

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,030, 29 ta' Marzu, 2023

Taqsim A

MALTA

ATT Nru XI tal-2023

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT sabiex jemenda l-Att dwar il-Protezzjoni tal-Minuri (Ħarsien Alternattiv), Kap. 602.

ACT No. XI of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Minor Protection (Alternative Care) Act, Cap. 602.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

29 ta' Marzu, 2023

ATT Nru XI tal-2023

ATT sabiex jemenda l-Att dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv), Kap. 602.

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

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 li jemenda l-Att dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv), u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Protezzjoni tal-Minuri (Harsien Alternattiv), hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehħ.

Kap. 602.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data jew dati li l-Ministru responsabbli għall-politika soċjali u drittijiet tat-tfal jista', b'avviż fil-Gazzetta, jistabbilixxi u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet u, jew għanijiet differenti ta' dan l-Att.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-
artikolu 2 tal-
Att prinċipali.

(a) it-tifsira "Aġenzija" tiegħu għandha tiġi mhassra;

(b) it-tifsira "pjan konkorrenti" tiegħu għandha tiġi mhassra;

(ċ) f'paragrafu (b) tat-tifsira "*foster care* transkonfini" tiegħu l-kliem "tal-Aġenzija" għandhom jiġu sostitwiti bil-kliem "tad-Direttur Kura Alternattiva (Tfal u Żgħażaġħ)";

(d) fit-tifsira "ħaddiem soċjali ewlieni" tiegħu l-kliem "mill-Aġenzija" għandhom jiġu sostitwiti bil-kliem "mid-Direttur għall-Ħarsien tat-Tfal sabiex jinvestiga rapport, jew il-ħaddiem soċjali maħtur mid-Direttur Kura Alternattiva (Tfal u Żgħażaġh)";

(e) minnufih wara t-tifsira "Qorti" tiegħu għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "Regolament (UE) 2016/679" tfisser Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jħassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data);".

Emenda tal-artikolu 5 tal-Att prinċipali.

3. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-proviso tas-subartikolu (1) tiegħu l-kliem "rapport mingħand professjonist mediku" għandhom jiġu sostitwiti bil-kliem "rapport mingħand professjonist" u l-kliem "fl-opinjoni ta' dak il-professjonist mediku" għandhom jiġu sostitwiti bil-kliem "fl-opinjoni ta' dak il-professjonist";

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) f'paragrafu (e) tiegħu, il-kelma "u" għandha tiġi mħassra;

(ii) f'paragrafu (f) tiegħu l-kliem "ħsara sinifikanti." għandhom jiġu sostitwiti bil-kliem "ħsara sinifikanti;" u minnufih wara għandhom jiġu miżjuda l-paragrafi ġodda li ġejjin:

Kap. 518.

"(g) jżomm u jaġġorna r-Registru għall-protezzjoni tal-Minuri skont id-dispożizzjonijiet tal-Att dwar Registrazzjoni għall-Protezzjoni tal-Minuri; u

Kap. 518.

(h) jipproċessa talbiet għal u jirrilaxxa Ċertifikati ta' Kondotta Nadifa fir-rigward ta' Abbuż ta' Minuri skont l-informazzjoni miżmuma fir-Registru stabbilit taħt l-Att dwar Registrazzjoni għall-Protezzjoni tal-Minuri.".

Emenda tal-artikolu 6 tal-Att prinċipali.

4. L-artikolu 6 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu l-kliem "u l-progress li jsir

minn laqgħa għal oħra għandu jkun ikkontrollat mid-Direttur għall-Ħarsien tat-Tfal" għandhom jiġu sostitwiti bil-kliem "u l-progress li jsir minn laqgħa għal oħra għandu jkun sorveljat mid-Direttur għall-Ħarsien tat-Tfal";

(b) fil-proviso għas-subartikolu (4) tiegħu l-kelma "rikjesta" għandha tiġi sostitwita bil-kelma "talba".

5. Il-proviso tal-artikolu 8 tal-Att prinċipali għandu jiġi sostitwit bil-proviso ġdid li ġej:

Emenda tal-artikolu 8 tal-Att prinċipali.

"Izda d-Direttur għall-Ħarsien tat-Tfal jista' jiddelega l-eżerċizzju ta' tali rappreżentanza lil uffiċjali oħra."

6. Minnufih wara artikolu 8 tal-Att prinċipali għandu jiġi miżjud l-artikolu ġdid li ġej:

Żieda ta' artikolu 8A ġdid fl-Att prinċipali

"Żamma tar-Registru għall-Protezzjoni tal-Minuri.
Kap. 518.

8A. Il-funzjonijiet tad-Direttur għall-Ħarsien tat-Tfal bħala Registratur skont l-Att dwar Registrazzjoni għall-Protezzjoni tal-Minuri għandhom jinkludu s-segweni:

Kap. 518.

(a) li jzomm b'mod sikur u jzomm aġġornat ir-Registru skont l-Att dwar Registrazzjoni għall-Protezzjoni tal-Minuri;

(b) li jaġġorna r-Registru skont ordnijiet mogħtija mill-Qrati u t-Tribunali ta' Malta jew minn kwalunkwe qorti kompetenti oħra;

(ċ) li jipproċessa talbiet għar-rilaxx ta' Ċertifikati ta' Kondotta Nadifa fir-rigward ta' Abbuż ta' Minuri;

Kap. 586.

(d) li jieħu dawk il-miżuri kollha neċessarji sabiex iżomm ir-Registru sikur skont l-Att dwar il-Protezzjoni u l-Privatezza tad-Data;

Kap. 518.

(e) li jitlob informazzjoni minn entitajiet fir-rigward taż-żamma tar-Registru stabbilit taht l-Att dwar Registrazzjoni għall-Protezzjoni tal-Minuri;

(f) li jitlob informazzjoni minn entitajiet rilevanti u dawk li jhaddmu dwar in-natura tal-impjeg li se jkun mistenni mill-applikant;

- Kap. 518. (g) li jaħdem ma' kwalunkwe entità rilevanti sabiex tittiehed dik l-azzjoni neċessarja taht l-Att dwar Registrazzjoni għall-Protezzjoni tal-Minuri meta l-informazzjoni fir-rigward ta' individwu ma tkunx ingiebet għall-attenzjoni tal-entità minn dak l-individwu, liema informazzjoni tkun tirrikjedi azzjoni minn dik l-entità rilevanti:
- Kap. 377.
Kap. 586. Iżda tali komunikazzjoni għandha tkun limitata għall-informazzjoni provduta u ma għandhiex tikkostitwixxi ksur tad-dispożizzjonijiet taht l-Att dwar Segretezza Professjonali u, jew l-Att dwar il-Protezzjoni u l-Privatezza tad-Data."
- Emenda tal-artikolu 10 tal-Att prinċipali. **7.** Il-proviso tas-subartikolu (4) tal-artikolu 10 tal-Att prinċipali għandu jiġi sostitwit bil-proviso ġdid ġej:
- "Iżda l-imsemmi żmien jista', għal raġuni tajba u minħabba ċ-ċirkostanzi partikolari tal-każ, jiġi estiż mid-Direttur għall-Harsien tat-Tfal għal perjodu addizzjonali ta' sittin (60) ġurnata tax-xogħol."
- Emenda tal-artikolu 11 tal-Att prinċipali. **8.** L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:
- (a) il-kelma "jista'" għandha tiġi sostitwita bil-kliem "għandu s-setgħa illi";
- (b) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:
- "(ċ) jitlob mingħand kwalunkwe persuna kwalunkwe informazzjoni rilevanti li tista' tkun strettament neċessarja għall-finijiet tal-investigazzjoni;"
- Żieda ta' artikolu ġdid 11A fl-Att prinċipali. **9.** Minnufih wara l-artikolu 11 tal-Att prinċipali għandu jiġi

miżjud l-artikolu ġdid li ġej:

"Setgħa tad-Direttur li jitlob informazzjoni relatata ma' numru ta' kuntatt.

11A. (1) Id-Direttur għall-Ħarsien tat-Tfal għandu jkollu s-setgħa illi jitlob u jirċievi l-isem, l-indirizz u, jew numru ta' kuntatt ta' abbonat jew utent reġistrat mingħand fornitur tas-servizzi li jipprovdi servizzi ta' komunikazzjoni elettronici disponibbli pubblikament, jew network pubbliku ta' komunikazzjonijiet, fejn din l-informazzjoni tkun strettament neċessarja sabiex id-Direttur għall-Ħarsien tat-Tfal ikun jista' jeżerċita l-funzjonijiet u r-responsabbiltajiet tiegħu skont dan l-Att.

(2) It-talbiet magħmula mid-Direttur għall-Ħarsien tat-Tfal skont is-subartikolu (1) għandhom ikunu dokumentati flimkien mar-raġuni għalfejn ikunu ġew magħmula. L-uffiċjal għall-protezzjoni tad-data għandu jiġi kkonsultat u involut fil-mument opportun sabiex ikun jista' jissorvelja l-konformità mar-Regolament tal-UE 2016/679.

