Revizjoni jkun sodisfatt li l-persuna jew l-entità li tkun sejra tiġi fdata lilha l-kura u kustodja tal-minuri hija adegwata biex ikollha l-kura tiegħu u l-post li fih dak il-minuri ikun ser jiġi miżmum hu xieraq għall-bżonnijiet tiegħu, il-bord għandu jordna lill-haddiem soċjali jipprepara pjan ta' ħarsien u d-dispożizzjonijiet tal-artikolu 12(1), (2) u (3) għandhom japplikaw *mutatis mutandis*.

(6) Il-pjan ta' ħarsien għandu, f'kull każ, ikun preparat bil-partecipazzjoni tal-minuri, jekk meqjus li jkollu fehim biżżejjed, u bil-partecipazzjoni ta' kull persuna jew entità oħra li lid-Direttur ((Protezzjoni Minuri) jista' jqis li jkun xieraq fiċ-ċirkostanzi tal-każ.

(7) Il-Bord ta' Revizjoni għandu jisma' f'intervalli regolari lill-professionisti kollha involuti fil-każ, lill-minuri jekk meqjus li jkollu fehim biżżejjed, lill-ġenituri ta' dak il-minuri, lill-persuna jew entità li tkun irċiviet lill-minuri taħt il-kura tagħha, u lil kull persuna oħra li

jista' jqis li jkun xieraq li jisma' skont iċ-ċirkostanzi tal-każ.

(8) Bla ħsara għas-subartikolu (7), il-Bord ta' Revizjoni għandu jirrevedi l-pjan ta' ħarsien imsemmi f'dan l-artikolu tal-anqas darba kull sitt xhur.

(9) Meta l-ġenituri ma jibqgħux tal-fehma li l-ftehim għandu jibqa' fis-seħħ huma jistgħu jresqu rikors quddiem il-Bord ta' Revizjoni u jitolbu r-rexissjoni tal-ftehim, u f'dan il-każ il-bord għandu jagħti kull direzzjoni jew ordni li jidhirlu xieraq:

Iżda sakemm il-Bord ta' Revizjoni jagħti d-deċiżjoni finali, il-kura u l-kustodja tal-minuri għandha tibqa' f'idejn dik il-persuna jew entità li lilha tkun ġiet fdata.

TAQSIMA V

MIXXELLANJI

Passaport tal-minuri.

69. Kif minuri jitneħħa mill-kura u l-kustodja ta' persuna u l-każ jiġi assenjat lill-ħaddiem soċjali ewlieni, il-ħaddiem soċjali ewlieni għandu minnufih jagħmel dak kollu meħtieġ sabiex jinħareġ passaport għal dak il-minuri u dak il-passaport għandu jinżamm mid-Direttur (Ħarsien Alternattiv).

TAQSIMA VI

FUQ IR-REATI

Arranġamenti għall-*foster care*.

70. (1) Kull persuna mhux awtorizzata jew kull organizzazzjoni mhux awtorizzata li tagħmel arranġamenti għat-tqegħid ta' minuri taħt *foster care*, tkun ħatja ta' reat u teħel, meta tinsab ħatja, priġunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux aktar minn tliet snin jew multa ta' mhux inqas minn elfejn euro (€2,000) iżda mhux iżjed minn ħamest elef euro (€5,000), jew dik il-multa u priġunerija flimkien.

(2) Għall-għanijiet tas-subartikolu (1), persuna jew organizzazzjoni tkun meqjusa li għamlet arranġamenti għat-tqegħid ta' minuri taħt *foster care* jekk tidhol f'xi ftehim jew tagħmel arranġamenti biex tiffaċilita l-*fostering* ta' minuri.

Għoti mhux awtorizzati ta' ħarsien residenzjali.

71. Kull persuna jew organizzazzjoni li twaqqaf, topera jew iżzomm xi dar għall-ħarsien residenzjali, jew tippovdi, direttament jew indirettament, ħarsien residenzjali mingħajr l-approvazzjoni bil-miktub tal-Awtorità ta' *Standards* ta' Ħarsien tkun ħatja ta' reat u teħel, meta tinsab ħatja, priġunerija għal żmien ta' mhux inqas minn tnax-il xahar iżda mhux aktar minn erba' snin jew multa ta' mhux

inqas minn ħamest elef euro (€5,000) iżda mhux iżjed minn għaxart elef euro (€10,000), jew dik il-multa u prigunerija flimkien.

72. (1) Kull persuna li tagħmel jew tagħti, jew li tiftiehem jew toffri li tagħmel jew tagħti, jew li tirċievi jew tiftiehem li tirċievi, jew li tipprowa tikseb xi ħlas jew kumpens ieħor minħabba xi arrangamenti għal tqegħid ta' minuri taħt *foster care*, tkun hatja ta' reat u tehel, meta tinsab hatja, prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux aktar minn sitt xhur jew multa ta' mhux inqas minn elf u mitejn euro (€1,200) iżda mhux iżjed minn elfejn u ħames mitt euro (€2,500), jew dik il-multa u prigunerija flimkien, u dan mingħajr preġudizzju għal kull ordni li l-Qorti tqis xieraq li timponi biex tipprotegi lill-minuri li fir-rigward tiegħu jkun sar ir-reat.

Projbizzjoni ta' ħlas.

(2) Għall-għanijiet ta' dan l-artikolu, l-arrangament għat-tqegħid ta' minuri taħt *foster care* m'għandux jinkludi ħlasijiet li jsiru għall-manteniment tal-minuri jew rimunerazzjoni lill-professjonisti għal servizzi li jkunu provdew, liema professjonisti jkunu involuti fil-ħarsien tal-minuri fi ħdan l-Aġenzija jew fi professjonijiet oħra u li jaġixxu skont il-professjoni tagħhom.

73. (1) Mingħajr preġudizzju għal regolamenti magħmulin taħt dan l-Att, ħadd ma jista' jippubblika jew iġiegħel li jiġi ppubblikat f'xi gazzetta, perjodiku jew materja stampata oħra jew permezz tax-xandir, televiżjoni, wirja pubblika jew permezz ta' xi mezz ieħor, xi reklam, aħbar jew materja oħra li tindika:

Projbizzjoni ta' publikazzjoni.

(a) li minuri jista' jitqiegħed taħt ħarsien alternattiv;

(b) li persuna tkun biħsiebha tiegħu ħsieb minuri taħt ħarsien alternattiv;

(ċ) li persuna tkun biħsiebha tagħmel arrangamenti għat-tqegħid ta' minuri taħt ħarsien alternattiv;

(d) l-isem ta' *carer* alternattiv jekk b'hekk jiġi żvelat xi dettal dwar il-minuri;

(e) l-isem ta' minuri li jkun tqiegħed jew li jkun se jitqiegħed taħt ħarsien alternattiv;

(f) l-isem ta' ġenitur, kuratur jew tutur ta' minuri li jkun tqiegħed jew li jkun ser jitqiegħed taħt ħarsien alternattiv; jew

(g) kull haġa li tista' twassal biex xi waħda mill-persuni msemmija tkun identifikata.

(2) Kull persuna li taġixxi bi ksur ta' dan l-artikolu tkun hatja ta'

reat u tehel, meta tinsab hatja, prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn elf u mitejn euro (€1,200) iżda mhux iżjed minn elfejn u hamest mitt euro (€2,500), jew dik il-multa u prigunerija flimkien, mingħajr preġudizzju għal kull ordni għal hłas ta' danni li jitqiesu xierqa fiċ-ċirkostanzi.

Użu ta' forza.

74. Persuna tkun hatja ta' reat u tehel, meta tinsab hatja, prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn elf u mitejn euro (€1,200) iżda mhux iżjed minn elfejn u hamest mitt euro (€2,500), jew dik il-multa u prigunerija flimkien, jekk dik il-persuna:

(a) thedded jew iggiegħel xi *carer* alternattiv awtorizzat jew approvat jirrinunzja għal minuri mqiegħed fil-kura tiegħu;

(b) tieħu minuri kontra r-rieda tiegħu mingħand xi *carer* alternattiv awtorizzat jew approvat, mingħajr l-approvazzjoni bil-miktub tal-Bord għall-*Fostering*, jew tal-Qorti, jew tal-Aġenzija jew ta' xi awtorità jew entità rilevanti oħra, skont il-każ;

(c) thedded jew iggiegħel xi *carer* alternattiv awtorizzat jew approvat biex jirrinunzja għal xi ordni maħruġa minn xi qorti jew maħruġa bis-saħħa ta' dan l-Att;

(d) thedded jew iggiegħel xi *carer* alternattiv awtorizzat jew approvat biex jaġixxi bi ksur tad-dispożizzjonijiet ta' dan l-Att;

(e) thedded jew tikkaguna xi ħsara lil xi *carer* alternattiv awtorizzat jew approvat; jew

(f) tidħol bi vjolenza jew kontra r-rieda espressa tal-*carer* alternattiv fil-post ta' xi *carer* alternattiv awtorizzat jew approvat.

Tfixkil.

75. Kull persuna li b'xi mod tfixkel jew tostakola xi bord, awtorità, aġenzija, entità direttur jew ufficjal ieħor msemmi, imwaqqaf, akkreditat jew liċenzjat taħt dan l-Att, fil-qadi ta' xi waħda mill-funzjonijiet tagħhom, tkun hatja ta' reat u tehel, meta tinsab hatja, prigunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew multa ta' mhux inqas minn elf u hames mitt euro (€1,500) iżda mhux iżjed minn elfejn u hames mitt euro (€2,500), jew dik il-multa u prigunerija flimkien.

Tfixkil ieħor fit-tweqqif ta' dan l-Att.

76. (1) Safejn fiċ-ċirkostanzi ta' każ partikolari ma jkunx dispostat reat ieħor taħt dan l-Att jew b'liġi oħra, liema reat igorr piena

aktar severa minn dik provduta f'dan l-artikolu, kull min jaġixxi b'mod aggressiv fil-konfront ta' haddiem soċjali, *foster carer* jew ta' kull persuna oħra li tkun b'xi mod involuta f'xi deċiżjoni, responsabbiltà jew miżura skont dan l-Att, liema involviment jinkludi l-eżerċizzju tad-drittijiet jew il-qadi tar-responsabbiltajiet u l-funzjonijiet mogħtija lilha skont dan l-Att jew mogħtija minn xi liġi oħra għat-twettiq tad-dispożizzjonijiet ta' dan l-Att, tkun haġta ta' reat:

Iżda f'każ li fihom reat ieħor iġorr piena anqas severa minn dik provduta f'dan l-artikolu, u ċ-ċirkostanzi ta' dak ir-reat ikun ukoll bi ksur ta' dan l-artikolu, għandhom japplikaw il-pieni provduti f'dan l-artikolu.

(2) Kull persuna misjuba haġta ta' reat skont is-subartikolu (1) tehel il-piena ta' prigunerija ta' mhux aktar minn sentejn jew multa ta' mhux aktar minn għaxart elef euro (€10,000), jew dik il-piena ta' prigunerija u multa flimkien.

77. (1) Jekk xi minuri li dwaru tkun saret xi ordni għall-protezzjoni jaħrab mill-post fejn hu għandu jgħix jew ikun nieqes minn dak il-post f'hin li fih ma jkollux permess li jkun hekk nieqes, dan jista' jiġi maqbud mingħajr mandat minn xi membru tal-Pulizija u jittiehed lura f'dak il-post. Harba.

(2) Kull persuna li xjentement iġġiegħel, tħajjar jew tagħti għajnuna jew b'xi mod ieħor tgħin jew tassisti lil xi minuri biex jaħrab jew biex ikun jew jibqa' nieqes kif imsemmi fis-subartikolu (1) tkun haġta ta' reat u tehel, meta tinsab haġta, prigunerija għal żmien ta' mhux inqas minn sitt xhur u mhux iżjed minn sena jew multa ta' mhux inqas minn elf u ħames mitt euro (€1,500) iżda mhux iżjed minn elfejn u ħames mitt euro (€2,500), jew dik il-multa u prigunerija flimkien.

78. Meta persuna tinstab haġta ta' xi reat taħt dan l-Att jew regolamenti magħmulin taħtu, u ma jkun hemm previst ebda piena speċifika għal dak ir-reat taħt dan l-Att jew regolamenti magħmulin taħtu, dik il-persuna tehel, meta tinsab haġta, multa ta' mhux inqas minn mitejn u ħamsin euro (€250) iżda mhux iżjed minn elfejn u ħames mitt euro (€2,500). Reati oħrajn.

TAQSIMA VII

FUQ IR-REGOLAMENTI

79. (1) Il-Ministru jista' jaġġmel regolamenti sabiex jitwettqu aħjar l-għanijiet ta' dan l-Att. Regolamenti.