(3) Id-Direttur għall-Ħarsien tat-Tfal għandu jimplimenta miżuri u proċeduri tekniċi u organizzattivi xierqa sabiex jiġi żgurat livell għoli ta' kunfidenzjalità u sigurtà tad-data fir-rigward tal-ipproċessar ta' data personali li tappartjeni lill-persuni fiżiċi."

10. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 12 tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu:

(i) l-paragrafu (d) tiegħu l-kelma "eżamijiet" għandha tiġi sostitwita bil-kelma "testijiet";

(ii) l-paragrafu (e) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(e) korsijiet bil-għan li jtejbu l-ħiliet tal-ġenituri tal-minuri;";

(iii) minnufih wara l-paragrafu (g) tiegħu għandu jiġi miżjud il-paragrafu ġdid li ġej:

"(ga) jekk neċessarju, it-tqegħid temporanju tal-minuri f'kura alternattiva skont l-artikolu 68(12) ta' dan l-Att;";

A 216

(b) fis-subartikolu (4) tiegħu, il-kliem "Mal-firem, id-Direttur għall-Ħarsien tat-Tfal għandu jahtar haddiem soċjali ewlieni jew jista' jinnotifika lid-Direttur Kura Alternattiva (Tfal u Żgħażaġġ)" għandhom jiġu sostitwiti bil-kliem "Mal-firem, id-Direttur għall-Ħarsien tat-Tfal jista' jahtar haddiem soċjali ewlieni u għandu jinnotifika lid-Direttur Kura Alternattiva (Tfal u Żgħażaġġ)".

Emenda tal-artikolu 13 tal-Att prinċipali.

11. Fis-subartikolu (1) tal-artikolu 13 tal-Att prinċipali l-kliem "jlaqqa' dawk kollha il-professjonisti" għandhom jiġu sostitwiti bil-kliem "jlaqqa' dawk il-professjonisti kollha".

Żieda tal-artikolu ġdid 17A fl-Att prinċipali.

12. Minnufih wara l-artikolu 17 tal-Att prinċipali għandu jiġi miżjud l-artikolu ġdid li ġej:

"Rappreżentazzjoni tal-partijiet kollha quddiem il-Qorti.

17A. Fil-proċeduri kollha tal-Qorti, il-Qorti għandha taċċerta li l-partijiet kollha huma debitament rappreżentati qabel ma l-Qorti tgħaddi sabiex tisma' lill-partijiet u, jew l-evidenza tagħhom u għandha tipproċedi bil-ħatra ta' kuraturi sabiex jirrapprezentaw lill-partijiet li ma jistgħux jiġu intraċċati, lokalizzati, misjuba u notifikati jew ma jistgħux jidhru fil-proċeduri bħala partijiet, u dan kif jipprovdi l-proviso tal-artikolu 24(4) ta' dan l-Att."

Emenda tal-artikolu 18 tal-Att prinċipali.

13. L-artikolu 18 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (7) tiegħu:

(i) il-kliem "aktar tard minn xahrejn (2) mid-data tal-ewwel smiġħ ta' dik is-seduta" għandhom jiġu sostitwiti bil-kliem "aktar tard minn xahrejn (2) mid-data ta' dik is-seduta";

(ii) il-kliem "għandu jipprepara pjan ta' ħarsien sa dik id-data" għandhom jiġu sostitwiti bil-kliem "għandu, fil-frattemp, sa dik id-data, jipprepara pjan ta' ħarsien";

(iii) fil-proviso tiegħu l-kliem "sabiex, tistabbilixxi" għandhom jiġu sostitwiti bil-kliem "sabiex tistabbilixxi";

(b) fis-subartikolu (8) tiegħu l-kliem "minnufih innotifikat" għandhom jiġu sostitwiti bil-kliem "minnufih notifikat";

(ċ) fis-subartikolu (9) tiegħu l-kliem "fi żmien xahrejn mill-prezentata tiegħu billi tawtorizza" għandhom jiġu sostitwiti bil-kliem "fi żmien xahrejn (2) mill-aħħar seduta billi tawtorizza", u minnufih wara għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(10) Meta l-Qorti tohrog ordni ta' ħarsien għall-benesseri ta' minuri skont id-dispożizzjonijiet ta' dan l-Att, il-Pulizija għandhom jiġu infurmati mid-Direttur għall-Ħarsien tat-Tfal, sabiex il-minuri protett b'dak l-istess ordni ta' ħarsien għall-benesseri tiegħu jitniżżel fis-Sistema ta' Informazzjoni Schengen (SIS) u dak il-minuri jithalla jivjaġġa 'l barra minn Malta u jidhol lura Malta biss meta jkun hemm il-kunsens bil-miktub tal-persuna jew l-entità vestita bil-kura u kustodja tiegħu, skont l-Artikolu 32 tar-Regolament (UE) 2018/1862 tal-Parlament Ewropew u tal-Kunsill tat-28 ta' Novembru 2018 dwar l-istabbiliment, it-tħaddim u l-użu tas-Sistema ta' Informazzjoni ta' Schengen (SIS) fil-qasam tal-kooperazzjoni tal-pulizija u l-kooperazzjoni ġudizzjarja fi kwistjonijiet kriminali, li temenda u tħassar id-Deciżjoni tal-Kunsill 2007/533/GAI, u li tħassar ir-Regolament (KE) Nru 1986/2006 tal-Parlament tal-Ewropa u tal-Kunsill u d-Deciżjoni tal-Kummissjoni 2010/261/UE."

14. L-artikolu 19 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 19 tal-Att prinċipali.

(a) fis-sub-artikolu (1)(a)(i) tiegħu, minnufih wara l-kliem "ħarsien u protezzjoni" għandhom jiġu miżjuda l-kliem "jew li jkun meqjus li għandu bżonn permanenza skont kif provdut f'dan l-Att";

(b) fis-subartikolu (3)(b) tiegħu l-kelma "diżabbli" għandha tiġi sostitwita bil-kliem "għandu diżabbiltà".

15. L-artikolu 20 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 20 tal-Att prinċipali.

(a) fis-subartikolu (4) tiegħu l-kliem "jkun fih tifsira qasira iżda ċara tal-fatti tal-każ" għandhom jiġu sostitwiti bil-kliem "jkun fih rendikont qasir iżda ċar tal-fatti tal-każ";

(b) minnufih wara s-subartikolu (12) tiegħu għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(12A) Meta l-ġenitur jew ġenituri tal-minuri, skont iċ-ċirkostanzi tal-każ, jew il-kuratur *ad litem* tagħhom, iħossu li jistgħu jirribattu l-allegazzjonijiet fil-konfront tagħhom permezz tal-produzzjoni ta' xhieda u sottomissjonijiet, huma għandhom jithallew iħarrku x-xhieda jew iressqu kwalunkwe tip ta' prova jew sottomissjoni oħra rilevanti f'seduta li tinzamm għal dan il-ghan:

Iżda għandu jsir kull sforz raġonevoli sabiex il-

A 218

Qorti tisma' l-provi kollha f' dik is-seduta, iżda għal raġuni tajba, il-Qorti tista' tkompli tisma' l-provi f' seduti sussegwenti.";

(ċ) fis-subartikolu (13) tiegħu l-kliem "u x-xhieda kollha," għandhom jiġu sostitwiti bil-kliem ", l-evidenza kollha u fejn neċessarju s-sottomissjonijiet tal-partijiet," u minnufih wara s-subartikolu (13) kif emendat, għandu jiġi miżjud il-proviso ġdid li ġej:

"Iżda jekk neċessarju, il-Qorti tista' tiddiferixxi l-każ għal data oħra, li ma tkunx aktar tard minn xahrejn (2) mid-data ta' dik is-seduta sabiex tagħti d-deċiżjoni tagħha:";

(d) fil-proviso eżistenti tas-subartikolu (13) tiegħu, minnufih wara l-kelma "Iżda" għandha tiġi miżjuda l-kelma "wkoll".

Emenda tal-artikolu 23 tal-Att prinċipali.

16. Minnufih wara s-subartikolu (4) tal-artikolu 23 tal-Att prinċipali għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(5) Meta l-Qorti toħroġ digriet kif imsemmi fis-subartikolu (1), għandha tordna illi kopja tad-digriet tiġi notifikata lill-partijiet kollha inkluż id-Direttorati, l-Avukat tat-Tfal, il-ġenitur jew ġenituri tal-minuri skont iċ-ċirkostanzi tal-każ, it-tuttur u, jew il-kuratur jekk applikabbli u l-Bord ta' Revizjoni."

Emenda tal-artikolu 24 tal-Att prinċipali.

17. L-artikolu 24 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu l-kliem "tad-Direttur" għandhom jiġu sostitwiti bil-kliem "mid-Direttur";

(b) fis-subartikolu (4) tiegħu l-kliem "għall-preżentata tar-risposta tagħhom." għandhom jiġu sostitwiti bil-kliem "għall-preżentata tar-risposta tagħhom:" u minnufih wara għandu jiġi

miżjud il-proviso ġdid kif ġej:

Kap.12.