(2) B'mod partikolari iżda bla ħsara għall-generalità tas-subartikolu (1), dawk ir-regolamenti jistgħu jipprovdu dwar:

(a) il-ħarsien, superviżjoni u kontroll ta' minuri imqegħdin taħt ħarsien alternattiv;

(b) ir-registrazzjoni, monitoraġġ u kontroll ta' servizzi ta' ħarsien alternattiv u għar-rifjut jew revoka ta' dik ir-registrazzjoni;

(ċ) il-ftehim għat-tqegħid ta' minuri f'ħarsien alternattiv;

(d) kull dritt u obbligu li għandhom *carers* alternattivi;

(e) id-drittijiet tal-minuri;

(f) is-servizzi li djar għal-ħarsien residenzjali għandhom jipprovdu;

(g) il-forom differenti ta' ħarsien alternattiv;

(h) reati u pieni għall-ksur tad-dispożizzjonijiet ta' dan l-Att u regolamenti magħmulin tahtu;

(i) il-proċedura li għandha tkun segwita mill-bordijiet imwaqqfin taħt dan l-Att u biex jistabbilixxi r-regoli dwar is-setgħat tagħhom;

(j) l-operat tal-entitajiet stabbiliti f'dan l-Att; u

(k) kull ħaġa inċidentali u supplimentari, li l-Ministru jqis spediti li jipprovdi dwarha, għall-implimentazzjoni effettiva tad-dispożizzjonijiet ta' dan l-Att.

TAQSIMA VIII

DISPOŻIZZJONIJIET TRANSITORJI

Investigazzjonijiet pendenti.

80. (1) Jekk, qabel id-data tad-dhul fis-seħħ ta' dan l-Att ikun sar xi rapport dwar minuri, li kien jeħtieġ xi investigazzjoni, dik l-investigazzjoni għandha tingħalaq mid-Direttur (Protezzjoni Minuri) fi żmien sitt xhur mid-data tad-dhul fis-seħħ ta' dan l-Att.

(2) L-imsemmi żmien jista', jiġi estiż mid-Direttur (Protezzjoni Minuri) għal terminu addizzjonali ta' tliet xhur.

Dispożizzjonijiet applikabbli.

81. Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, kull kawża prezentata qabel id-dhul fis-seħħ ta' dan l-Att għandha tkun deċiża skont id-dispożizzjonijiet tal-liġi kif fis-seħħ dakinhar tal-prezentata.

82. Kull talba għal reviżjoni magħmula quddiem il-Qorti skont l-artikolu 4(5) tal-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Ħarsien) qabel id-dhul fis-seħh ta' dan l-Att għandha tkompli tinstema' mill-imsemmija Qorti sakemm tiġi hekk determinata:

Appelli.
Kap. 285.

Iżda f'każ ta' appell li jsir taħt l-artikolu 66, minn deċiżjoni tal-Qorti tal-Minorenni magħmula taħt l-artikolu 4(5) tal-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Ħarsien), tkun il-Qorti tal-Appell li tisma' l-każ, iżda mhux qabel erba' xhur mid-deċiżjoni tal-Qorti tal-Minorenni.

Kap. 285.

83. Il-każijiet kollha pendent quddiem il-Bord Konsultattiv dwar it-Tfal u Żgħażaġh taħt id-dispożizzjonijiet tal-Att dwar it-Tfal u Żgħażaġh (Ordnijiet għall-Ħarsien) mad-dhul fis-seħh ta' dan l-Att għandhom ikomplu jinstemgħu quddiem il-Bord ta' Reviżjoni wara d-dhul fis-seħh ta' dan l-Att.

Reviżjonijiet
pendenti
quddiem il-Bord
Konsultattiv
dwar it-Tfal u
Żgħażaġh.
Kap. 285.

84. L-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Ħarsien), l-Att dwar il-*Foster Care*, l-Att dwar il-Protezzjoni tat-Tfal (Ħarsien Alternattiv) u r-Regolamenti dwar l-Allokazzjoni tal-Minuri huma b'dan imħassra mingħajr preġudizzju għal dak kollu li sar jew naqas milli jsir taħthom.

Thassir ta'
legiżlazzjoni.
Kap. 285.
Kap. 491.
Kap. 569.
L.S. 16.01.

**A BILL
entitled**

AN ACT to substitute the Child Protection (Alternative Care) Act, Cap.569, to provide for protection orders for minors, for alternative care and for suitable protection for those minors deprived of parental care or in the risk of being so deprived, and for matters that are ancillary or incidental thereto or connected therewith.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title,
scope and
commencement.

1. (1) The short title of this Act is the Minor Protection (Alternative Care) Act, 2018.

(2) The scope of this Act is to safeguard, protect and give priority to the best interest of minors and to ensure, in the least possible time, the permanence of the care given to minors.

(3) The provisions of this Act shall come into force on such date as the Minister for the Family, Children's Rights and Social Solidarity may, by notice in the Gazette, establish, and different dates may be so established for different provisions and for different purposes of this Act.

PRELIMINARY PROVISIONS

Interpretation.

2. In this Act, unless the context otherwise requires:

"accredited organisation" means any organisation, as accredited by the Central Authority in accordance with this Act and so accredited for the organisation of training and for the certification of persons deemed adequate to act as foster carers;

"Agency" means the national agency which is amongst other things responsible for the well-being of minors, also known as *Agenzija Appogg*, and which within its structure there shall be at least two directors, of which one will be responsible for the protection of minors as provided in article 3, while the other director shall be responsible for the well-being of minors under alternative care as provided in article 36.

"alternative care" means the placement of a minor under the care of a person or entity, not being a parent of the minor, as ordered by the Court or as a result of an administrative decision, and the expression "alternative carer" shall be construed in like manner;

"alternative permanency plan" means a concrete, timely and systematic plan for any minor living in alternative care and, or is protected by a care order, with the aim of promoting stability and continuity in the care and alternative care of the minor;

"Board of Appeal" means the Board of Appeal established under article 64;

"care order" means an order issued in accordance with article 18(1)(a);

"care plan" means a plan drawn up in accordance with article 12 to promote the development and well-being of the minor;

"Care Standards Authority" means the authority established by the Care Standards Authority Act; Cap. 582

"Central Authority" means that entity which on the day of coming into force of this Act was responsible for fulfilling the functions mentioned in article 42;

"Children's Advocate" means a lawyer appointed in terms of regulation 3 of the Civil Court (Family Section), the First Hall of the Civil Court and the Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations, who shall exercise the functions given to him in accordance with article 25; S.L. 12.20.

"concurrent plan" means an alternative care plan which includes the care plan drawn up according to article 12 and an alternative permanency plan drawn up according to article 23, which shall have the aim of promoting the development and well-being of the minor as well as determining the parameters for and the time in which a care plan is changed into an alternative permanency plan;

"Court" means the Juvenile Court established under the Juvenile Court Act; Cap. 287.

"cross-border foster care" means:

(a) the care provided by a foster carer who is a Maltese citizen, to a minor who is not a Maltese citizen and who is resident in Malta; or

(b) the care provided by a foster carer who is not a Maltese citizen and whose approval by a foreign authority is recognised by the Central Authority, through the Agency, to a minor who is resident in Malta;

"emergency order" means an order issued in accordance with article 19;

"foster care" means the placement of a minor under the care of a family, not being that of the minor, and which is chosen, qualified, approved and supervised to provide care for a period and in accordance with a care plan;

"foster carer" means one or more persons approved by the Fostering Board to foster a minor;

"foster care agreement" means the agreement reached in accordance with article 51;

"Fostering Board" means the board established by article 38;

"key social worker" means the social worker appointed by the Agency to follow the development and well-being of a minor in alternative care and to co-ordinate and follow up the progress of a care plan in relation to that minor;

"Minister" means the Minister responsible for the rights of minors;

"minor" means a person younger than eighteen years of age;

"parent" means the mother or the father of the minor or any other person who, by an express provision of the law, has parental responsibility for such minor;

"permanency which is relational, physical and legal" includes that the minor feels loved, protected, safe and supported by the persons with whom he lives, that there be stability in the physical surroundings in which he lives and in his connections with the community, as well as those legal arrangements related to his permanency and especially those relating to his care and custody.

"protection order" means one or more orders issued in accordance with article 18;

Cap. 468.

"registered social worker" or "social worker" shall have the same meaning given to it by article 2 of the Social Work Profession Act;

"Review Board " means the Minors Care Review Board, established in accordance with article 31;

"social contract" means the written agreement between the Director or any other entity which the Minister may order by notice in the Gazette, and the parents of a minor or any other person interested in

the well-being of the minor;

"supervision order" means an order issued in accordance with article 18(1)(b);

"Therapeutic and Secure Centre" means the centre established in accordance with article 26 of this Act;

"treatment order" means an order issued in accordance with article 18(1)(c);

"removal order" means an order issued in accordance with article 18(1)(d); and

"unaccompanied minor" means a minor who arrives in Malta unaccompanied by an adult who by law or custom is responsible for him, and for as long as the minor is not effectively taken into the care of such an adult and includes any minor who is left unaccompanied after he has entered Malta.

PART I
OF THE PROTECTION OF MINORS

TITLE I

Sub-title I

OF THE DIRECTOR RESPONSIBLE FOR
THE PROTECTION OF MINORS

Director
responsible for
the protection of
minors.

3. (1) There shall be a Director responsible for protecting minors at risk, who shall be known as Director (Protection of Minors).

(2) There shall also be other officers of the Director who shall exercise and perform all such powers, functions and responsibilities as may be delegated or assigned to them by the Director (Protection of Minors).

(3) In the exercise and performance of the powers, functions and responsibilities delegated or assigned to them as aforesaid, the officers of the Director shall, save as otherwise apparent, have the same powers, functions and responsibilities as are by law imposed on or given to the Director.

Cap. 164.

(4) In the exercise and execution of their powers, functions and responsibilities, the Director (Protection of Minors) and the officers referred in sub-article (2) may request the assistance of the Executive Police in accordance with the Police Act, whenever they deem it required.

Functions of the
Director
(Protection of
Minors).

4. Without prejudice to the functions as may be given to him by this Act, or by another law, the function of the Director (Protection of Minors) is that of investigating any alleged harm or risk thereof in relation to a minor and of taking any action as may be deemed appropriate for the protection of the minor. In the exercise of his functions, the Director (Protection of Minors) shall:

(a) act in the best interests of the minor at risk, even if such minor is not a citizen of Malta;

(b) ascertain the views and wishes of the minor at risk;

(c) collaborate with all those involved in the protection of the minor at risk;

(d) investigate whether any action taken in relation to the minor is appropriate;

(e) provide guidance to the parents and family of the minor at risk; and

(f) from time to time issue guidelines as to what may be deemed as significant harm or a risk of significant harm.

5. (1) The Director (Protection of Minors) shall hold regular meetings at suitable intervals with representatives of the Education Department, the Department of Health, the Police, and with any such other person or entity which the Director (Protection of Minors) deems as having responsibility for the protection of minors, or of a minor in particular, for the purpose of discussing any matter which falls within such responsibility and to set policies and protocols which are to be adopted, as well as serving as a committee for joint investigations amongst all entities having responsibility for the protection of minors or of a minor in particular.

Liaison with the Education Department and other entities.

(2) Minutes of the meetings mentioned in sub-article (1) shall be kept and the progress made between one meeting and another shall be monitored by the Director (Protection of Minors).

(3) Where a meeting is held to discuss the case of a particular minor the Director (Protection of Minors) may require any person or entity attending the meeting to report on the progress of the minor and a copy of such report shall be attached to the records held by the Director (Protection of Minors) in relation to that minor.

(4) Every person or entity attending a meeting shall be bound by confidentiality and may not disclose to third parties any information or provide documents or extracts thereof which may have come to their knowledge or in their possession during such meeting or as a result thereof:

Provided that such disclosure or provision may be made following an authorisation, request or order by a court.

(5) From time to time the Minister responsible for the well-being of minors shall launch a national strategy on the protection and rights of children together with the Director (Protection of Minors) and those entities or departments having responsibility for the protection, safeguarding and care of minors.

6. The performance of the functions of the Director (Protection of Minors), inclusive of anything that may be required for their execution and for administrative control, shall be the responsibility of the Director (Protection of Minors).

Conducts of the affairs of the office.

Legal and
judicial
representation.

7. The legal and judicial representation of the office of the Director (Protection of Minors) shall vest in the Director (Protection of Minors).

Provided that the Director (Protection of Minors) may delegate the exercise of said representation to other officers.

Sub-Title II

OF THE PROTECTION OF MINORS

Reports.

8. (1) Any person who has reason to believe that a minor, born or to be born, is suffering or is at risk of suffering significant harm, may report the circumstances according to which it holds such reason to the Director (Protection of Minors) or the Executive Police.

(2) Without prejudice to any other provision of any law, any professional who has knowledge of an act which constitutes a criminal offence causing significant harm as defined in sub-article (4) on a minor or an unborn child, shall immediately report to the Director (Protection of Minors) or the Executive Police and no such reporting made *in bona fide* may constitute a criminal offence under any law whatsoever:

Provided that if a report is made to an entity or institution other than the Director (Protection of Minors) or the Executive Police, such entity or institution shall register such report in writing and shall, without delay, and in any case not later than twenty-four hours from the receipt of the report, refer the report to the Director (Protection of Minors) or the Executive Police.

(3) Any professional who omits to submit a report as mentioned in sub-article (2) shall be guilty of an offence and upon being found guilty shall be subject to imprisonment for a period of not less than three months and not more than nine months, or a to a fine (*multa*) of not more than five thousand euro (€5,000), or to both such fine and imprisonment.

(4) For the purposes of this article and other provisions of this Act, "significant harm" includes abuse, neglect, harassment, ill treatment, exploitation, abandonment, exposure, and trafficking of any of the persons as mentioned in Sub-title VIII Bis of Title VIII of Part II of Book First of the Criminal Code.