"Iżda meta l-Qorti jkollha quddiemha tliet (3) riferti negattivi skont l-artikolu 187 u 188 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili u, jew ma jkunx possibbli li l-ġenitur jew ġenituri skont iċ-ċirkostanzi tal-każ, jiġu intraċċati, lokalizzati jew misjuba jew ma jistgħux jkunu parti fil-kawża, il-Qorti għandha tgħaddi sabiex taħtar kuraturi skont l-artikolu 930 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jirrapprezentaw l-interessi tal-ġenitur jew ġenituri tal-minuri skont iċ-ċirkostanzi tal-każ. Il-proċedura tal-ħruġ tal-bandi kif meħtieġa skont l-artikolu 931 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ma għandhiex ixxejjel is-smiġħ.";

(ċ) fis-subartikolu (5) tiegħu l-kliem "fis-subartikolu (3)" għandhom jiġu sostitwiti bil-kliem "fis-subartikolu (4)";

(d) minnufih wara s-subartikolu (8) tiegħu għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(9) Kwalunkwe parti li tħossha aggravata tista' tippreżenta appell skont l-artikolu 66 ta' dan l-Att.".

18. Fil-proviso tas-subartikolu (2) tal-artikolu 25 tal-Att prinċipali l-kliem "tfal migranti" għandhom jiġu sostitwiti bil-kliem "migranti li jkunu tfal".

Emenda tal-artikolu 25 tal-Att prinċipali.

19. L-artikolu 31 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 31 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu l-kliem "jista' jinħatar mill-ġdid:" għandhom jiġu sostitwiti bil-kliem "jista' jinħatar mill-ġdid." u l-proviso tiegħu għandu jiġi mħassar;

(b) minnufih wara s-subartikolu (2) tiegħu kif emendat, għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(2A) Jekk ikun hemm l-esiġenza, il-Ministru jista' jwaqqaf Bord jew Bordijiet Addizzjonali, liema Bord jew Bordijiet għandhom ikunu kostitwiti u għandhom jimxu mal-istess proċeduri skont id-dispożizzjonijiet ta' dan l-Att:

Iżda kemm-il darba jiġi kostitwit Bord Addizzjonali, il-Bordijiet għandu jkollhom, kemm jista' jkun, madwar l-istess numru ta' każijiet:

A 220

Iżda wkoll ladarba l-każijiet jiġu assenjati u l-Bordijiet ikunu qegħdin jisimgħu r-reviżjonijiet, il-każijiet għandhom jibqgħu jiġu segwiti mill-istess Bord.";

(ċ) fil-proviso tal-artikolu (3) tiegħu l-kliem "jekk tkun instabet" għandhom jiġu sostitwiti bil-kliem "jekk ikun instab".

Emenda tal-artikolu 32 tal-Att prinċipali.

20. L-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu:

(i) il-paragrafu (a) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(a) jagħmel revizjonijiet perjodiċi tal-pjan ta' ħarsien u jieħu deċiżjonijiet fuq modifiki għall-pjan ta' ħarsien kif u meta meħtieġ;"

(ii) il-paragrafu (e) tiegħu għandu jiġi mħassar;

(iii) minnufih wara paragrafu (g) tiegħu għandhom jiġu miżjuda l-paragrafi ġodda li ġejjin:

"(h) jieħu deċiżjonijiet f'każ ta' nuqqas ta' qbil meta t-tqegħid ta' minuri f'kura alternattiva taħt kuntratt soċjali skont id-dispożizzjonijiet ta' dan l-Att, inkluż fuq kwistjonijiet relatati mal-bżonnijiet psikoloġiċi u terapewtiċi tal-minuri u t-teħid ta' deċiżjonijiet dwar jekk jiġix terminat dak it-tqegħid tal-minuri jew le u dawk id-deċiżjonijiet għandhom dejjem jittieħdu fl-aħjar interessi tal-minuri;

(i) jieħu deċiżjonijiet relatati mas-suspensjoni ta' kuntatt għal perjodu itwal minn xahar (1) skont l-artikolu 36A(1)(j) ta' dan l-Att, liema deċiżjoni għandha tkun notifikata lill-partijiet kollha interessati.";

(b) fil-proviso tas-subartikolu (3) tiegħu l-kelma "adattat" għandha tiġi sostitwita bil-kelma "xieraq".

Emenda tal-artikolu 33 tal-Att prinċipali.

21. L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) il-kliem "tal-ordni għall-protezzjoni tal-minuri, u kull revizjoni sussegwenti għandha ssir mill-inqas kull sitt

xhur" għandhom jiġu sostitwiti bil-kliem "ta' meta l-Bord ikun irċieva l-kopja tad-deċiżjoni finali kif jipprovdni l-artikolu 18(9), u kull reviżjoni sussegwenti għandha, minn hemm 'il quddiem, issir mill-inqas darba fis-sena";

(ii) fl-ewwel proviso tiegħu l-kliem "jagħlaq il-perjodu ta' sitt (6) xhur u dan minhabba li l-minuri qed isofri, jew qiegħed f'periklu li jsufri, ħsara sinifikanti fit-tqegħid taht ħarsien jew bħala riżultat tal-pjan ta' ħarsien" għandhom jiġu sostitwiti bil-kliem "il-perjodu ta' sena, minhabba li l-minuri qiegħed isofri, jew qiegħed f'riskju li jsufri, ħsara sinifikanti bħala riżultat tal-pjan ta' ħarsien jew minhabba bżonn tal-minuri li jimmerita tali reviżjoni sabiex jiġi żgurat il-benesseri tal-istess minuri";

(b) fis-subartikolu (2) tiegħu l-kliem "matul l-ewwel reviżjoni, jippreżenta lill-Bord ta' Reviżjoni pjan konkorrenti għall-minuri. L-imsemmi pjan għandu" għandhom jiġu sostitwiti bil-kliem "jippreżenta aġġornament u, jew reviżjoni tal-pjan ta' ħarsien għall-minuri lill-Bord ta' Reviżjoni matul ir-reviżjonijiet miżmuma mill-Bord. L-imsemmi pjan ta' ħarsien kif rivedut għandu";

(ċ) fis-subartikolu (6) tiegħu l-kliem "jkun ġie ppreżentat lill-Bord ta' Reviżjoni l-pjan konkorrenti mill-ħaddiem soċjali ewlieni," għandhom jiġu sostitwiti bil-kliem "il-Bord ikun żamm l-ewwel reviżjoni tal-pjan ta' ħarsien fi żmien il-perjodu tal-ewwel erba' (4) xhur skont l-artikolu 33(1) ta' dan l-Att,";

(d) fis-subartikolu (7) tiegħu:

(i) fl-ewwel proviso tiegħu l-kliem "jirrakomanda lill-Qorti li l-pjan permanenti alternattiv għandu jibda jseħħ" għandhom jiġu sostitwiti bil-kliem "jiddetermina illi ser ikun qiegħed jipproċedi quddiem il-Qorti b'rakkomandazzjoni sabiex il-pjan permanenti alternattiv jidhol fis-seħħ";

(ii) fit-tieni proviso tiegħu l-kliem "interess tal-minuri li dan isir:" għandhom jiġu sostitwiti bil-kliem "interess tal-minuri li dan isir." u t-tielet u l-aħħar proviso tiegħu għandhom jiġu mħassra;

(e) minnufih wara s-subartikolu (7), kif emendat, għandu jiġi miżjud is-subartikolu ġdid li ġej:

"(7A) Il-Bord ta' Reviżjoni għandu jinnotifika lill-partijiet interessati kollha bid-deċiżjoni tiegħu illi

jiproċedi bl-integrazzjoni mill-ġdid tal-minuri jew li jiproċedi quddiem il-Qorti bir-rakkomandazzjoni għall-pjan permanenti alternattiv. Il-Bord ta' Reviżjoni għandu wkoll jistieden lill-partijiet jikkomunikaw lill-Bord ta' Reviżjoni n-nuqqas ta' qbil tagħhom ma' tali deċiżjoni, jekk ikun hemm u r-raġunijiet għal dan in-nuqqas ta' qbil u dan fit-terminu mogħti lilhom. Mal-iskandenza ta' tali terminu, il-Bord ta' Reviżjoni għandu jiproċedi quddiem il-Qorti bid-deċiżjoni tiegħu, kif ukoll bil-pożizzjonijiet ta' nuqqas ta' ftehim li jkun irċieva u l-Qorti għandha tipproċedi sabiex tikkonferma, tirrevoka jew tvarja d-deċiżjoni tal-Bord ta' Reviżjoni.";

(f) is-subartikolu (8) tiegħu għandu jiġi sostitwit bis-subartikolu u proviso ġodda li ġejjin:

"(8) Qabel tghaddi għad-deċiżjoni finali tagħha, il-Qorti tista' tappunta seduta għas-smiġh fi żmien għaxart (10) ijiem tax-xogħol sabiex tisma' l-fehmiet ta' kull persuna li tqis neċessarja fiċ-ċirkostanzi, u b'mod partikolari l-fehmiet tal-minuri, jekk meqjus li jkollu fehim biżżejjed:

Iżda jekk il-Bord ta' Reviżjoni jindika lill-Qorti illi n-notifika tal-parti interessata ma kenitx possibbli minkejja tentattivi min-naħa tal-Bord jew ma jkunx possibbli għal ġenitur jew ġenituri tal-minuri, skont iċ-ċirkostanzi tal-każ, li jkunu intraċċati, lokalizzati, misjuba jew ma jkunux jistgħu jkunu parti fil-proċeduri, il-Qorti għandha tghaddi sabiex taħtar kuraturi skont l-artikolu 930 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili sabiex jirrappreżentaw l-interessi ta' dik il-parti. Il-proċedura tal-ħruġ tal-bandi kif meħtieġa skont l-artikolu 931 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ma għandhiex ixxekkel is-smiġh.";

Kap.12.