Cap. 9.

Reports register.

9. (1) The Director (Protection of Minors) shall keep a register recording therein all reports which he receives in terms of article 8.

Action on
reports.

(2) The Director (Protection of Minors) shall, within five working

days from receipt of a report, determine, on the basis of the information provided, whether there are or are not sufficient reasons to believe that the minor is suffering, or is at risk of suffering, significant harm.

(3) If the Director (Protection of Minors) believes that there are sufficient reasons as referred in sub-article (2), he shall proceed to such investigations and evaluations as he considers necessary to determine whether the minor is in need of care and protection, and if he decides that there are no such reasons he shall close the report and provide detailed reasons for his decision.

(4) The Director (Protection of Minors) shall conclude the investigations and evaluations referred in sub-article (2) within thirty working days and such period shall start running from the date of the decision of the Director (Protection of Minors) that the minor is suffering, or is at risk of suffering, significant harm:

Provided that said period may, for good reason, be extended by the Director (Protection of Minors) for an additional sixty working days.

(5) When the Director (Protection of Minors) decides that the minor needs care and protection he shall take all necessary measures to protect that minor, which, without prejudice to any other action which the Director (Protection of Minors) deems appropriate to take, may include one or more of the hereunder:

(a) recommending the provision of support services for the minor while considering the particular needs of the same and ensuring that such recommendations are applied;

(b) recommending the provision of support services for the parents of the minor or for any other person which seems to have responsibility for that minor, and ensuring that such recommendations are applied;

(c) issuing of parental responsibility guidelines;

(d) applying to the Court for it to decree an emergency order;

(e) applying to the Court so that it may decree an appropriate protection order for the minor;

(f) inform the Executive Police of a report so that further investigations are undertaken in any case involving the abuse or abandonment of a minor; or

(g) inform the Executive Police of any criminal offence for which the Executive Police may *ex officio* initiate criminal proceedings according to law.

Investigative powers of the Director.

10. In the exercise of his functions according to article 9, the Director (Protection of Minors) may:

(a) enter and inspect the premises where the minor is being kept;

(b) speak with the minor;

(c) require any information as may be reasonably required for the investigation;

(d) enquire with any person who appears to him to be involved in the care of the minor on any matter relating to the investigation;

(e) obtain photographs, films and any other sort of recording as evidence; and

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(f) obtain any other sort of document, as defined in the Interpretation Act, as evidence.

Social contract on the responsibility of parents.

11. (1) When considering what action to take the Director (Protection of Minors) shall have regard to the possibility of agreeing to a social contract to resolve a matter concerning a minor's need for care and protection without having to make an application to the Court to make a protection order.

(2) The social contract mentioned in the foregoing sub-article shall be signed by the parties and shall take effect upon their signature.

(3) The Director (Protection of Minors) may agree to those terms and conditions as he may think fit and, in particular, the Director (Protection of Minors) may agree to terms and conditions on:

(a) treatment for substance abuse and other vices during the operative period of the social contract;

(b) treatment for a person with problems of abusive behaviour;

(c) counselling or treatment of a psychological nature or any other form of medical treatment;

(d) substance abuse testing;

(e) courses aimed at improving the parental skills of the parents of the minor;

(f) support and counselling for the minor;

(g) the provision of medical and educational assistance to the minor;

(h) the method of monitoring compliance with the social contract; and

(i) the involvement of the extended family, and of other important persons in the life of the family, in the planning and implementation of the care plan, as in the best interest of the minor.

Provided that the social contract shall specify the period during which it will be in force and also the circumstances in which the Director (Protection of Minors) may file an application for any one or more of the orders mentioned in article 18;

Provided further that the social contract shall not provide for the assignment of parental responsibilities for a minor.

(4) Upon signature, the Director (Protection of Minors) shall notify the Director (Alternative Care) so that the latter appoints a social worker to follow the development and interests of the minor in accordance with the social contract and for such purpose the social worker shall monitor the compliance of the parties with the social contract.

(5) The Director (Protection of Minors) may also notify other entities so that these provide the parents with support according to the social contract.

(6) The social contract shall remain in force for the period specified therein unless the Director (Protection of Minors) terminates it before the expiry of such period by notifying the other parties accordingly.

(7) When the Director (Protection of Minors) seeks to amend the social contract, the Director (Protection of Minors) may change any condition of the social contract by agreement in writing with all the parties.

(8) The Director (Protection of Minors) shall always consider the

views of the minor if considered to have sufficient understanding.

(9) The Director (Protection of Minors) may authorise, in writing, any entity which the Minister may indicate by notice in the Gazette, to change the social contract according to the best interests of the minor and such changes shall be approved in writing by all the parties so that they may be given effect:

Provided that for the purposes of this article the Director (Protection of Minors) may opt to remain a party to the social contract when he considers this to be in the best interests of the minor.

Care plan.

12. (1) For the purpose of drawing up a care plan according to the provisions of this Act the Director (Protection of Minors) shall hold a conference among those involved in the case so as to establish a care plan.

(2) The care plan may include the following:

- (a) the relevant identification particulars of the minor;
- (b) the reasons for requesting a protection order;
- (c) the aims of the care plan, and, if applicable, those of the placement of the minor in alternative care;
- (d) the treatment and assistance that the parents should receive with a view to mitigate or revoke the effects of the minor's protection order;
- (e) the place and frequency of contact of the minor with his family;
- (f) if applicable, the place where the minor will reside;
- (g) matters relating to the education, health, maintenance and well-being of the minor; and
- (h) a copy of any relevant decision given by the Court.

(3) A care plan shall in all cases be drawn up with the participation of the minor, if considered to have sufficient understanding, and with the participation of any other person or entity as the Director (Protection of Minors) may deem appropriate in the circumstances of the case.

(4) A care plan shall be filed by a note in the acts of the proceedings for the case relating to a protection order, and any changes

to the plan shall not have effect until such note is filed in the register of the Court.

(5) Where a care plan is in effect and the consent of a parent is required for something necessary to avoid significant harm to the health or education of the minor, and such parent withholds said consent without good reason, the Director (Protection of Minors) or any other entity which the Minister may order by notice in the Gazette may act without such parental consent and take any decision in the best interest of the minor.

(6) Any interested party may, by application to the Court, request that any decision taken in accordance with sub-article (5) be cancelled, revoked or changed and the Court shall hear and decide the application without delay.

(7) The care plan shall be subject to reviews by the Review Board in accordance with the provisions of this Act.

TITLE II

OF THE JUVENILE COURT

Sub-title I

OF PROCEEDINGS BEFORE THE JUVENILE COURT

13. Without prejudice to any provision of the Juvenile Court Act or any other law, the Court shall have competence to hear and decide all cases which according to this Act are not within the competence of any other organ established under it.

Juvenile Court.
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14. (1) The Court shall hear all cases brought before it by virtue of this Act in those premises as are prescribed by the Minister, through regulations, to serve as *Children's House*.

Court sittings,
hearings and
decisions.

(2) Without prejudice to the provisions of this Act, the Minister may also by regulations prescribe the procedure to be adopted in all cases heard in a *Children's House*.

15. Save for parties to Court proceedings as well as their advocates or legal procurators who shall have free and full access to the acts and documents of the proceedings, the acts of the proceedings and documents thereof shall not be accessible to third parties without the permission of the Court, which may provide such relevant parts of the acts of the proceedings according to the circumstances of the case and if in the best interest of the minor.

Access to the
acts.

Hearing of the
minor.

16. (1) Before taking a decision in proceedings affecting a minor and if the Court considers the minor to be of sufficient understanding, it shall take into consideration the wishes and views of the minor according to his best interests, so as to:

(a) ensure that the minor has received all relevant information, including but not limited to information in relation to procedures which have been, or may be, taken with respect to the minor and the reasons therefor;

(b) consult with the minor in a manner appropriate to his understanding, unless the Court deems it reasonably clear that this is contrary to the best interests of the minor;

(c) give the minor the opportunity to express his views and consider them:

Provided that the Court shall, if it did not do so on the day appointed for the hearing of the case, hear the minor by not later than the second sitting in the hearing of the case.

(2) Where the Court does not itself consult the minor it shall ensure that the person consulting the minor has received appropriate training to make such consultations, and in the case of unaccompanied minors the Court shall also ensure that the person consulting such minors has the appropriate linguistic and cultural sensitivity.

(3) The person performing the consultation in accordance with the foregoing sub-article shall prepare a report on the same consultation and shall file it in the acts of the proceedings in such manner and within such time as the Court may order.

(4) The views of the minor which can be determined or, when such views cannot be determined, the reasons therefor, shall be noted in the acts of the proceedings by the Court.

(5) The views of the minor shall be determined with sensitivity and in a manner which does not cause harm to the minor.

(6) In any proceedings before the Court, the Court shall consider:

(a) the views of the minor, if the minor is considered to have sufficient understanding;

(b) the physical, emotional and educational needs of the minor and the capability of the parents, or of other appropriate persons, to contribute towards those needs;

(c) the effect that any change in circumstances may have on the minor;

(d) the age, background and characteristics of the minor that the Court deems relevant;

(e) the harm that the minor has suffered or may suffer; and

(f) any other relevant matter.

(7) The Court shall appoint the time in which the minor shall give his evidence in accordance with sub-article (8) and for such purpose it shall hear the minor in premises prescribed in accordance with article 14.

(8) Evidence from the minor shall be recorded by experts who shall be nominated by the Minister so as to form part of a list of experts to be appointed by the Court in cases of such a nature, and such evidence shall, as much as possible, be recorded in one sitting while also ensuring that the rights of all the parties involved are safeguarded.

(9) For the cross-examination of the minor by the lawyers of the parties, the questions to the minor shall be made to the experts mentioned in sub-article (8) in front of the Court and the Court shall ensure that the evidence required is gathered according to sub-article (8) and the law on evidence:

Provided that in exceptional cases only, a party to the proceedings may require that the Court hears the minor again for the purposes of an additional cross-examination and for such purposes the Court shall proceed to such hearing in the same manner as provided in this sub-article.

(10) The Minister may, by regulations, prescribe the procedure for the appointment of experts referred in sub-article (8).

Sub-title II

OF PROTECTION ORDERS FOR MINORS

17. (1) The Director (Protection of Minors) may, by application, request that the Court issue a protection order for a minor in accordance with what is provided in article 18. Procedure for the issue of protection order.

(2) The application referred in sub-article (1) shall, besides the relevant particulars identifying the minor and, as applicable, the parents of the minor, include:

(a) facts relevant to the case and requests as included in the application;

(b) a report containing the conclusions of the relevant investigations and evaluations;

(c) when possible, an indication of another available form of care;

(d) those other documents necessary for sustaining the requests;

(e) a request for the issuing of a protection order; and

(f) when required, a request to the Court for the provision of immediate care for the minor as he deems appropriate according the circumstances of the case.

(3) The Court shall issue any provisional measure relevant to the application within twenty-four hours.

(4) Any decision, order or measure of the Court on an application as mentioned in this article shall be exclusively based on that same application.

(5) Upon receiving an application according to this article, the Court shall appoint a Children's Advocate and it shall immediately thereafter appoint the application to be heard within ten working days, while also ordering the immediate notification to the Director (Protection of Minors), to the parents of the minor, to the Children's Advocate as appointed by it, and, if applicable, to the special guardian, of the date of the hearing.

(6) In the first sitting, the Court shall hear the requests of the Director (Protection of Minors), the evidence sustaining such requests, and if it deems it appropriate the parents of the minor, the Children's Advocate and, if applicable, the special guardian.

(7) When the Court is satisfied that the requests are justified, the Court shall adjourn the case to another date which is not later than two months from the date of the first hearing, and the Director (Protection of Minors) shall prepare a care plan by such date:

Provided that when the application is for a care order, the Court shall, after having consulted the Director (Alternative Care), determine the premises in which the minor shall reside while the care plan is being prepared;

Provided further that when the parents believe that they may counter the allegations in their regard by bringing forward witnesses and providing submissions, they shall be allowed to summon such witnesses and submit any type of relevant proof or submission.

(8) When the Court is satisfied that the care plan is appropriate for the circumstances of the case, the Court shall give its final decision on the application referred in sub-article (1) within two months by authorising and imposing the relevant orders, and this without prejudice to any other conditions which the Court deems appropriate to impose and this inclusive of entrusting the care and custody of the minor to third parties.

18. (1) In those cases in which the Director (Protection of Minors) acts for the issuing of a protection order for a minor, the Court may make any one or more of the following orders: Protection orders for minors.

(a) a care order entrusting the care and custody of the minor to such person or entity which the Court deems appropriate;

(b) a supervision order placing the minor under the supervision of the entity identified by the Director (Protection of Minors) for a period specified by the order and according to those conditions which the Court deems appropriate to impose, including the granting of parental responsibility or aspects thereof to such person or persons as the Court deems appropriate;

(c) a treatment order by which the parents of the minor are ordered to receive treatment for the abuse of substances or for domestic violence, or receive psychiatric or psychological care or any other treatment or assistance which the Court deems appropriate after having heard experts in the fields;

(d) a removal order against the author of significant harm to the minor from the place of residence of the minor and, without prejudice to any other provision of any other law, such order may also provide for the protection of the minor.