(g) is-subartikoli (9) u (10) tiegħu għandhom jiġu mħassra;

(h) minnufih wara s-subartikolu (10) tiegħu kif imħassar,

għandhom jiġu miżjuda s-subartikoli ġodda li ġejjin:

(11) Meta l-Qorti taġti deċiżjoni kif imsemmi fis-subartikolu (8), għandha tordna illi kopja tad-digriet tiġi notifikata lill-partijiet kollha inkluż lid-Direttorati, lill-Avukat tat-Tfal, lill-ġenitur jew ġenituri skont iċ-ċirkostanzi tal-każ, lit-tutor u, jew kuratur jekk ikun applikabbli u lill-Bord ta' Reviżjoni.

(12) Kwalunkwe parti li tħossha aggravata tista' tippreżenta appell skont l-artikolu 66 ta' dan l-Att."

22. Minnufih wara s-subartikolu (3) tal-artikolu 34 tal-Att prinċipali għandu jiġi miżjud is-subartikolu ġdid li ġej:

Emenda tal-artikolu 34 tal-Att prinċipali.

"(4) Meta l-ħaddiem soċjali ewlieni, il-ġenitur jew ġenituri tal-minuri, jew jekk applikabbli t-tutor u, jew il-kuratur, iħossu aggravat bid-deċiżjoni tal-Bord ta' Reviżjoni, kwalunkwe wieħed minnhom jista', fi żmien ħmistax (15)-il ġurnata tax-xogħol, jitlob lill-Qorti sabiex tvarja jew tirrevoka d-deċiżjoni tal-Bord ta' Reviżjoni. Il-Qorti għandha tgħaddi sabiex tiddetermina tali reviżjoni bl-istess mod kif provdut fl-artikolu 33."

23. Is-subartikolu (6) tal-artikolu 36 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 36 tal-Att prinċipali.

24. Minnufih wara l-artikolu 36, kif emendat, għandhom jiġu miżjuda l-artikoli ġodda li ġejjin:

Żieda tal-artikoli 36A, 36B, 36Ċ, 36D u 36E ġodda fl-Att prinċipali.

"Funzjonijiet tad-Direttur Kura Alternattiva (Tfal u Żgħażaġh)

36A. (1) Bla ħsara għal kwalunkwe funzjoni jew responsabbiltà oħra li tista' tkun mogħtija lid-Direttur Kura Alternattiva (Tfal u Żgħażaġh) taħt dan l-Att jew taħt xi liġi oħra, dan id-Direttur għandu:

(a) jqabbel foster carers mal-minuri li jkunu sejrin jitqiegħdu taħt foster care skont l-artikolu 50;

(b) jagħmel kull tentattiv raġonevoli sabiex iqiegħed lill-aħwa mal-istess foster carer jekk dan ikun fl-aħjar interess tal-aħwa;

(ċ) jagħmel kull tentattiv raġonevoli sabiex iqiegħed ġenitur minorenni u l-ulied mal-istess foster carer;

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

(e) isegwi t-tqegħid kollu taħt foster care li jkun sar permezz tiegħu u jagħti sostenn lill-foster carers matul it-tqegħid taħt foster care;

(f) jikkunsidra u jipproponi tibdil, jekk ikun meħtieġ, għal kwalunkwe ftehim ta' foster care;

(g) jinvestiga lmenti kontra xi foster carer skont il-manwal jew proċeduri msemija fl-artikolu 36B u jhejji rapport u jgħaddih lill-Bord għall-Fostering għal kull azzjoni meħtieġa;

(h) jinvestiga kwalunkwe allegazzjoni ta' abbuż relatata mat-tqegħid taħt foster care, skont il-manwal jew proċeduri msemija fl-artikolu 36B u jagħmel rapport kif jista' jkun meħtieġ lill-awtorità kompetenti;

(i) jirregola l-frekwenza u l-modalità tal-kuntatt bejn il-minuri f'kura alternattiva u l-ġenitur jew ġenituri skont iċ-ċirkostanzi tal-każ, aħwa, u, jew persuna oħra viċin tiegħu skont l-artikolu 63(3);

(j) jissospendi l-kuntatt bejn il-minuri u kwalunkwe persuna hawn fuq msemija fid-dawl ta' ċirkostanzi gravi, liema sospensjoni ma tistax tkun għal perjodi itwal minn xahar:

Iżda jekk id-Direttur iqis li jkun neċessarju u, jew ikun fl-aħjar interess tal-minuri li jkun hemm sospensjoni itwal tal-kuntatt, id-Direttur għandu jinforma lill-Bord ta' Reviżjoni biċ-ċirkostanzi li wasslu għad-deċiżjoni ta' sospensjoni u l-Bord għandu jiddeċiedi dwar dan sa mhux aktar tard minn għaxart (10) ijiem tax-xogħol;

(k) iwettaq assessjar perjodiku fuq il-membri tal-familja tal-minuri sabiex jevalwa l-progress skont il-pjan ta' ħarsien tal-minuri:

Iżda bħala parti minn tali assessjar, id-Direttur jista' jiġi provdut bl-informazzjoni, kif jista' jkun raġonevolment neċessarju għal dan il-għan, minn professjonisti u tali komunikazzjoni għandha tkun protetta bis-sigriet professjonali:

Iżda wkoll bħala parti minn tali assessjar, id-Direttur jista' jitlob lill-awtorità kompetenti sabiex tipprovdi l-informazzjoni, kif jista' jkun raġonevolment neċessarju għal dan il-għan, li tkun relatata ma' proċeduri kriminali pendenti kontra l-individwi li jkunu qegħdin jiġu assessjati;

(l) jipprepara, jiftiehem dwar, jiffirma u jissorvelja kuntratt soċjali skont id-dispożizzjonijiet ta' dan l-Att;

(m) jagħti jew jirrifjuta permess sabiex minuri jsiefer mal-carers alternattivi tiegħu u joħroġ dokument uffiċjali bħala prova ta' tali permess, meta jkun hekk mogħti:

Iżda d-Direttur għandu jikkomunika immedjatament mal-awtorità kompetenti dwar is-safra permessa tal-minuri fid-dawl tal-artikolu 18(10);

(n) jirregola tqegħid volontarju ta' minuri f'kura alternattiva skont l-artikolu 68 ta' dan l-Att;

(o) jagħmel bidla fit-tqegħid tal-minuri f'kura alternattiva fl-aħjar interessi ta' dak l-istess minuri:

Iżda d-Direttur għandu mingħajr dewmien jinforma lill-ġenitur jew ġenituri skont iċ-ċirkostanzi tal-każ, kif ukoll lill-Bord ta' Revizjoni dwar tali bidla fit-tqegħid tal-minuri;

(p) jagħmel rakkomandazzjonijiet lill-entità kompetenti skont id-dispożizzjonijiet ta' dan l-Att fir-rigward tal-integrazzjoni mill-ġdid jew permanenza, ir-rilaxx tal-minuri għall-adozzjoni u, jew ir-revoka ta' ordni ta' protezzjoni, liema rakkomandazzjonijiet għandhom dejjem isiru fl-aħjar interess tal-minuri;

(q) jiddelega deċiżjonijiet ordinarji relatati mas-saħħa u l-edukazzjoni tal-minuri lill-carer jew carers alternattivi, u l-irtirar ta' tali delega, ladarba jkun hekk vestit bil-kura u kustodja tal-minuri f'kura alternattiva, mill-Qorti;

(r) jieħu deċiżjonijiet straordinarji u urġenti relatati mas-saħħa, wara li jkun ħa l-parir ta' professjonisti mediċi li jkunu jsegwu lill-minuri;

(s) jieħu deċiżjonijiet relatati mal-bżonnijiet psikoloġiċi tal-minuri f'kura alternattiva, inkluż deċiżjonijiet relatati mat-terapija għall-minuri;

(t) jieħu ħsieb il-proċess neċessarju sabiex minuri f'kura alternattiva jiġi trasferit minn skola għal oħra mat-tqegħid tiegħu f'kura alternattiva u, jew bidla fit-tqegħid, fl-aħjar interessi tal-istess minuri:

Izda d-Direttur għandu mingħajr dewmien, jinforma lill-ġenitur jew ġenituri skont iċ-ċirkostanzi tal-każ, kif ukoll lill-Bord ta' Reviżjoni dwar tali bidla ta' skola;

(u) jipprepara pjan ta' ħarsien ulterjuri meta jkun meqjus neċessarju għal minuri taħt ordni għall-protezzjoni;

(v) jaqdi kwalunkwe funzjoni jew setgħa oħra li l-Ministru jista', permezz ta' regolamenti taħt dan l-Att, jassenja lill-minuri minn żmien għal żmien.