(2) Before given its decision, the Court shall consider, in so far as possible:

(a) the views of the minor, when deemed to have sufficient understanding;

(b) the views of the parents;

(c) the views of the special guardian;

(d) the capability of the parents to safeguard the well-being and harmonious development of the minor;

(e) the nature and quality of the attachment between the minor and his family;

(f) the degree of harm suffered, or which may be suffered by the minor;

(g) the length of time during which the family of the minor has been receiving support and treatment services;

(h) the degree of vulnerability of the minor;

(i) the cultural, linguistic and religious background of the minor; and

(j) the relationships of the minor with his siblings.

(3) For the purposes of sub-article (1)(a), the Court shall consider:

(a) whether there are deficiencies in the everyday care of the minor or deficiencies in terms of the personal contact and security needed by a minor of his age and development;

(b) whether the minor who is ill, disabled or in need of special assistance is receiving the treatment or specialised care which he requires;

(c) whether the minor is at risk of being abandoned; and

(d) whether, generally, the minor is at risk of suffering significant harm.

(4) In all cases where provision is made for the assignment of any parental responsibilities to any person other than the parents of the minor, the Court shall give preference to the family of the minor, unless the Court holds that it is reasonably clear that it would be against the best interests of the minor.

Emergency
order.

19. (1) When the Director (Protection of Minors) has reasonable information which leads him to be convinced that the minor is suffering significant harm, the Director (Protection of Minors) may, with the assistance of the Executive Police, immediately proceed towards the removal of the minor from the place in which such

significant harm is being occasioned, and this without any need of any form of authorisation.

(2) Within twenty-four hours of having taken action according to sub-article (1), the Director (Protection of Minors) shall file an application with the duty Magistrate for the provisional validation or revocation of the removal of the minor as therein referred.

(3) The provisional decree given by the Magistrate according to this article shall be immediately notified to the Director (Protection of Minors), the Executive Police, the appointed Children's Advocate, the Director (Alternative Care), the parents of the minor and, if applicable, to the special guardian.

(4) The application referred in sub-article (2) shall include a short but clear summary of the facts of the case and a request to the Court to confirm the decision of the Director (Protection of Minors).

(5) Following the provisional decree given in accordance with sub-article (2), the acts of the proceedings are to be immediately sent to the Court so that it may proceed with the case.

(6) The Court shall appoint the hearing of the application within ten working days from when it received the acts of the proceedings.

(7) The Court may order the Director (Protection of Minors) to make the required investigations so as to determine which action should be taken to safeguard the well-being of the minor.

(8) Immediately upon being informed by the Director (Protection of Minors) of the need to remove a minor from a location of risk in accordance with this article, the Director (Alternative Care) shall place the minor in alternative care for such period as other investigations in accordance with article 9 are pending.

(9) Any investigation according to this article shall be concluded within thirty working days from the date of the first hearing:

Provided that for a good reason and upon the filing of an application, such period may be extended by the Court for an additional period of ten working days.

(10) Upon concluding an investigation, the Director (Protection of Minors) shall file a report to the Court in which he explains which action he believes is necessary in relation to the minor and the reasons therefor.

(11) In addition to the report mentioned in sub-article (10), the

Director (Protection of Minors) shall prepare and file a care plan which includes recommendations on which protection order he deems to be as being in the best interests of the minor.

(12) The Court shall, as soon as it receives the report and the care plan mentioned in sub-articles (10) and (11), set a date for the hearing of the Director (Protection of Minors) , the parents of the minor, the minor, the Children’s Advocate, the special guardian if applicable, and any other person or persons which the Court deems appropriate, which date shall not be later than ten working days from the filing of the report and the care plan.

(13) After having considered the report, the care plan and all the evidence, the Court shall authorize or reject the order or orders recommended by the Director (Protection of Minors) in the care plan, and also decide on the allocation of parental responsibilities to any person as it may deem appropriate:

Provided that when the Court authorizes an order or orders recommended by the Director (Protection of Minors) in accordance with this article, the case shall be referred to the Review Board within five working days.

Unaccompanied minors.

20. (1) Any person who comes in contact with an unaccompanied minor shall refer that minor to the Director (Protection of Minors) who shall thereupon notify the Principal Immigration Officer so that the latter registers such minor and issues an identification document for such minor.

(2) Immediately after the registration of the minor and the issuing of appropriate identification documents, the Director (Protection of Minors) shall request the Court to provide for the tutorship and, or curatorship of the minor in accordance with the circumstances of the case and in the best interests of the minor.

(3) When the Court is of the opinion that there are competent persons who are relatives of the minor, the Court shall appoint one or more thereof and, among such persons and always in the best interests of the minor, preference should be given to the closest relative by consanguinity or, should there be none, by affinity.

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(4) For the purposes of this article, the provisions of the Civil Code on tutorship and curatorship shall apply *mutatis mutandis* and without prejudice to the powers, functions and responsibilities which are given to the tutor and, or curator under those provisions or to the powers, functions and responsibilities which may be given to them according to any law, the tutor and, or curator shall be responsible for assisting and supporting the unaccompanied minor and in particular he

shall:

(a) identify the persons or entities which may be involved in the care, custody and protection of the minor;

(b) coordinate the efforts of such persons or entities as identified by him;

(c) ensure that the minor is offered care, accommodation, education and medical care, as appropriate;

(d) ensure that the minor has suitable legal and judicial representation with regards to his residence status, his request for asylum, or for other legal or administrative procedures, including those for the administration of his estate; and

(e) ensure that all decisions in relation to the minor are taken in his best interests.

(5) The Director (Protection of Minors) shall refer the unaccompanied minor to the competent authorities so that the latter may undertake those investigations and evaluations as they deem appropriate to determine whether the minor is so and whether he is an unaccompanied minor.

(6) Upon receiving the conclusions of the investigations and evaluations from the competent authorities and should these establish that the applicant is in fact an unaccompanied minor, the tutor and, or curator shall, by application, request the Court to issue a protection order according to this Act.

(7) Upon receiving a request as mentioned in sub-articles (2) and (6), the Court shall appoint a Children's Advocate for the unaccompanied minor and shall also appoint the hearing of the application within ten working days.

(8) Upon appointing the date of the hearing as mentioned in the foregoing sub-article, the Court shall immediately notify such date to the Agency or, as applicable, to the competent authorities or entities responsible for the well-being of persons seeking international protection.

(9) In the first hearing the Court shall hear the application, the evidence in support of such application, the unaccompanied minor, the tutor and, or curator and the Children's Advocate.

(10) If the Court is satisfied that the applicant is in fact an unaccompanied minor, the Court shall defer the case to another date

which is not later than one month from the first hearing, and the Director (Protection of Minors), shall, during the intervening period, prepare a care plan and for such purpose the provisions of article 12 shall apply *mutatis mutandis*.

(11) If the Court is satisfied that the care plan is appropriate in the circumstances of the case, the Court shall issue a protection order, without prejudice to those other conditions which the Court may deem appropriate to impose and which may include entrusting the minor in the care and custody of the Agency or such other competent authority or entity which the Court deems appropriate.

(12) Upon issuing a protection order as mentioned in the previous sub-article, the Court shall refer the case to the Review Board for revision according to the provisions of this Act.

Order for a special guardian.

21. (1) Without prejudice to the powers of the Court to issue a protection order, the Court may also make an order for a special guardian upon a request made by the relatives of the minor, or by one of the professionals assisting the minor, or by his alternative carers, or by any other person related to that minor or having an interest in him:

Provided that when amongst the persons applying for a special guardian there are competent persons who are relatives of the minor, then the Court shall give preference to such relatives, and in doing so it shall always act in accordance with the best interests of the minor;:

Provided further that in the absence of relatives which the Court deems competent, the Court may take into consideration other persons having an interest in the minor, but in doing so it shall always act in accordance with the best interests of the minor.

(2) The persons mentioned hereunder cannot be appointed as special guardians:

(a) persons which have not reach adult age;

(b) undischarged bankrupts;

(c) persons who have been sentenced to the punishment of imprisonment for a term exceeding one year, or to any punishment for an offence affecting the good order of families, or for fraud;

(d) persons who are of a notoriously bad character, or in relation to whom it is reasonably clear that they are negligent or cannot be trusted; and

(e) any other person which the Court may consider inappropriate, after giving reasons for such a consideration.

(3) Before issuing an order according to sub-article (1) the Court shall notify the Agency, and the Agency shall prepare a report for the Court on whether, in its opinion, those identified by the applicants are adequate to be special guardians or not.

(4) The Court may grant the special guardian those parental rights and responsibilities which it deems appropriate for safeguarding the minor and the Court shall also decide whether such rights and responsibilities as granted are to be exercised by the special guardian to the exclusion of the parents.

(5) In case of a dispute between the parents and the special guardian on matters of particular importance, the parents or the special guardian may, by application to the Court, indicate those directions which they deem appropriate in the circumstances.

(6) The Court shall decide on the dispute following an application in accordance with the previous sub-article after having heard the parents, the special guardian and the minor if the latter has sufficient understanding:

Provided that in the case of imminent danger or serious harm to the minor, the special guardian may take urgent measures without any authorization, and in such case, he shall inform the Court of his decision.

(7) The Court may appoint more than one special guardian for the minor and it may specify the parental responsibilities of each special guardian in relation to the minor, either *ex officio* or on an application by one or more special guardians.

(8) When appointing more than one special guardian, the Court may also determine whether a special guardian is entitled to exercise the parental responsibilities given to him to the exclusion of any person which the Court may decide to exclude.

(9) Every special guardian appointed in accordance with this article is entitled to the support services which the Minister may, from time to time, prescribe by regulations.

(10) A special guardian appointed in accordance with this article shall, if so ordered by the Court, render account of his administration of the interests of the minor as the Court may order.

(11) The Court may suspend or remove a special guardian for any

one of the reasons mentioned in sub-article (2), or for failure to render account when this is due, or for rendering an account which is incorrect, or for another appropriate reason.

(12) In every case under this article the Court shall safeguard the interests of the minor above anything else.

Validity of protection orders for minors.

22. (1) A protection order shall remain in force until the minor reaches the age of eighteen years or is revoked by the Court.

(2) The Court may revoke a protection order upon receiving a recommendation to do so, given by the Review Board in accordance with article 28(5).

(3) Before revoking an order in accordance with the foregoing sub-article, the Court shall consider, as applicable:

(a) the recommendation by the Review Board and the reasons given for it;

(b) the views of the minor if considered to have sufficient understanding;

(c) the views of the Children's Advocate;

(d) the views of the parents of the minor;

(e) the views of the key social worker;

(f) the views of the alternative carer;

(g) the views of the guardian; and

(h) the views of any other person which the Court deems appropriate.

(4) When the Court determines that there are sufficient reasons to revoke a protection order, it shall refer the case to the Review Board in order to prepare a reintegration plan, and for such purpose the provisions of article 35 shall apply *mutatis mutandis*.

(5) When the Court determines that there are insufficient reasons to revoke a protection order, it shall order that the revisions by the Review Board shall continue and it shall give the reasons why.

(6) For the purposes of sub-articles (4) and (5), the Court shall consider:

(a) the age of the minor;

(b) the wishes of the minor and the consideration it should give to such wishes in accordance with the age and level of maturity of the minor;

(c) the length of time the minor has been under the care of his current alternative carers;

(d) the bond of the minor with his parents and his current alternative carers;

(e) the capability of the parents of the minor to provide for an adequate level of care for the minor; and

(f) the risk of psychological harm which the minor may suffer if his current care arrangements are changed or revoked.

23. (1) The Court may, by decree and given the circumstances of the case, order that an alternative permanency plan is in the best interest of the minor. Alternative permanency plan.

(2) The alternative permanency plan shall be prepared by the Director (Protection of Minors) and it shall come into force in accordance with the progress made in relation to all that concerns article 12(2)(d).

(3) The alternative permanency plan shall be aimed towards reducing or revoking the effects of the minor's protection order and it shall provide for a permanency which is relational, physical and legal.

(4) The Court may issue a decree as mentioned in sub-article (1) upon an application by the Director (Protection of Minors) which is made concurrently with a request for a protection order, and with such an application the Director (Protection of Minors) shall also file an alternative permanency plan for the consideration of the Court.;

Provided that the Court may also issue a decree as mentioned in sub-article (1) upon a recommendation of the Review Board in accordance with article 33(7).

(5) Before issuing a decree according this article the Court shall consider the views and wishes of the minor if he is deemed to have sufficient understanding, as well as the views of any other person or entity which the Court deems relevant to safeguard the views and wishes of the minor.

(6) Upon issuing a decree according to this article, the Court may also give parental prerogatives to the alternative carers, particularly as regards matters involving education, health, religion and travelling:

Provided that the Court may also impose any other condition which it deems appropriate to impose given the circumstances of the case.

(7) Any revision of the alternative permanency plan shall be made at least once a year through a report by the key social worker that is to be filed with the Review Board.

(8) For the purposes of the foregoing sub-article, the Review Board shall, whenever it deems it appropriate to do so, call upon any person or entity to appear before it and to submit any document it may require:

Provided that the Review Board shall have the power to hear the minor at any time in which the alternative permanency plan is in force in order to verify the well-being of the minor.

Decree allowing
the adoption of
a minor.

24. (1) In accordance with the provisions of this article and upon an application by the Agency or any other person having an interest, the Court may issue a decree ordering that a minor subject to a protection order may be given up for adoption and it may do so even without the consent of his parents:

Provided that notwithstanding any other provision of any other law, an adoption following an order in accordance with this article may be open and without age restrictions.