(2) Id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu jkollu wkoll il-funzjonijiet li ġejjin:

(a) li jipprovdi servizzi skont standards, kriterji, proċeduri u linji gwida stabbiliti mill-Awtorità Ċentrali u skont dawk l-istandards ta' servizz stabbiliti fihom;

(b) li jirċievi u jipproċessa applikazzjonijiet minn persuni li japplikaw sabiex ikunu reġistrati bħala foster carers;

(ċ) li jipprovdi taħriġ inizjali lill-foster carers prospettivi u taħriġ kontinwu lill-foster carers li jkunu reġistrati miegħu u jagħtihom appoġġ adegwat u kontinwu meta d-Direttur Kura Alternattiva (Tfal u Żgħażaġh) ikun qiegħed minuri taħt foster care mal-foster carers;

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

(e) li jipprovdi lill-Awtorità Ċentrali aċċess għall-kontijiet tiegħu u għall-kontijiet verifikati;

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

(g) li jikkonforma ma' kwalunkwe funzjoni kif jista' jiġi speċifikat mill-Awtorità Ċentrali.

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

Politiki u proċeduri tad-Direttur Kura Alternattiva (Tfal u Żgħażaġh).

36B. Id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu jizviluppa, jaġġorna u jesegwixxi politiki, proċeduri u manwali bil-miktub li jkunu soġġetti għall-approvazzjoni tal-Awtorità Ċentrali, li għandhom *inter alia* jipprovdu dwar:

(a) proċeduri dwar taħriġ u evalwazzjoni;

(b) forum ta' appoġġ għal foster carers u għall-minuri li jkunu tqiegħdu taħt foster care, kemm qabel, waqt u wara t-tqiegħid taħt foster care;

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

(d) tibdil fiċ-ċirkostanzi tal-foster carers.

Informazzjoni lill-foster carers prospettivi.

36Ċ. Qabel ma jibda l-proċess ta' fostering, id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu:

(a) jinforma lil foster carers prospettivi bl-oġettivi, setgħat u hidmiet tiegħu;

(b) jgħaddi lil foster carers prospettivi kopja taċ-Ċertifikat ta' Akkreditament bhala prova tal-akkreditament tiegħu; u

(ċ) jinforma lill-foster carers prospettivi bi kwalunkwe rekwizit legali.

A 228

Registri. 36D. (1) Id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu jżomm registru wiehed jew aktar li bħala minimu jkun fihom listi:

- (a) tal-foster carers prospettivi registrati miegħu;
- (b) tal-foster carers registrati miegħu; u
- (ċ) tal-professjonisti li jkunu qegħdin jissorveljaw kull tqegħid taht foster care.

(2) B'żjieda mas-subartikolu (1), l-Awtorità Ċentrali tista', billi tinforma bil-miktub lid-Direttur Kura Alternattiva (Tfal u Żgħażaġh), tordna ż-żieda ta' informazzjoni oħra li għandha tiġi registrata u miżmuma fir-registri msemmija fis-subartikolu (1).

Taħriġ għall-haddiema soċjali.

36E. Id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu jagħmel kull sforz raġonevoli sabiex jiżgura li kull haddiem soċjali assenjat sabiex jaqdi funzjonijiet relatati mal-proċeduri ta' foster care jkun imħarreġ dwarhom b'mod adegwat u jibqa' jirċievi taħriġ kontinwu.

Emenda tal-artikolu 37 tal-Att prinċipali.

25. Fil-paragrafu (ċ) tal-artikolu 37 tal-Att prinċipali l-kliem "dwar kull ilment kontra d-Direttur" għandhom jiġu sostitwiti bil-kliem "dwar kull ilment fuq id-Direttur".

Emenda tal-artikolu 38 tal-Att prinċipali.

26. Fis-subartikolu (11) tal-artikolu 38 tal-Att prinċipali, minnufih wara l-kelma "jikkonsulta" għandha tiġi miżjudha l-kelma "ma".

Emenda tal-artikolu 40 tal-Att prinċipali.

27. Fis-subartikolu (4) u (6) tal-artikolu 40 tal-Att prinċipali l-kelma "registrata" għandha tiġi sostitwita bil-kliem "traċċata".

Emenda tal-artikolu 44 tal-Att prinċipali.

28. L-artikolu 44 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) u l-proviso tiegħu għandhom jiġu sostitwiti bis-subartikolu u proviso ġodda li ġejjin:

"(2) Għal kull organizzazzjoni akkreditata mill-Awtorità Ċentrali skont dan l-artikolu, għandhom japplikaw *mutatis mutandis* id-dispożizzjonijiet tal-artikoli 36A(2) u 36B sa 36E:

Iżda d-dispożizzjonijiet tal-artikoli 36B(ċ) u 36D(1)(ċ) ma għandhomx japplikaw għall-aġenziji akkreditati skont dan l-artikolu.";

(b) is-subartikolu (3) tal-artikolu 44 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Aġenzija akkreditata tkun fl-obbligu li ttipprovdi lid-Direttur Kura Alternattiva (Tfal u Żgħażaġh) dik l-informazzjoni fil-pussess tagħha, inkluż dwar foster carers jew foster carers prospettivi, li tkun mitluba mid-Direttur Kura Alternattiva (Tfal u Żgħażaġh) bil-ghan li l-istess Direttorat jaqdi xi waħda mill-funzjonijiet tiegħu skont dan l-Att."

- 29.** Fis-subartikolu (3) tal-artikolu 45 tal-Att prinċipali l-kelma "registrata" għandha tiġi sostitwita bil-kelma "traċċata". Emenda tal-artikolu 45 tal-Att prinċipali.
- 30.** Fis-subartikolu (5) tal-artikolu 51 tal-Att prinċipali, il-kliem "jkollu żmien tlitt ijiem utili sabiex toġġezzjona għal dak is-safar sabiex il-Bord ta' Revizżjoni" għandhom jiġu sostitwiti bil-kliem "jkollu żmien tlett (3) ijiem tax-xogħol sabiex joġġezzjona għal dak is-safar u l-Bord ta' Revizżjoni". Emenda tal-artikolu 51 tal-Att prinċipali.
- 31.** L-artikolu 54 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 54 tal-Att prinċipali.
- (a) fis-subartikolu (1) tiegħu l-kliem "fil-kura u kustodja ta'" għandhom jiġu sostitwiti bil-kliem "jirrisjedi ma";
- (b) fil-proviso tas-subartikolu (1) tiegħu l-kliem "fil-kura u kustodja tal-" għandhom jiġu sostitwiti bil-kliem "jirrisjedi mal-".
- 32.** Is-Sub-Titolu II tat-Titolu V tat-Taqsima II tal-Att prinċipali (Artikoli 55, 56, 57, 58 u 59) għandu jiġi mħassar. Thassir tas-Sub-Titolu II tat-Titolu V tat-Taqsima II tal-Att prinċipali.
- 33.** Fis-subartikolu (8) tal-artikolu 65, il-kelma "registrata" għandha tiġi sostitwita bil-kelma "traċċata". Emenda tal-artikolu 65 tal-Att prinċipali.
- 34.** Fl-artikolu 67 tal-Att prinċipali, kull fejn jidhru, il-kliem "Direttur għall-Ħarsien tat-Tfal" għandhom jiġu sostitwiti bil-kliem "Direttur Kura Alternattiva (Tfal u Żgħażaġh)". Emenda tal-artikolu 67 tal-Att prinċipali.
- 35.** L-artikolu 68 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 68 tal-Att prinċipali.
- (a) fis-subartikolu (1) tiegħu:
- (i) l-kliem "biex iqiegħdu lill-minuri taħt il-kura u kustodja ta'" għandhom jiġu sostitwiti bil-kliem "sabiex il-minuri jibda jirrisjedi ma" u minnufih wara l-kliem "qarib jew entità" għandhom jiġu miżjuda l-kliem "għal perjodu li jeċċedi xahrejn (2), il-ġenituri u, jew";
- (ii) fil-proviso tiegħu, minnufih wara l-kliem "ma'

qarib" għandhom jiġu miżjuda l-kliem "li ma jkunx oħt jew hu, nannu u, jew nanna, zija u, jew ziju";

(b) minnufih wara s-subartikolu (10) tiegħu għandhom jiġi miżjuda s-subartikoli godda li ġejjin:

"(11) Meta l-minuri jkun ilu f'dak it-tqegħid għal perjodu ta' sentejn (2) u d-Direttur Kura Alternattiva (Tfal u Żgħażaġh) jiddetermina illi l-integrazzjoni mill-ġdid ma' ġenitur jew ġenituri, skont iċ-ċirkostanzi tal-każ, ma tkunx aktar possibbli jew ma tkunx fl-aħjar interess tal-minuri, l-istess Direttur għandu jaħdem mad-Direttur għall-Ħarsien tat-Tfal sabiex, permezz ta' rikors, jitolbu lill-Qorti toħroġ ordni għall-protezzjoni u d-dispożizzjonijiet tal-artikoli 18 u 19 jew 24 ta' dan l-Att għandhom japplikaw *mutatis mutandis*.