(2) Together with the relevant particulars identifying the minor and, if applicable, the parents of the minor, the application mentioned in the foregoing sub-article shall also include the reasons for the request and, if the Agency has identified them, the particulars identifying the prospective adoptive parents:

Provided that if the alternative carers are amongst the persons identified as prospective adoptive parents, the Agency may, in its application, give preference to such carers if this is in accordance with the best interests of the minor.

(3) The application mentioned in this article shall be notified to the parents of the minor who shall have twenty days from such notification to file their reply.

(4) Following the filing of the reply mentioned in sub-article (3) or the failure to file such reply within the term therein given, the parties shall be notified with the date of the hearing of the application.

(5) Before issuing a decree ordering that the minor under alternative care be given up for adoption, the Court shall:

- (a) hear and ascertain the views and wishes of the minor if he is deemed to have sufficient understanding;
- (b) hear every person entrusted with any form of care and custody of the minor to be given up for adoption;
- (c) hear the parents of that minor;
- (d) hear the Children's Advocate, the key social worker and any other person it deems relevant;
- (e) consider whether the giving up for adoption is in the best interests of the minor;
- (f) consider whether there are reasonable prospects for the parents to become capable of taking care of the minor; and
- (g) consider the thoughts of the parents on whether the minor should be given up for adoption:

Provided that the fact that the consent of the parents is lacking shall not, by itself, constitute an obstacle for the minor to be given up for adoption.

(6) When the Court issues a decree ordering that a minor shall be given up for adoption it shall give its reasons for such a decision.

(7) In every case in which the Agency identifies the prospective adoptive parents in its application the Court shall refer the decree, together with the application, to that court having the power to issue decrees for adoption and for such purposes the provisions on adoption in the Civil Code shall apply *mutatis mutandis* and without prejudice to the provisions of this Act. Cap. 16.

Sub-title III

OF THE CHILDREN'S ADVOCATE

25. (1) Without prejudice to the functions of the Children's Advocate under any other law, the Children's Advocate shall: Children's Advocate.

- (a) provide legal assistance and advice to the minor;
- (b) determine and submit the views of the minor in any court or with any administrative body;
- (c) provide explanations to the minor on the possible consequences should they conform to his or her wishes; and

- (d) provide the minor with any relevant information:

Provided that the Children's Advocate shall provide the minor with all the relevant explanations and information as mentioned in paragraphs (b) and (c) only if the minor is deemed to have sufficient understanding.

- (2) The Children's Advocate shall receive such relevant training so as to effectively represent and safeguard the views and wishes of the minor, as may be prescribed by regulations, from time to time, by the Minister responsible for justice.

TITLE III

OF THE THERAPEUTIC AND SECURE CENTRE

Therapeutic and
Secure Centre.

26. (1) There shall be established a Therapeutic and Secure Centre within that entity mentioned by the Minister by notice in the Gazette, having the purpose of holding minors with serious behavioural difficulties in a safe and adequate place so that they be given the required therapy and assistance in order to return to society and participate in it in an appropriate manner.

- (2) The prerequisites for a minor to be possibly placed under a programme within the Therapeutic and Secure Centre are that:

(a) the minor absconded or it is probable that he will abscond again and, if the minor so absconds it is probable that his physical, psychological and moral well-being be put at risk;
or

(b) it is probable that the minor behaves in such a manner as to possibly hurt himself; or

(c) it is probable that the minor may cause harm to another person.

Immediate
placement.

27. (1) Without prejudice to any other law, when a social worker gains knowledge that a minor finds himself in the immediate risk of significant harm because of difficulties in his behaviour in accordance with one of the prerequisites mentioned in article 26(2), he shall refer the case to the Director of the entity mentioned in article 26(1) so that, in the best interests of the minor, the minor is immediately removed from such risk and placed under a programme within the Therapeutic and Secure Centre.

- (2) The decision mentioned in sub-article (1) shall be approved by the Director (Protection of Minors) together with the Director of the

entity mentioned in article 26(1) and two senior professionals within the Agency.

(3) The Director of the entity mentioned in article 26(1) shall ensure that the Therapeutic and Secure Centre performs a specialized evaluation on the risks for the minor within three days from his immediate placement in the centre, which specialized evaluation shall be filed together with the application mentioned in sub-article (4).

(4) When a minor is immediately placed under a programme within the Therapeutic and Secure Centre according to this article, the Director (Protection of Minors) shall file an application to the Court within three days from such placement and the Court shall validate or revoke the decision taken without delay.

28. When one of the circumstances mentioned in article 26(2) is present but the circumstances of the case do not require an immediate placement according to article 27, the Director (Protection of Minors) may also file an application so that the Court may authorize the placement of the minor in the Therapeutic and Secure Centre.

Request for placement in the Therapeutic and Secure Centre.

29. (1) Any interested person which disagrees with the decision to place a minor in the Therapeutic and Secure Centre may file an application to the Court and request the revocation of that decision.

Request for removal from the Therapeutic and Secure Centre.

(2) The application mentioned in sub-article (1) shall be notified to the Director (Protection of Minors) and to the Director of the entity mentioned in article 26(1) who shall have five working days, or such period as the Court deems appropriate, to file their reply.

(3) The Court shall decide on the application mentioned in sub-article (1) without delay.

(4) The application mentioned in sub-article (1) shall not suspend the execution of the decision which is thereby being objected to.

30. (1) In any proceedings of a criminal nature heard before it, the Court may, in giving its judgement, request the Director (Protection of Minors) to consider the case as referred to him so as to consider and decide on whether the minor should be placed in the Therapeutic and Secure Centre or not:

Power of the Court.

Provided that when the Director (Protection of Minors) considers the case as mentioned in this sub-article, the Director (Protection of Minors) shall consult and gain the approval of the Director of the entity mentioned in article 26(1) and of two senior professionals from the Agency.

(2) When it is determined that a case merits the placement of a minor within the Therapeutic and Secure Centre according to this article, and there shall also be one of the circumstances mentioned in sub-article 26(2), the Director (Protection of Minors) shall file an application in the acts of the proceedings by which he lays out the conditions for said placement, which conditions shall have to be authorized by the Court for the placement to take effect.

TITLE IV

OF THE MINORS CARE REVIEW BOARD

Minors Care
Review Board.

31. (1) There shall be established a board to be known as the Minors Care Review Board, which shall consist of five persons appointed by the Minister, as follows:

(i) a Chairperson having an advocate's warrant and at least five years professional experience in family law or law as relating to minors;

(ii) one member qualified in one of the professions dealing with mental or medical health, with preference being given to persons having at least five years experience;

(iii) one member being a registered social worker and having at least five years professional experience in social work;

(iv) one member qualified in family therapy, with preference being given to persons having at least five years experience; and

(v) one person with professional experience in a field related to the safeguarding of children which is to be nominated by the Commissioner for Children.

(2) The members of the Review Board shall hold their position for a period of four years from their appointment and a member may be re-appointed.

(3) A Member of the Review Board may be removed from his position by the Minister if said member is no longer fit to continue in such a position or is no longer capable of fulfilling or of adequately fulfilling his responsibilities as a member.

(4) The appointment of any person as a member of the Review Board as well as its resignation or the termination of said appointment, as well as any additional function given to the Review Board by the Minister, shall be notified in the Gazette and shall come into force

immediately:

Provided that the failure to publish an appointment or termination, as applicable, will not adversely affect the validity of such appointment or termination.

32. (1) The Review Board shall have those functions and powers as given to it by this Act or by any other law, or as may be prescribed from time to time by the Minister by notice in the Gazette. Functions and powers of the Review Board.

(2) Without prejudice to the powers and functions created under this Act or any other law, the powers and functions of the Review Board shall include:

- (a) the making of periodical revisions to the care plan;
- (b) examining written reports by the key social worker;
- (c) the making of recommendations to the Court on the situation of the minor and his family, inclusive of the actual and potential capability of the family to take care of the minor, so that the Court may decide, in the best interests of the minor, whether the re-integration of the minor with his family is possible or not;
- (d) the making of recommendations to the Court on the need for a protection order for a minor, as needed from time to time;
- (e) the modification of the care plan as and when it deems it necessary;
- (f) in the case of disagreement on the care of the minor in matters of particular importance, the taking of decisions it deems as being in the best interests of the minor, after having given its reasons therefor; and
- (g) exercise a general supervision of the minor.

(3) Without prejudice to the provisions of this Act, and to those regulations that may be made thereunder, the Review Board shall regulate its own proceedings:

Provided that when there is a need to hear the minor the board shall convene in the places established according to article 14.

(4) Without prejudice to any other law, so as to execute its functions according to this Act, the Review Board shall have the

power to access any documentation relevant to a case and to request the assistance of any person, and it may do so whenever the Review Board deems it helpful in the exercise of its functions.

Revisions.

33. (1) The first revision of the care plan shall be made by the Review Board not later than four months from the date of the protection order for the minor, and subsequent revisions shall be made at least once every six months thereafter:

Provided that the key social worker or the special guardian of the minor, as applicable, may file an urgent request with the Review Board so that the case is reviewed before the end of the six month term due to the minor suffering significant harm, or being in danger of suffering significant harm, should he be placed under care or as a result of the care plan:

Provided further that, in every case, the Review Board shall appoint the case for hearing not later than five working days from the filing of the request and it shall, after having heard the parties involved, give its decision on such an urgent request.

(2) The key social worker shall file a concurrent plan for the minor with the Review Board during the first revision. Said plan shall describe the requirements which the parents must meet so as to re-integrate or re-unite the minor with said parents, and also establish an alternative permanency plan:

Provided that the key social worker shall make every reasonable effort so that the minor be re-integrated or re-united with his parents and he shall always do so in accordance with the best interests of the minor.

(3) On the day appointed for each revision of the case, the Review Board shall hear the parents of the minor, the key social worker, the alternative carer and, if applicable, the special guardian, so as to determine if progress is being made in accordance with the care plan:

Provided that the Review Board may hear the minor whenever it deems it in the best interests of the minor to do so, or whenever the minor expresses his wish to be heard by the Review Board to the key social worker or to any other person having contact with the minor, and for such a purpose the board may also decide on a day and time which is different from the day and time appointed for the revision.

(4) For the purpose of fulfilling its functions, the Review Board may also consult with those professionals or other persons which it deems appropriate and for such a purpose it may also invite those

professionals, or other persons, to attend the meetings of the Review Board as may be indicated to them.

(5) The decision of the Review Board may be that there was sufficient progress justifying the revocation of a protection order or that there has not been such progress:

Provided that in case that there be such progress, the Review Board shall make a recommendation to the Court so that the latter may, after having heard the interested parties, order said revocation or not.

(6) When the Review Board determines that there has not been sufficient progress to justify the revocation of a protection order, and two years have passed since the date on which the key social worker had filed the concurrent plan with the Review Board, the Review Board shall determine whether there are reasonable prospects for the re-integration or re-unification of the minor with his parents or not.

(7) If the Review Board determines that there are reasonable prospects as required by sub-article (6), it shall continue with its periodical reviews and this without prejudice to those variations to the care plan as it would deem necessary in the circumstances of the case:

Provided that if the Review Board determines that the prospects are not reasonable as required by sub-article (6), it may recommend to the Court that the alternative permanency plan is to come into effect,;

Provided further that the Review Board may recommend the coming into effect of the alternative permanency plan at any time in which the minor is under a protection order, if this is deemed to be in the best interests of the minor,;

Provided further that, if it is in the best interests of the minor that the alternative permanency plan is to come into effect immediately following the issuing of the orders mentioned in the immediately foregoing *proviso*, then such a recommendation should be made by the Director (Protection of Minors).

(8) Prior to pronouncing its final judgement the Court shall hear the views of every person it deems relevant, and in particular the views of the minor if he is deemed to have sufficient understanding.

(9) The key social worker, the parents of the minor, or if applicable the special guardian, may, within five working days, request the Court to review the decision of the board if the board had determined that there was not enough progress to recommend to the

Court the revocation of an order:

Provided that, without prejudice to other measures as provided by other provisions of this law or of any other law, when it seems clear that a request for such a revision is frivolous or vexatious the Court may condemn the applicant to pay the expenses and a penalty of not less than two hundred and fifty euro (€250) and not more than two thousand and five hundred euro (€2,500);:

Provided further that when the Court confirms that there are not enough reasons to revoke a protection order for a minor, any subsequent request for the revision of the decision of the Review Board shall be allowed only after twelve months following the decision;:

Provided further that no request, or further requests, shall be acceded to by the Court following the issuing of a decree that an alternative permanency plan is in the best interests of the minor.

(10) All recommendations according to this article are to be made by a note to the Court.

Variations to the care plan.

34. (1) Without prejudice to the provisions of article 23, when the key social worker, the parents of the minor, the alternative carer or, if applicable, the special guardian, request a variation to the care plan, the Review Board shall decide on the need or otherwise of doing so.

(2) The Review Board shall decide on the manner in which a care plan is to be varied after hearing all the persons involved, and it shall order the key social worker to make those variations to the care plan as established by the board.

(3) When the Review Board decides that a variation to the care plan is necessary it shall give its reasons in a report which is to make part of that decision.

Re-integration.

35. (1) For the purposes of article 22(4), the Review Board shall, in agreement with the key social worker, the parents of the minor, the alternative carer and, if applicable, the special guardian, provide in writing the aims of the re-integration and the method in which the minor shall be re-integrated with his family.

(2) When the Review Board determines that the aims of the re-integration plan have been met it shall file a note to that effect in the acts of the case and send those acts to the Court so that the latter shall give its decision on the recommendations of the Review Board.

(3) The Court shall revoke the protection order if upon receiving

the acts referred in the preceding sub-article it is satisfied that the aims have been met, without prejudice to those conditions which it may deem fit to impose:

Provided that the Court may, before giving effect to such revocation, hear any person which it may deem appropriate in the circumstances of the case:

Provided further that the Court shall in all cases hear the minor if deemed to have sufficient understanding.

(4) In its decision, the Court may order the re-integration of the minor with his parents while keeping in force the protection order for that period which it deems appropriate.

PART II
OF ALTERNATIVE CARE

TITLE I
OF THE DIRECTOR RESPONSIBLE FOR THE WELFARE OF
MINORS IN ALTERNATIVE CARE

Establishment
and functions of
the Agency.

36. (1) There shall be Director responsible for promoting the development and well-being of minors in alternative care who shall be known as Director (Alternative Care).

(2) Without prejudice to any other function which may be assigned to the Director (Alternative Care) under this Act or any other law, the Director (Alternative Care) shall perform such functions and carry out such duties as the Minister may by regulations under this article assign to it from time to time.

(3) The legal and judicial representation of the Director (Alternative Care) shall vest in the Director (Alternative Care);

Provided that the Director (Alternative Care) may delegate the exercise of said representation to other officers

TITLE II
OF THE CARE STANDARDS AUTHORITY

Responsibilities
of the Care
Standards
Authority.
Cap. 582.

37. Without prejudice to any functions and responsibilities established in the Care Standards Authority Act, or in any other law or regulations, the Authority shall, for the purposes of this Act, have the responsibility:

(a) to receive and acknowledge applications for a licence to establish, operate and maintain a minor residential care service;

(b) to grant or refuse an application for a licence, or to revoke or suspend the licence of a minor residential care service provider;

(c) to receive, acknowledge, investigate and take any necessary action in relation to any complaints against the Agency or any organisation purporting to act as such, or against any minor residential care service provider;

(d) to impose such conditions for licensing as it may,

from time to time, by means of regulations, determine to be necessary;

(e) to take any measures deemed necessary in the circumstances if a placement, whether local or cross-border, is in breach of the provisions of this Act;

(f) to monitor and inspect the support services being offered by the Agency to the minor and the alternative carers;

(g) to inspect those premises where the minor is being accommodated, or any other premises proposed for the accommodation of the minor; and

(h) to monitor and inspect the services being offered by residential carers to the minors in their care.

TITLE III

OF THE FOSTERING BOARD

38. (1) There shall be a board, to be known as the Fostering Board, appointed by the Minister, which shall consist of five members as follows: Establishment of the Fostering Board.

(a) one person shall be a Chairperson and shall have at least five years professional experience of practice in foster care;

(b) one person who has at least four years professional experience in social work;

(c) one person who is, or was, a foster carer for a period of at least three years;

(d) one person who is a social worker with three years experience in foster care; and

(e) one adult person who had lived in foster care for at least three years.

(2) The members referred to in the foregoing sub-article may be appointed at any time during the term of office of the Fostering Board.

(3) The members of the Fostering Board shall be appointed by the Minister for a period of two years and shall on the expiration of their term of office be eligible to be re-appointed as members.

(4) Any member of the Fostering Board may be removed by the Minister if such member is no longer fit to continue in his role or

became incapable of fulfilling his duties as a member.

(5) In the event that any member of the Fostering Board vacates his office before completing his term, the member appointed in his stead shall be so appointed for the unexpired period of the original appointment.

(6) Without prejudice to the provisions of this Act and of any regulation made thereunder, the Fostering Board shall regulate its own procedure.

(7) In every case, the number of members present required for a *quorum* shall be three.

(8) The Chairperson shall have an original vote, and in case of equality of votes, a casting vote.

(9) The Minister shall designate a person to act as Secretary to the Fostering Board and such person shall, as part of his duties, be responsible for the keeping of the relevant records and shall carry out such other work related to the functions of the Fostering Board as may be instructed by the Chairperson:

Provided that the Secretary to the board shall have no vote.

(10) The Fostering Board shall meet as and when required, so however that it shall meet at least once a month:

Provided that upon a written request by the Minister or the Agency, which request shall be made to the Secretary of the board, the board shall meet not later than forty-eight hours after the request is made.

(11) In the exercise of its functions under this Act, the Fostering Board may consult with professionals or other persons as it may deem appropriate. For such purpose, the Fostering Board may invite any such professional or other person to attend meetings of the board.

(12) The acts and documents of the Fostering Board, and the contents thereof, shall not be viewable, are not to be accessed by anyone, and no copies thereof may be given save to the concerned parties or to their advocate or legal procurator as may be authorized by said parties.

(13) Twice a year, the Fostering Board shall send reports to the Minister on all its activities in the previous six calendar months, and it shall do so within the first fifteen days of the following calendar month.

39. (1) The functions of the Fostering Board shall include:

Functions of the
Fostering
Board.

(a) determining whether prospective foster carers are adequate or not to be foster carers in accordance with the recommendations indicated in the report prepared by the social worker for such a purpose and in accordance with article 49(1)(c), hereinafter referred to as the Home Study Report;

(b) determining whether a foster carer is adequate to act as such;

(c) specifying which type of foster care each foster carer may provide;

(d) keeping an updated register of foster carers;

(e) providing foster carers with official documentation which identifies them as such and an authentic letter identifying the minors in their care;

(f) reviewing reports compiled by the Agency, following a complaint against a foster carer, and taking any action as deemed fit in the circumstances;

(g) the making of recommendations to the Minister on a more effective implementation of the provisions of this Act and any regulation made thereunder.

(2) The Fostering Board shall have access to all documentation deemed relevant for foster care procedures and no one may hinder the board in the performance of any of its functions.

40. (1) In exercising its functions under article 39(1)(a), (b), (c) and (f), the Fostering Board shall consider the Home Study Reports and the Review Reports made according to article 52 and referred to it by a social worker of the Agency as well as all other documentation which the board may deem appropriate.

Decisions of the
Fostering
Board.

(2) The Fostering Board shall also hear the prospective foster carer, or the foster carer, as applicable, the minor if considered to have sufficient understanding, and any other person which the board deems appropriate given the circumstances of the case.

(3) For any decision or action taken in accordance with sub-articles (1) and (2), reasons shall be given in writing and notified to the prospective foster carer or the foster carer, as applicable, and to the Director (Alternative Care).

(4) The notification mentioned in the foregoing sub-article shall be made by registered mail within five working days from the date of the decision.

(5) The Fostering Board shall determine any requests made to it according to this Act not later than six weeks from the date the request was made, unless the board is of the opinion that a longer period is required for a valid reason which should be declared and recorded in the acts of the case.

(6) The foster carer or the prospective foster carer, as applicable, may appeal any decision given by the Fostering Board by filing an application with the Board of Appeal not later than five working days from the date of notification by registered mail.

TITLE IV

OF THE CENTRAL AUTHORITY ON FOSTERING

Central
Authority on
fostering.

41. There shall be a Central Authority on fostering which shall be that entity which upon the entry into force of this Act was responsible for fulfilling the functions provided in article 42 and, or by regulation made under this Act:

Provided that, from time to time, the Minister may, by regulations, confirm that entity or identify another entity as the Central Authority, and by the same regulations he may assign other functions and responsibilities to it in addition to those already provided in this Act for the Central Authority.

Functions of the
Central
Authority on
fostering.

42. The functions of the Central Authority shall include:

(a) receiving and acknowledging applications for accreditation;

(b) granting, refusing, suspending and revoking the accreditation of organisations in accordance with established criteria;

(c) receiving, acknowledging, investigating and taking of any necessary action on any complaint against accredited organisations or organisations purporting to act as such;

(d) receiving requests from foreign persons who are approved as foster carers in another country or from accredited organisations, which requests shall be referred to the Agency and it is only the Agency which shall make the necessary checks once such references are made to it; and

(e) receiving applications from organisations which want to provide cross-border foster care and deciding on whether to allow such agencies to place minors under foster care.

43. (1) Any organisation may apply to the Central Authority for accreditation, in the form approved and provided for by such authority, in order to be able to carry out foster care services. Application for the granting of accreditation.

(2) The Central Authority may, at any time during the processing of an application, require an organisation to provide any documents and information deemed necessary in order to ascertain whether accreditation should be granted.

44. (1) The Central Authority may accredit an organisation if it is satisfied that the organisation: Accreditation of an organisation.

(a) has professionals with sufficient experience and expertise in dealing with matters related to minors and families;

(b) has an adequate number of staff trained to carry out foster care services; and

(c) has the administrative and legal competency to carry out the functions appertaining to foster care services.

(2) The provisions of articles 55(2) and 56 to 59 shall apply *mutatis mutandis* to every organisation accredited by the Central Authority in accordance with this article:

Provided that articles 56(c) and 58(1)(c) shall not apply to organisations accredited in accordance with this article.

(3) In addition to the requirements provided in the foregoing sub-article, the Minister may prescribe other requisites by regulations made for such purposes or as otherwise may be made under this Act.

45. (1) Upon granting accreditation to an organisation the Central Authority shall issue an Accreditation Certificate which shall be valid for a period of two years from date of issue. Accreditation Certificate.

(2) The certificate referred to in sub-article (1) may be renewed by the Central Authority if the accredited organisation applies for renewal by not later than two months prior to the expiration of its accreditation and renewal shall only be granted if the accredited organisation is still in compliance with articles 43 and 44.

(3) The decision of the Central Authority on the renewal of the accreditation certificate shall be served on the accredited organisation,

by registered mail, within three months from the application for renewal.

Accreditation refusal.

46. (1) The Central Authority shall have the right to refuse an application for accreditation, or for its renewal, if it deems the organisation inadequate for the provision of foster care services.

(2) A refusal according to sub-article (1), together with the reasons therefor, shall be given in writing to the applicant organisation within three months from the date of application.

(3) The organisation or the accredited organisation, as applicable, shall have the right to request a change in the decision of the Central Authority by filing an application to the Board of Appeal within twenty days from the date of notification in accordance with sub-article (2).

(4) If the reason for refusal is no longer present, the organisation or the accredited organisation, as applicable, shall have the right to apply with the Central Authority for accreditation.

Revocation of accreditation.

47. (1) The Central Authority shall have the right to revoke accreditation of an organisation at any time, if the organisation:

(a) files a request in writing for revocation;

(b) ceases to comply with the criteria of eligibility for accreditation;

(c) is no longer deemed suitable to provide foster care services;

(d) is in breach of the conditions for accreditation in accordance with the provisions of this Act or of any regulations made thereunder.

(2) The Central Authority shall notify the organisation on the revocation, which notification shall be given together with the reasons therefor and such revocation shall have effect from the date of notification.

(3) If the accreditation is revoked on any of the grounds mentioned in sub-article (1)(b), (c) or (d), the organisation may request the revocation of the decision of the Central Authority by filing an application to the Board of Appeal within ten days from notification in accordance with sub-article (2).

(4) If the accreditation of an organisation is revoked, the

accreditation certificate and all the documents related to foster care services become the property of the Central Authority:

Provided that the Central Authority may appoint another accredited organisation to have custody of such documents, to follow up on the prospective foster carers and foster carers, to continue taking care and follow up on the placement of minors under foster care, and to perform all the functions of the organisation which had its accreditation revoked in accordance with this article.

48. (1) During the month of January of each year, the Central Authority shall publish in the Gazette: Publication in the Gazette.

(a) a list of all accredited organisations specifying their full name, registered address and other relevant contact details; and

(b) a list of agencies whose accreditation has been revoked throughout the previous calendar year.

(2) The Central Authority shall publish in the Gazette any change to the conditions required for accreditation or the renewal thereof upon making such a change, and changes shall take effect from the date of publication.

TITLE V

Sub-title I

OF FOSTER CARE

49. (1) Upon receiving an application by a prospective foster carer, the Agency shall: Evaluation of prospective foster carers.

(a) train the prospective foster carer;

(b) evaluate the suitability of the prospective foster carer;

(c) draw up a report on the situation of the prospective foster carer which shall include any appropriate recommendation, which report shall be known as Home Study Report; and

(d) forward the Home Study Report to the Fostering Board.

(2) For the purposes of drawing up the Home Study Report, the social worker authorised by the Agency shall visit the ordinary

residence of the prospective foster carer as necessary.

(3) The visits mentioned in the foregoing sub-article may be made without notice and the prospective foster carer shall co-operate with the social worker and he shall provide information which as far as he knows is correct, and he may not deny the entry of the social worker in his ordinary residence.

(4) Without prejudice to any other provision of this Act or of any other law, the Home Study Report shall include the following:

(a) a conduct certificate issued by the Commissioner of Police;

(b) a report made by a registered doctor on the state of health of the prospective foster carer;

(c) a register of the meetings that the social worker had with the family;

(d) a recommendation by the social worker on whether the prospective foster carer is suitable or otherwise, and the reasons therefor; and

(e) any other information as the board may reasonably require.