(12) Skont l-artikolu 12(3)(h), id-Direttur għall-Ħarsien tat-Tfal jista', matul il-kors tal-investigazzjoni tiegħu wara rapport, jasal fi qbil mal-ġenitur jew ġenituri tal-minuri, skont iċ-ċirkostanzi tal-każ, illi l-minuri jitqiegħed temporanjament f'kura alternattiva u għandu jiġi maqbul kuntratt soċjali bejn il-partijiet interessati, inkluż id-Direttur Kura Alternattiva (Tfal u Żgħażaġh):

Iżda kopja tal-kuntratt soċjali kif maqbul, għandha tiġi kkomunikata lill-Bord ta' Revizjoni.

(13) Ladarba l-partijiet jaqblu fuq tali kuntratt soċjali li jinkludi t-tqegħid tal-minuri f'kura alternattiva, it-terminazzjoni ta' dak it-tqegħid għandu jkun possibbli biss skont id-dispożizzjonijiet ta' dan l-Att."

Żieda ta' artikoli godda fl-Att prinċipali.

36. Minnufih wara l-artikolu 68 tal-Att prinċipali għandhom jiġu miżjuda l-artikolu godda li ġejjin:

"Ordnijiet tal-Qorti taht liġi oħra.

68A. (1) Meta minuri jkun tqiegħed f'kura alternattiva sussegwentement għall-ordni ta' qorti taht id-dispożizzjonijiet ta' liġi oħra għajr dan l-Att, id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) jista', permezz ta' rikors quddiem tali qorti, jitlob li kopja tal-atti li wasslu għall-ordni tal-qorti sabiex il-minuri jitqiegħed f'kura alternattiva, u kwalunkwe varjazzjonijiet sussegwenti għall-istess ordni, jintbagħtu lill-Qorti.

(2) Fl-istess rikors, id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) jista' wkoll jitlob lill-Qorti sabiex tikkonverti l-ordni tal-qorti f'ordni għall-protezzjoni skont id-dispożizzjonijiet tal-artikoli 18 u 19 ta' dan l-Att u tali dispożizzjonijiet għandhom japplikaw *mutatis mutandis*.

TAQSIMA IV *bis*

AFTER CARE

68B. (1) Żgħażaġh f'kura alternattiva jista' jkollhom it-tqegħid tagħhom f'kura alternattiva, liema tqegħid irid ikun ikkunsidrat bħala wiehed li joffri ambjent bħal dak ta' familja, estiż anke għal wara li dawn jilħqu l-età maggorenni, kemm-il darba dan ikun fl-aħjar interess tagħhom u mhux kontra l-aħjar interessi ta' minuri oħra li jirrisjedu fl-istess post:

Izda din l-estensjoni ma għandhiex teċċedi l-perjodu sakemm il-persuna żaġġżuġha tagħlaq l-età ta' wiehed u għoxrin (21) sena, kemm-il darba din il-persuna tkun ilha tirisjedi fl-istess tqegħid għall-aktar minn sentejn (2) qabel tkun saret maggorenni.

(2) Qabel l-estensjoni ta' dan it-tqegħid, id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu jwettaq assessjar tal-bżonnijiet u x-xewqat tal-persuna żaġġżuġha li tkun riesqa għall-età maggorenni u dawk tar-residenti l-oħrajn. Barra minn hekk, għandu jkun hemm qbil bejn il-professionisti li jkunu jsegwu lill-persuna żaġġżuġha illi din l-estensjoni tkun fl-aħjar interessi tal-istess persuna żaġġżuġha, kif ukoll mal-persuna nnifisha u dan il-qbil irid jiġi rifless f'kuntratt soċjali li jiġi ffirmat mill-partijiet interessati kollha:

Izda jekk waqt l-estensjoni tat-tqegħid, il-persuna żaġġżuġha tkun qiegħda tikser il-kundizzjonijiet magħmula fil-kuntratt soċjali, dak il-ksur għandu jgħib miegħu t-terminazzjoni tat-tqegħid:

Izda wkoll jekk it-tqegħid tal-persuna jista' jiġi terminat ukoll wara r-rieda espressa tal-persuna żgħażuġha kif ukoll jekk l-azzjonijiet tal-persuna żaġġżuġha jitqiesu bħala li jkunu kuntrarji għall-aħjar interessi tar-residenti l-oħra f'dak l-ambjent bħal dak ta' familja."

37. Minnufih wara l-artikolu 73 tal-Att prinċipali għandu jiġi

Żjieda tal-artikolu 73A ġdid fl-Att prinċipali.

miżjud l-artikolu ġdid li ġej:

"L-ipproċessar tad-data personali mill-entitajiet taht dan l-Att. Kap. 586.

73A. (1) Mingħajr preġudizzju għad-dispożizzjonijiet ta' dan l-Att, ir-Regolament (UE) 2016/679 u l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, inkluż ir-regolamenti magħmula taht dak l-Att għandhom japplikaw għall-funzjonijiet u l-proċeduri kollha taht dan l-Att, u d-drittijiet fundamentali u l-libertajiet tas-sugġetti tad-data għandhom jiġu rispettati minn kwalunkwe entità.

(2) L-entitajiet rilevanti msemmija f'dan l-Att inkluż id-Direttur għall-Ħarsien tat-Tfal, id-Direttur Kura Alternattiva (Tfal u Żgħażaġh), il-Bord ta' Revizjoni, il-Bord għall-Fostering, u l-Bord tal-Appell, fil-kapaċità tagħhom ta' kontrolluri tad-data, għandhom jipproċessaw id-data personali, inklużi kategoriji speċjali ta' data personali, skont il-prinċipji tal-protezzjoni u l-privatezza tad-data skont l-artikolu 5 tar-Regolament (UE) 2016/679.

(3) B'qies għan-natura, l-iskop, il-kuntest u l-għanijiet tal-ipproċessar, l-entitajiet hawn fuq imsemmija għandhom jimplimentaw miżuri tekniċi u organizzattivi adegwati sabiex jiżguraw livell adegwat ta' sikurezza għar-riskji preżenti, u partikolarment iħarsu kontra l-kxif mhux awtorizzat ta', jew aċċess illegali, tal-informazzjoni li tappartjeni lis-sugġetti tad-data.

(4) Meta d-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) jipproċessa informazzjoni dwar sugġetti tad-data skont il-funzjonijiet tagħhom taht dan l-Att u għall-għanijiet li jirriżultaw minnu, id-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) jistgħu jirrestringu d-drittijiet u l-obbligi stabbiliti fl-Artikoli 14 sa 20 u l-Artikolu 34 tar-Regolament (UE) 2016/679:

Iżda dawn id-drittijiet u l-obbligi għandhom jiġu ristretti biss f'dawk il-każijiet meta r-restrizzjoni hija kkunsidrata bħala neċessarja u bħala miżura proporzjonata sabiex d-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) ikunu jistgħu jeżerċitaw il-funzjonijiet tagħhom taht dan l-Att:

Iżda wkoll l-uffiċjal tal-protezzjoni tad-data kif stabbilit mill-Artikolu 37 tar-Regolament (UE) 2016/679 għandu, meta neċessarju, jiġi kkonsultat fil-hin opportun matul il-proċess kollu tal-applikazzjoni tar-restrizzjoni.

(5) Id-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandu japplika r-restrizzjoni imsemmija fis-subartikolu (4) sakemm ir-raġunijiet li jiġġustifikawha jibqgħu applikabbli u dan wara li jsir test tan-neċessità u l-proprorzjonalità:

Iżda r-raġunijiet li jiġġustifikaw tali restrizzjoni għandhom jiġu dokumentati u jkunu disponibbli għall-Kumissarju għall-Infommazzjoni u l-Protezzjoni tad-Data meta u kif ikun meħtieġ.

(6) Meta r-raġunijiet għar-restrizzjoni ma jibqgħux applikabbli, id-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandhom ineħħu r-restrizzjoni u jinformaw b'dan lis-suġġett tad-data konċernat u josservaw id-drittijiet u l-obbligi kif jipprovdu l-Artikoli 14 sa 20 u l-Artikolu 34 tar-Regolament (UE) 2016/679.

(7) Id-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandhom ta' kull sena jirrevedu l-applikazzjoni tar-restrizzjoni msemmija fis-subartikolu (4) u jinformaw lis-suġġett tad-data bl-eżitu ta' tali reviżjoni.

(8) Bl-iskop li jiġu protetti d-drittijiet u l-libertajiet tas-suġġetti tad-data, il-kundizzjonijiet u l-protezzjonijiet segwenti għandhom japplikaw għall-infommazzjoni li tkun ġiet ipproċessata fir-rigward tas-suġġetti tad-data, liema data għandha tkun suġġetta għar-restrizzjoni skont is-subartikolu (4):

(a) l-uffiċjal inkarigat mill-protezzjoni tad-data tal-Fondazzjoni għas-Servizzi tal-Ħarsien Soċjali għandu jżomm regjistru tar-restrizzjonijiet li jiġu applikati mid-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) fir-rigward ta' talbiet dwar il-protezzjoni tad-data magħmula mis-sugġetti tad-data. Ir-regjistru għandu jinkludi d-dettalji tas-sugġetti tad-data, id-dritt li ġie mitlub li jiġi eżerċitat, l-għan tar-restrizzjoni u r-raġuni li tiġġustifika r-restrizzjoni wara li jkun sar test ta' neċessità u proporzjonalità. Għandha titniżżel ukoll fir-regjistru kwalunkwe restrizzjoni tal-obbligu stabbilita fl-Artikolu 34 tar-Regolament (UE) 2016/679;

(b) is-sugġetti tad-data għandhom jiġu infurmati bir-restrizzjoni li japplika d-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) fir-risposta mibgħuta għat-talba tagħhom li jeżerċitaw kwalunkwe dritt skont ir-Regolament (UE) 2016/679, sakemm dan ma jkunx ta' preġudizzju għall-għan tar-restrizzjoni:

Iżda fuq talba tal-Kummissarju għall-Infurmazzjoni u l-Protezzjoni tad-Data, id-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandhom b'mod ċar juru l-ħsara li jistgħu jsofru.

(9) Ir-rekords u d-dokumentazzjoni miżmuma u merfugħa mid-Direttur għall-Ħarsien tat-Tfal u, jew id-Direttur Kura Alternattiva (Tfal u Żgħażaġh) għandhom jinżammu skont il-politika ta' żamma tad-data tad-Direttorat rispettiv. Ladarba jgħaddi dan il-perjodu, id-data għandha tiġi mħassra skont l-Att dwar il-Protezzjoni u l-Privatezza tad-Data."

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 107 tas-27 ta' Marzu, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

A 236

I assent.

(L.S.)

GEORGE VELLA
President

29th March, 2023

ACT No. XI of 2023

AN ACT to amend the Minor Protection (Alternative Care) Act, Cap. 602.

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 and
commencement.
Cap. 602.

1. (1) The short title of this Act is the Minor Protection (Alternative Care) (Amendment) Act, 2023 and this Act shall be read and construed as one with the Minor Protection (Alternative Care) Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date or dates as the Minister responsible for social policy and children's rights may, by notice in the Gazette, establish and different dates may be so established for different provisions and, or purposes of this Act.

Amendment of
article 2 of the
principal Act.

2. Article 2 of the principal Act shall be amended as follows:

(a) the definition "Agency" thereof shall be deleted;

(b) the definition "concurrent plan" thereof shall be deleted;

(c) in paragraph (b) of the definition "cross-border foster care" thereof, the word "Agency" shall be substituted by the words "Director Alternative Care (Children and Youths)";

(d) in the definition "key social worker" thereof, the word "Agency" shall be substituted by the words "Director (Child Protection) to investigate a report, or the social worker appointed by the Director Alternative Care (Children and Youths),";

(e) immediately after the definition "registered social worker" thereof, there shall be added the following new definition:

" "Regulation (EU) 2016/679" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);".

3. Article 5 of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

(a) in the proviso to sub-article (1) thereof, the words "a report from a medical professional" shall be substituted by the words "a report from a professional" and the words "opinion of said medical professional" shall be substituted by the words "opinion of said professional";

(b) sub-article (2) thereof shall be amended as follows:

(i) in paragraph (e) thereof, the word "and" shall be deleted;

(ii) in paragraph (f) thereof, the words "significant harm." shall be substituted by the words "significant harm;" and immediately thereafter there shall be added the following new paragraphs:

"(g) retain and update the Register for the protection of minors in terms of the Protection of Minors (Registration) Act; and

Cap. 518.

(h) process requests for and issue Certificates of Clean Conduct in relation to Abuse of Minors according to the information retained in the Register established in the Protection of Minors (Registration) Act.".

Cap. 518.

4. In the Maltese version only, article 6 of the principal Act shall be amended as follows:

Amendment of article 6 of the principal Act.

A 238

(a) in sub-article (2) thereof, the words "u l-progress li jsir minn laqgħa għal oħra għandu jkun ikkontrollat mid-Direttur għall-Ħarsien tat-Tfal" shall be substituted by the words "u l-progress li jsir minn laqgħa għal oħra għandu jkun sorveljat mid-Direttur għall-Ħarsien tat-Tfal";

(b) in the proviso to sub-article (4) thereof, the word "rikjesta" shall be substituted by the word "talba".

Amendment of article 8 of the principal Act.

5. In the Maltese version only, the proviso to article 8 of the principal Act shall be substituted by the following proviso:

"Izda d-Direttur għall-Ħarsien tat-Tfal jista' jiddelega l-eżerċizzju ta' tali rappreżentanza lil uffiċjali oħra."

Addition of new article 8A to the principal Act.

6. Immediately after article 8 of the principal Act, there shall be added the following new article:

"Maintenance of the Protection of Minors Register. Cap. 518.

8A. The functions of the Director (Child Protection) as Registrar in terms of the Protection of Minors (Registration) Act, shall include the following:

Cap. 518.

(a) to securely maintain and keep up-to-date the Register in terms of the Protection of Minors (Registration) Act;

(b) to update the Register following orders issued by the Courts and Tribunals of Malta or by any other competent court;

(c) to process requests for the issue of Certificates of Clean Conduct in relation to Abuse of Minors;

Cap. 586.

(d) to take all those necessary measures to keep the Register secure in terms of the Data Protection Act;

Cap. 518.

(e) to request information from entities in relation to the maintenance of the Register established in the Protection of Minors (Registration) Act;

(f) to request information from relevant entities and other employers regarding the nature of work that will be expected from an applicant;

Cap. 518. (g) to liaise with any relevant entity to take the necessary action under the Protection of Minors (Registration) Act when information regarding an individual was not brought to the attention of the entity by the said individual, which information requires action by the relevant entity:

Cap. 377.
Cap. 586. Provided that this communication shall be limited to the information provided and shall not constitute a breach of the provisions under the Professional Secrecy Act and, or the Data Protection Act."

7. The proviso to sub-article (4) of article 10 of the principal Act shall be substituted by the following new proviso: Amendment of article 10 of the principal Act.

"Provided that said period may, for good reason and due to the particular circumstances of the case, be extended by the Director (Child Protection) for an additional period of sixty (60) working days."

8. Article 11 of the principal Act shall be amended as follows: Amendment of article 11 of the principal Act.

(a) the word "may" shall be substituted by the words "shall have the power to";

(b) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) request any relevant information from any person as may be strictly required for the purpose of the investigation;"

9. Immediately after article 11 of the principal Act there shall be added the following new article: Addition of new article 11A to the principal Act.

"Power of Director to request information related to contact number.

11A. (1) The Director (Child Protection) shall be entitled to request and receive the name, address and, or contact number of a subscriber or registered user from a service provider of publicly available electronic communication services or of a public communications network where this information is strictly necessary for the purpose of enabling the Director (Child Protection) to exercise his functions and responsibilities pursuant to the Act.

A 240

(2) The requests made by the Director (Child Protection) pursuant to sub-article (1) shall be duly documented and reasoned. The data protection officer shall be consulted and involved in a timely manner in order to monitor compliance with Regulation (EU) 2016/679.

(3) The Director (Child Protection) shall implement appropriate technical and organisational measures and procedures to ensure a high level of confidentiality and data security in relation to the processing of personal data pertaining to natural persons."

Amendment of article 12 of the principal Act.

10. Article 12 of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof:

(i) in the Maltese version only, in paragraph (d) thereof, the word "eżamijiet" shall be substituted by the word "testijiet";

(ii) in the Maltese version only, paragraph (e) thereof, shall be substituted by the following new paragraph:

"(e) korsijiet bil-għan li jtejbu l-ħiliet tal-ġenituri tal-minuri;"

(iii) immediately after paragraph (g) thereof, there shall be added the following new paragraph:

"(ga) if necessary, the temporary placement of the minor in alternative care in accordance with article 68(12) of this Act;"

(b) in sub-article (4) thereof, the words "Upon signature, the Director (Child Protection) shall appoint a key social worker or may notify the Director Alternative Care (Children and Youths)" shall be substituted by the words "Upon signature, the Director (Child Protection) may appoint a key social worker and shall notify the Director Alternative Care (Children and Youths)".