(5) When a social worker, in the early stages of his evaluation for the purpose of drawing up the Home Study Report, has enough reasons to think that a prospective foster carer is not suitable, he shall present a preliminary report to the Fostering Board and request direction on whether he should proceed with the Home Study Report or not.

(6) When the Fostering Board decides that a social worker should proceed with his Home Study Report it shall inform the social worker and the latter shall proceed with his evaluation:

Provided that when the Fostering Board agrees with the preliminary report it shall give its decision in accordance with this Act and it shall accordingly notify these mentioned in article 40(3).

Pairing of foster carers with minors.

50. For the purpose of pairing a foster carer with a minor, the Agency shall:

(a) consider the individual needs of the minor;

(b) consider the capabilities and experience of the foster care to cater for the particular needs of the minor;

(c) without prejudice to paragraph (a), make any reasonable attempt to keep siblings at the same residence;

(d) without prejudice to paragraph (a), make any reasonable attempt to keep a parent under the age of eighteen years and his or her offspring at the same residence;

(e) consider the report made by the social worker; and

(f) consider whether relatives of the minor are capable of taking care of said minor.

51. (1) Foster care shall take place following a written agreement between the Agency and the foster carer, which may be modified by written agreement between the Agency and the foster carer. Foster care agreement.

(2) The care order, the care plan and the voluntary placement order in accordance with article 68, as well as any revision to them, shall be annexed to the agreement and shall be read and interpreted as part of the same agreement.

(3) The agreement shall be signed by the social worker and the foster carers, and a copy thereof together with the relevant parts of this Act which provide for the rights and responsibilities of foster carers and the rights of minors under foster care, shall be given to the foster carers.

(4) A copy of the agreement mentioned in this article may be given to the parents of the minor only if the Agency decides that it would be in the best interests of the minor.

(5) In case of any disagreement as to the foster care agreement, any party may request a direction from the Review Board.

(6) The contents of the agreement between the foster carer and the Agency shall not be deemed as a permanent one unless it contains a clause which provides clearly to the contrary.

(7) The agreement may be terminated by the Agency or the foster carer, as applicable, for any one of the following reasons:

(a) the foster carer does not comply with the foster care agreement;

(b) the Fostering Board decided that a foster carer is no longer capable of providing foster care;

(c) the placement of a minor under foster care is no longer in the best interests of the minor;

(d) the circumstances make it difficult for the foster carer to continue taking care of the minor under his care:

Provided that the agreement may only be terminated after the key social worker is informed of such an intent and an alternative care plan is drawn up and approved by the Review Board.

Monitoring of the foster carer.

52. (1) During a placement under foster care, the Agency shall designate a social worker to monitor a foster carer registered with it.

(2) The social worker shall prepare a Review Report at least once every two years so that it may be determined whether the foster carer is fulfilling his obligations in accordance with this Act and the foster care agreement, with the purpose of deciding if such carer should be allowed to continue taking care of the minor:

Provided that the Review Report shall be made before the expiry of a two-year period if there is a need to evaluate the foster carer before such expiry.

(3) For the drawing up of the Review Report, the social worker shall make the necessary visits to the residence.

(4) The visits mentioned in the foregoing sub-article may be made without notice and the prospective foster carer shall co-operate with the social worker and he shall provide information which as far as he knows is correct, and he may not deny the social worker entry to his ordinary residence.

(5) The social worker making visits in accordance with this article shall have the right to be assisted by members of the Executive Police in case it is deemed that there is a risk of hindrance to the exercise of his responsibilities according to this article.

Rights and responsibilities of foster carers

53. By virtue of this article, with the rights and responsibilities of foster carers listed in a foster care agreement, the following shall be deemed to be added and included:

(a) the facilitation of contact between the minor and his family and any other person which the Review Board may deem necessary in the best interests of the minor;

(b) the receiving of any information, including medical information, about the minor being placed in their care and ensuring that any such information is kept confidential;

(c) the receiving of such financial assistance as may be required for the care and upbringing of the minor;

(d) the receiving of adequate support services;

(e) co-operation with all the entities and persons concerned and the furnishing to them of such information as they may deem required;

(f) ensuring that the minor attends to any treatment which the Review Board may determine as needed for the well-being of the minor;

(g) attendance together with the minor for reviews by the Review Board and updating that board on the progress being done by the minor and on any other significant event;

(h) the giving of a notification to the Agency and the Review Board of any change in their ordinary residence, at least two months before such change;

(i) the request for approval by the Review Board for the travel plans of a minor under their care;

(j) ensuring that the minor is brought up in an environment which leads to his psychological security as well as his physical well-being, to the satisfaction of the Care Standards Authority;

(k) respecting and facilitating of the right of the minor to practice a religion of his own choice;

(l) the reporting to the Director (Alternative Care) or the Review Board of any incident, abscondment, truancy from school, injury, sickness or death as they occur;

(m) the participation in on-going training as organized by the Agency;

(n) the right to open a bank account in the name of the minor, which they shall administer as a *bonus paterfamilias*; and

(o) the observance of any other obligation as may be imposed upon them under this Act or any other law.

54. (1) When a minor has been under the care and custody of a foster carer for more than ten years, the foster carer may request the adoption of that minor by filing an application to the Court of

Adoption of
minors under
foster care.

Voluntary Jurisdiction.

(2) Notwithstanding any other provision of the law, no restrictions based on age may apply for adoption in accordance with this article.

(3) Adoption in accordance with this article shall be granted on condition that the rights of access to the minor by the natural parents and siblings by consanguinity shall be as wide as possible.

Sub-title II

OF THE AGENCY

Functions of the Agency.

55. (1) Without prejudice to any other function or responsibility given to the Agency in accordance with this Act or any other law, the Agency under this Act shall:

(a) pair foster carers with minors which are to be placed under foster care in accordance with article 50;

(b) make any reasonable attempt to place siblings with the same foster carer if this is in the best interest of the siblings;

(c) make any reasonable attempt to place a parent who is a minor and his offspring with the same foster carer;

(d) ascertain that every placement under foster care is in the best interest of the minor;

(e) follow up on all placements under foster care which have been occasioned through it and provide support to the foster carers throughout such placement under foster care;

(f) consider and propose changes, if needed, to any foster care agreement;

(g) investigate complaints against a foster carer in accordance with the manual or procedures mentioned in article 56 and make a report to be referred to the Fostering Board for any required action; and

(h) investigate any abuse allegations related to foster care placements in accordance with the manual or procedures referred in article 56 and make a report to the competent authority as may be required.

(2) The Agency shall also have the following functions:

(a) the provision of services in accordance with criteria, procedures and guidelines established by the Central Authority and in accordance with those standards of service therein established;

(b) the receipt and processing of applications by persons applying to be registered as foster carers;

(c) the provision of initial and on-going training to prospective foster carers and foster carers registered with it, as well as providing them with adequate and continuous support when the Central Authority places a minor under foster care with the foster carers;

(d) providing the Central Authority with access to any document relating to the foster care procedures of any minor, inclusive of reports on any foster carer or prospective foster carer;

(e) providing the Central Authority with access to its accounts and to accounts as audited by an auditor;

(f) sending of a report to the Central Authority on the exercise of its functions at the end of each calendar year;

(g) conforming with any other function as may be specified by the Central Authority.

(3) Without prejudice to any other function or responsibility given to them in accordance with this Act or any other law, every organisation accredited in accordance with this Act shall also have the functions listed in sub-article (2).

56. The Agency shall develop, update and fulfil the written policy, procedures and manuals which are subject to approval by the Central Authority, and which shall *inter alia* provide for:

Policy and procedure of an accredited organisation.

(a) procedures on training and evaluation;

(b) forms of support for foster carers and minors placed under foster care as applicable before, during and after such placement under foster care;

(c) investigation of complaints against any foster carer;
and

(d) changes in the circumstances of foster carers.

Information to prospective foster carers.

57. Before commencing the fostering process, the Agency shall:

- (a) inform prospective foster carers of its objectives, powers and activities;
- (b) make available a copy of its Accreditation Certificate to prospective foster carers as proof of its accreditation; and
- (c) inform prospective foster carers of any legal requirements.

Registers.

58. (1) The Agency shall maintain one or more registers which will at least have lists of:

- (a) the prospective foster carers registered with it;
- (b) the foster carers registered with it; and
- (c) the professionals who are monitoring every foster care placement.

(2) In addition to what is provided in sub-article (1), the Central Authority may, by informing the Agency in writing, order it to add other information to be registered and kept in the registers mentioned in sub-article (1).

Training for social workers.

59. The Agency shall make all reasonable efforts to ensure that every social worker assigned to carry out duties with regard to foster care procedures is adequately trained in this regard and continues to receive ongoing training.

TITLE VI

OF RESIDENTIAL CARE

Residential care.

60. (1) Where the placement of a minor in foster care is not in the best interest of the minor, such minor shall be accommodated in a home for residential care.

(2) A home for residential care shall be responsible for promoting the development and well-being of a minor placed under its care.

Responsibilities of homes for residential care.

61. Without prejudice to other responsibilities under this Act or any other law, a home for residential care shall be responsible for:

- (a) ensuring that the placement into residential care is effected in the most appropriate manner for the minor;
- (b) ensuring that the minor under its care receives all

those rights pertaining to all minors in the pursuit of his well-being, of his development and for the attainment of his aspirations;

(c) collaborating with the social worker assigned for the minor;

(d) reporting to the social worker and the Review Board on every fact which may affect the care plan of the minor;

(e) facilitating contact between the minor and his family in accordance with the care plan or decision of the Review Board;

(f) providing residential services in accordance with the standards, criteria and procedures established by the Care Standards Authority through regulations for such purpose;

(g) keeping of a register on minors placed under their care, which register shall include periodical reports relating to the development of the minor;

(h) providing initial and on-going training to their employees and service providers;

(i) notify the Agency of any requests made directly to it for the placement of a minor in its care; and

(j) develop, maintain, update and execute written policies, procedures and manuals.

62. A residential care placement shall only take place following an agreement entered into between the Agency and the head of the residential home. Residential care placement agreement.

TITLE VII

OF THE RIGHTS OF MINORS IN ALTERNATIVE CARE

63. (1) A minor in relation to whom the provisions of this Act apply shall be cared for, maintained, instructed and educated according to his abilities, aspirations and natural inclinations. Rights of the minor in alternative care.

(2) The minor shall also, at any time, have regular access to the social worker who is taking care of his placement in alternative care.

(3) Without prejudice to the generality of the rights mentioned in sub-articles (1) and (2), and to any other right of the minor, said minor shall in particular have the following rights:

(a) to be consulted on any decision affecting him in a manner appropriate to his age and understanding;

(b) to have access to information on the situation of his family members in the absence of contact with them;

(c) to maintain personal relations and direct contact with his parents, and with any such other person close to him, unless it is contrary to the best interests of the minor;

(d) to receive nutrition in accordance with the relevant nutritional standards, as well as with his religious beliefs;

(e) to receive appropriate medical care and psychological support;

(f) to have access to education;

(g) to have his specific safety, health, nutritional, developmental and other needs catered for;

(h) to freely decide which religion to pursue and to have his religious and spiritual needs satisfied accordingly;

(i) to have his privacy respected;

(j) to have a positive, safe and nurturing relationship with his alternative carers; and

(k) the rights mentioned in the United Nations Convention on the Rights of the Child.

(4) From time to time the Minister may update the rights mentioned in this article by regulations.

PART III

OF APPEALS

TITLE I

OF THE BOARD OF APPEAL

Establishment
of Board of
Appeal.

64. (1) There shall be a Board of Appeal which shall consist of three members as follows:

(a) a Chairperson who shall have a warrant to practise the profession of advocate in Malta for at least five years; and

(b) two persons who shall have at least five years of professional experience in the welfare of minors.

(2) The members of the Board of Appeal shall be appointed by the Minister for a period of three years and may be removed from office by the Minister on grounds of inability to perform the functions of their office or for misbehaviour.

(3) A member of the Board of Appeal may be challenged or may abstain for any of the reasons for which a judge may be challenged or may abstain in accordance with article 734 of the Code of Organization and Civil Procedure. Cap. 12.

(4) When a member of the Board of Appeal recuses himself or abstains in accordance with the foregoing sub-article, the Minister shall appoint another person to sit as a member on the Board of Appeal in substitution of the said member and for the appeal for which such member recused himself or abstained.

(5) A person shall not be qualified to be appointed or continue to hold office as a member of the Board of Appeal if that person is a Judge, a Magistrate, a member of the House of Representatives or of a Local Council, or a candidate for election to the House of Representatives or a Local Council.

65. (1) The Board of Appeal shall be competent to, following a request by application: Competence and powers of the Board of Appeal.

(a) review a decision of the Fostering Board;

(b) review a decision of the Care Standards Authority to refuse, revoke or suspend a registration; and

(c) review decisions of the Central Authority with regards to accreditation, accreditation renewals, suspension or revocation of an accreditation.

(2) The Board of Appeal shall fulfil any other function which the Minister may prescribe by regulations made by virtue of this Act.

(3) To fulfil its functions, the Board of Appeal shall have access to all documentation related to a foster care procedure and no one may hinder it in the exercise of its functions.

(4) The Board of Appeal shall have such powers as are vested in the First Hall of the Civil Court by the Code of Organization and Civil Procedure. Cap. 12.

(5) Without prejudice to the provisions of the foregoing sub-article, in the exercise of its functions the Board of Appeal may call upon any person to testify and to produce any necessary documents and for such purpose the Chairperson shall have the power to administer an oath.

(6) The Board of Appeal shall decide an appeal within six weeks from the filing of the application, unless it is the view of the Chairperson that a longer period is required due to a valid reason which shall be given and noted in the acts of the case.

(7) A decision given by the Fostering Board or the Care Standards Authority, as applicable, shall have immediate effect unless the Board of Appeal decides to suspend it until a final decision is given.

(8) The decision of the Board of Appeal, and the reasons for it, shall be given in writing and shall be notified to the appellants, the Fostering Board and the Care Standards Authority, as applicable, by registered mail within five working days from its pronouncement.

Cap. 12.

(9) In cases falling within the competence of the Board of Appeal in accordance with sub-article (1), there shall be a right of appeal on a point of law by application to the Court of Appeal constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure.

(10) The application mentioned in the foregoing sub-article shall be filed not later than fifteen working days from the date of the decision of the Board of Appeal.

TITLE II

OF THE COURT OF APPEAL

Appeals from
decisions of the
Court.

Cap. 12.

66. (1) Without prejudice to the provisions of this Act, any party in proceedings under this Act which feels aggrieved by a decision may appeal by filing an application to the Court of Appeal as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure:

Provided that the provisions of this article shall not apply when the methods of contestation or redress for any particular decision have not been exhausted in accordance with this Act.

(2) The appeal shall be brought in front of the Court Appeal by application filed within fifteen working days from the date in which a decision was given.

(3) The appealed party shall file its reply within fifteen working days from when it was notified with the appeal application.

(4) The Court of Appeal shall appoint the first hearing of the application not later than thirty days from the date in which the parties were notified with the application and it shall give a final decision within sixty days from the date of the first hearing.

(5) The Court of Appeal may confirm or revoke the decision of the Court, as well as impose other measures it deems fit, and upon final judgement it shall send the acts back to the Court so that it may consider the case in accordance with articles 23, 24 and 25, as applicable.

(6) An appeal made according to this article shall not stay the execution of the appealed decision.

(7) Save as otherwise provided in this Act, the provisions of the Code of Organization and Civil Procedure on the Court of Appeal and for appeals heard by it shall apply *mutatis mutandis*: Cap. 12.

Provided that all cases shall, at all times, be heard behind closed doors.

PART IV

OF SOCIAL WORK WITH MINORS

67. (1) Where the Court makes any of the orders mentioned in articles 18 and 19 in respect of a minor, it shall notify the Director (Protection of Minors) of such order and the Director (Protection of Minors) shall appoint a key social worker as soon as possible. Key social worker.

(2) Without prejudice to any other responsibilities under this Act, or under any other law, the responsibilities of a key social worker shall include:

- (a) maintaining an interpersonal relationship with the minor;
- (b) visiting the minor at regular intervals;
- (c) monitoring the placement of the minor and consider his well-being;
- (d) co-ordinating and following-up the progress of the care plan;
- (e) keeping of a detailed register of all minors under his

care;

(f) participation in a minor's case reviews and reporting to the Review Board on the welfare of the minor;

(g) appearing, reporting and giving recommendations to the Review Board on matters related to the minor, including on the possibility of re-integrating the minor with his family or, if not, on whether the type of alternative care is appropriate for the minor, and on the progress and implementation of the care plan;

(h) reporting to the Director (Protection of Minors) , and to any other competent authority, on cases of alleged abuse and on any other serious incident related to the well-being of the minor; and

(i) the fulfilment of the conditions of the care plan on the provision of support services to the minor and of any other service as provided in the care plan.

Voluntary
placement.

68. (1) When, due to a valid reason, the parents of a minor propose to make arrangements to place said minor under the care and custody or another person or entity, such other person or entity shall notify the Director (Alternative Care) of such a proposal.

(2) Upon being notified in accordance with sub-article (1), the Director (Alternative Care) shall appoint a social worker to visit and examine the place in which the minor is proposed to be kept, and to recommend on whether the person or entity proposed for receiving the minor is adequate to provide for his care and custody.

(3) The social worker appointed in accordance with sub-article (2) shall, in relation to the minor, have the same responsibilities as provided in article 67(2).

(4) For the purposes of sub-article (2) the social worker shall draw up a report and notify it, together with proposed arrangements, to the Review Board.

(5) When the Review Board is satisfied that the person or entity to be entrusted with the care and custody of the minor is adequate to give such care, and the place in which the minor shall be kept is appropriate to his needs, the board shall order the social worker to prepare a care plan and the provisions of article 12(1), (2) and (3) shall apply *mutatis mutandis*.

(6) In every case, the care plan shall be prepared with the participation of the minor, if deemed to have sufficient understanding,

and with the participation of any other person or entity which the Director (Protection of Minors) deems appropriate in the circumstances of the case.

(7) The Review Board shall, at regular intervals, hear all the professionals involved in the case, the minor if deemed to have sufficient understanding, the parents of the minor, the person or entity having received the minor under its care, and any other person which the board may deem appropriate in the circumstances of the case.

(8) Without prejudice to sub-article (7) the Review Board shall review the care plan mentioned in this article at least once every six months.

(9) When the parents are no longer of the opinion that the agreement should remain in force, they may file an application to the Review Board and request the rescission of the agreement, and in such a case the board shall give any direction or order it deems appropriate:

Provided that up to the moment the Review Board gives its final decision, the care and custody of the minor shall remain entrusted to the person or entity to which it had been entrusted.

PART V

MISCELLANEOUS

69. Upon a minor being removed from the care and custody of a person and at once when a case is assigned to a key social worker, the key social worker shall immediately do all that is necessary so that a passport is issued for that minor and such passport shall be kept by the Director (Alternative Care). Passport for the minor.

PART VI

OF OFFENCES

70. (1) Any unauthorised person or any unauthorised organisation that makes an arrangement for the placement of a minor in foster care shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six months and not exceeding three years or to a fine (*multa*) of not less than two thousand euro (€2,000) but not more than five thousand euro (€5,000), or to both such fine and imprisonment. Arrangements for foster care.

(2) For the purposes of sub-article (1), a person or organisation shall be deemed to make arrangements for the placement of a minor in foster care if it enters into any agreement or makes any arrangements

to facilitate the fostering of a minor.

Unauthorized provision of residential care.

71. Any person or organisation that establishes, operates or maintains a residential home, or provides, directly or indirectly, residential care without the written approval of the Care Standards Authority shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than twelve months and not exceeding four years or to a fine (*multa*) of not less than five thousand euro (€5,000) but not more than ten thousand euro (€10,000), or to both such fine and imprisonment.

Prohibition of payment.

72. (1) Any person who makes or gives, or agrees or offers to make or give, or receives or agrees to receive, or attempts to obtain any payment or other compensation for any arrangements for a foster care placement shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months and not more than six months or to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment, and this without prejudice to any order the Court deems fit to impose in the circumstances in order to protect the minor in respect of whom the offence was committed.

(2) For the purposes of this article, the making of any arrangements for the placement of a minor in foster care shall not include any payments made for the maintenance of the minor or remuneration due to professionals for services rendered by them, being such professionals engaged within the Agency and involved in the care of the minor or in other professions and acting according to their profession.

Prohibition of publication.

73. (1) Without prejudice to regulations made under this Act, no one may publish or cause to be published in any newspaper, periodical or other printed matter or by means of broadcasting, television, public exhibition or by any other means, any advertisement, news item or other matter which indicates:

- (a) that a minor may be placed in alternative care;
- (b) that a person intends to care for a minor in alternative care;
- (c) that a person intends to make arrangements for the placement of a minor in alternative care;
- (d) the name of an alternative carer if by doing so any detail on the minor is revealed;

(e) the name of the minor placed or to be placed in alternative care;

(f) the name of a parent, curator or tutor of a minor which was placed or will be placed in alternative care; or

(g) anything which may lead to the identification of one of the persons mentioned.

(2) Any person who acts in breach of this article shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not less than three months and not exceeding six months or to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment, without prejudice to any order for the payment of damages that are deemed fit in the circumstances.

74. A person shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than three months and not exceeding six months or to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment, if such person: Use of force.

(a) threatens or forces any authorised or approved alternative carer to give up a minor placed in their care;

(b) takes the minor away from any authorised or approved alternative care provider against the will of the minor, without the approval in writing of the Fostering Board, or the Court, or the Agency or any other relevant entity or authority, as the case may be;

(c) threatens or forces any authorised or approved alternative carer to give up any order issued by any court or issued by virtue of this Act;

(d) threatens or forces any authorised or approved alternative carer to act in breach of the provisions of this Act;

(e) threatens or causes any type of damage to any authorised or approved alternative carer; or

(f) forces entry into the premises of any authorised or approved alternative carer by violence or against the will of the alternative carer.

Hindrance. **75.** Any person who in any way hinders or obstructs any of the boards, authorities, agencies, entities, directors or officers mentioned, accredited established or licensed under this Act, in the performance of any of their functions shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not less than six months and not exceeding one year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Other hindrances against the implementation of this Act.

76. (1) Unless in the circumstances of a particular case no other offence is provided for in this Act or by another law, which offence would be liable to a higher penalty than that which is provided in this article, any person who acts aggressively against a social worker, a foster carer or any other person which is in any way involved in any decision, responsibility or measure according to this Act, which involvement includes the exercise of rights or the fulfilment of responsibilities or functions given to it by this Act or by any other law for the fulfilment of the provisions of this Act, shall be guilty of an offence:

Provided that in a case in which an offence is liable to a lighter penalty than that provided in this article and the circumstances of such offence are also in breach of this article, than the penalties of this article shall apply to that offence.

(2) Any person found guilty in accordance with sub-article (1) shall be liable to imprisonment for not more than two years or to a fine (*multa*) not more than ten thousand euro (€10,000), or to both such imprisonment and fine.

Abscondment. **77.** (1) If any minor in relation to whom any minor protection order is made absconds from the premises at which he is required to live or is absent from such premises at a time when he is not permitted to be so absent, he may be apprehended without warrant by any member of the Police and taken back to such premises.

(2) Any person who knowingly compels, incites or assists or in any way aids or abets any minor to abscond or to become or continue to be absent as mentioned in sub-article (1) shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term of not less than six months and not exceeding one year or to a fine (*multa*) of not less than one thousand and five hundred euro (€1,500) but not more than two thousand and five hundred euro (€2,500), or to both such fine and imprisonment.

Other offences. **78.** When a person is found guilty of an offence under this Act or under any regulations made thereunder, and a specific penalty is not

provided for the offence under this Act or any regulations made thereunder, such person shall, on conviction, be liable to a fine (*multa*) of not less than two hundred and fifty euro (€250) but not more than two thousand and five hundred euro (€2,500).

PART VII

OF REGULATIONS

79. (1) The Minister may make regulations for the better Regulations. carrying into effect of the purposes of this Act.

(2) In particular and without prejudice to the generality of sub-article (1), such regulations may provide for:

- (a) the protection, supervision and control of minors placed in alternative care;
- (b) the registration, monitoring and control of alternative care services and for the refusal or revocation of that registration;
- (c) the agreement for the placement of a minors in alternative care;
- (d) any right and obligation pertaining to alternative carers;
- (e) the rights of minors;
- (f) the services which homes for residential care shall provide;
- (g) the different types of alternative care;
- (h) offences and penalties for the breach of the provisions of this Act and regulations made thereunder;
- (i) the procedure that shall be followed by boards established under this Act and to establish rules on their powers;
- (j) the activities of entities established in this Act; and
- (k) any matter which is incidental to and supplementary for the effective implementation of this Act, as the Minister may

deem expedient to provide.

PART VIII

TRANSITORY PROVISIONS

Pending investigations.

80. (1) If, prior to the date of coming into force of this Act, any report was lodged about a minor, which report would require investigation, said investigation shall be concluded by the Director (Protection of Minors), within six months from the date of entry into force of this Act.

(2) The said term may, be extended by the Director for an additional term of three months.

Applicable provisions.

81. Without prejudice to the provisions of this Act, any action filed before the coming into force of this act shall be decided according to the legal provisions in force on the date of filing.

Appeals. Cap. 285.

82. Any request for revision made to the Court in accordance with article 4(5) of the Children and Young Persons (Care Orders) Act before the coming into force of this Act shall continue to be heard by the mentioned Court until it is decided upon:

Cap. 285.

Provided that in case of appeal according to article 66, from a decision by the Juvenile Court given under article 4(5) of the Children and Young Persons (Care Orders) Act, it shall be the Court of Appeal which is to hear the case, but it shall not do so before four months from the decision of the Juvenile Court.

Reviews pending before the Children and Young Persons Advisory Board. Cap. 285.

83. All cases pending before the Children and Young Persons Advisory Board under the provisions of the Children and Young Persons (Care Orders) Act, before the coming into force of this Act, shall continue to be heard by the Review Board upon the coming into force of this Act.

Repeal of legislation. Cap. 285. Cap. 491. Cap. 569. S.L. 16.01.

84. The Children and Young Persons (Care Orders) Act, the Foster Care Act, the Child Protection (Alternative Care) Act and the Placing of Minors Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder.