Amendment of article 13 of the principal Act.

11. In the Maltese version only, in sub-article (1) of article 13 of the principal Act, the words "jlaqqa' dawk kollha il-professjonisti" shall be substituted by the words "jlaqqa' dawk il-professjonisti kollha".

12. Immediately after article 17 of the principal Act there shall be added the following new article:

Addition of new article 17A to the principal Act.

"Representation of all parties before the Court.

"17A. In all proceedings before the Court, the Court shall ensure that all parties are duly represented before proceeding to hear the parties and, or their evidence and shall proceed to appoint curators to represent parties that cannot be traced, located, found and notified or are incapable of standing as parties in the proceedings, and this as provided in the proviso to article 24(4) of this Act."

13. Article 18 of the principal Act shall be amended as follows:

Amendment of article 18 of the principal Act.

(a) in sub-article (7) thereof:

(i) in the Maltese version only, the words "aktar tard minn xahrejn (2) mid-data tal-ewwel smigh ta' dik is-seduta" shall be substituted by the words "aktar tard minn xahrejn (2) mid-data ta' dik is-seduta";

(ii) the words "shall prepare a plan by such date" shall be substituted by the words "shall, in the meantime, till such date, prepare a care plan";

(iii) in the proviso thereof, the words "to, determine" shall be substituted by the words "to determine";

(b) in the Maltese version only, in sub-article (8) thereof, the words "minnufih innotifikat" shall be substituted by the words "minnufih notifikat";

(c) in sub-article (9) thereof, the words "within two months by authorising" shall be substituted by the words "within two (2) months from the last sitting by authorising", and immediately thereafter there shall be added the following new sub-article:

"(10) When the Court issues a welfare care order of a minor in accordance with this Act, the Police shall be informed by the Director (Child Protection), so that the minor protected by the same welfare care order shall be listed on the Schengen Information System (SIS) and said minor shall be allowed to travel out of Malta and back to Malta only with the written consent of the person or entity vested with his care and custody, in accordance with Article 32 of Regulation (EU) 2018/1862 of the European

Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU."

Amendment of article 19 of the principal Act.

14. Article 19 of the principal Act shall be amended as follows:

(a) in sub-article (1)(a)(i) thereof, immediately after the words "care and protection" there shall be added the words "or has been deemed to be in need of permanency as provided for in this Act";

(b) in sub-article (3)(b) thereof, the word "disabled" shall be substituted by the words "has a disability".

Amendment of article 20 of the principal Act.

15. Article 20 of the principal Act shall be amended as follows:

(a) in the Maltese version only, in sub-article (4) thereof, the words "jkun fih tifsira qasira iżda ċara tal-fatti tal-każ" shall be substituted by the words "jkun fih rendikont qasir iżda ċar tal-fatti tal-każ";

(b) immediately after sub-article (12) thereof, there shall be added the following new sub-article:

"(12A) When the parent or parents of the minor, depending on the circumstances of the case, or their curator *ad litem*, 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 in a sitting held for such purpose:

Provided that all reasonable efforts shall be made for the Court to hear all the evidence in that sitting, however for good reason, the Court may continue to hear the evidence in subsequent sittings.";

(c) in sub-article (13) thereof, the words "and all the evidence," shall be substituted by the words ", all the evidence and when necessary the submissions of the parties," and immediately after sub-article (13) as amended, there shall be added the following new proviso:

"Provided that if necessary, the Court may adjourn the case to another date within two (2) months from the date of that hearing to give such decision:";

(d) in the existing proviso to sub-article (13) thereof, immediately after the word "Provided" there shall be added the word "further".

16. Immediately after sub-article (4) of article 23 of the principal Act, there shall be added the following new sub-article: Amendment of article 23 of the principal Act.

"(5) When the Court issues a decree as mentioned in sub-article (1), it shall order that a copy of the decree be notified to all the parties, including the Directorates, the Children's Advocate, the parent or parents of the minor depending on the circumstances of the case, the tutor and, or curator if applicable and the Review Board."

17. Article 24 of the principal Act shall be amended as follows: Amendment of article 24 of the principal Act.

(a) in the Maltese version only, in sub-article (2) thereof, the words "tad-Direttur" shall be substituted by the words "mid-Direttur";

(b) in sub-article (4) thereof, the words "to file their reply." shall be substituted by the words "to file their reply:" and immediately thereafter there shall be added the following new proviso:

"Provided that when the Court has three negative certificates of service in accordance with article 187 and 188 of the Code of Organization and Civil Procedure and, or it is not possible for the parent or parents, depending on the circumstances of the case, to be traced, located or found or are incapable of being parties to the proceedings, the Court shall proceed to appoint curators in accordance with article 930 of the Code of Organization and Civil Procedure to represent the interests of the parent or parents of the minor depending on the circumstances of the case. The procedure of issue of banns as required by article 931 of the Code of Organization and Civil Procedure shall not hinder the hearing.";

Cap. 12.

(c) in sub-article (5) thereof, the words "in sub-article (3)" shall be substituted by the words "in sub-article (4)";

A 244

(d) immediately after sub-article (8) thereof, there shall be added the following new sub-article:

"(9) Any aggrieved party may file an appeal in accordance with article 66 of this Act."

Amendment of article 25 of the principal Act.

18. In the Maltese version only, in the proviso to sub-article (2) of article 25 of the principal Act, the words "tfal migranti" shall be substituted by the words "migranti li jkunu tfal".

Amendment of article 31 of the principal Act.

19. Article 31 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, the words "may be re-appointed:" shall be substituted by the "may be re-appointed." and the proviso thereof shall be deleted;

(b) immediately after sub-article (2) thereof as amended, there shall be added the following new sub-article:

"(2A) Should the exigency arise, the Minister may appoint an Additional Board or Boards, which Board or Boards shall be constituted and shall follow the same procedures in accordance with the provisions of this Act:

Provided that should an Additional Board be constituted, the Boards shall have, as much as possible, an approximate equal workload of cases:

Provided further that once the cases have been assigned and the Boards are hearing the revisions, cases shall be followed by the same Board.";

(c) in the Maltese version only, in the proviso to the sub-article (3) thereof, the words "jekk tkun instabet" shall be substituted by the words "jekk ikun instab".

Amendment of article 32 of the principal Act.

20. Article 32 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof:

(i) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) the making of periodical revisions to the care plan and the making of decisions on the modifications to the care plan as and when necessary;"

(ii) paragraph (e) thereof shall be deleted;

(iii) immediately after paragraph (g) thereof, there shall be added the following new paragraphs:

"(h) the making of decisions in case of disagreements when there is a placement of a minor in alternative care during a social contract in accordance with the provisions of this Act, including on matters relating to the psychological and therapeutic needs of the minor and the making of decisions whether to terminate such placement or not and such decisions shall always be taken in the best interests of the minor;

(i) the making of decisions in relation to the suspension of contact for a period longer than a month in accordance with article 36A(1)(j) of this Act, which decision is to be notified to all interested parties.";

(b) in the Maltese version only, in the proviso to sub-article (3) thereof, the word "adattat" shall be substituted by the word "xieraq".

21. Article 33 of the principal Act shall be amended as follows:

Amendment of article 33 of the principal Act.

(a) in sub-article (1) thereof:

(i) the words "of the protection order for the minor, and subsequent revisions shall be made at least once every six months thereafter" shall be substituted by the words "when the Board receives the copy of the final decision as provided in article 18(9), and subsequent revisions shall thereafter be made at least once a year";

(ii) in the first proviso thereof, the words "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" shall be substituted by the words "the one year term due to the minor suffering, or being in danger of suffering, significant harm as a result of the care plan or due to a need of the minor meriting such review to ensure the minor's wellbeing";

(b) in sub-article (2) thereof, the words "a concurrent plan for the minor with the Review Board during the first

A 246

revision. Said plan shall", shall be substituted by the words "an update and, or review of the care plan for the minor with the Review Board during the revisions by the Board. Said reviewed care plan shall";

(c) in sub-article (6) thereof, the words "the key social worker had filed the concurrent plan with the Review Board," shall be substituted by the words "the Board held the first revision of the care plan within the first four (4) months in accordance with articles 33(1) of this Act,";

(d) in sub-article (7) thereof:

(i) in the first proviso thereof, the words "recommend to the Court that the alternative permanency plan is to come into effect" shall be substituted by the words "determine that it will proceed before the Court with a recommendation to have the alternative permanency plan come into effect";

(ii) in the second proviso thereof, the words "best interests of the minor:" shall be substituted by the words "best interests of the minor." and the third and last proviso thereof shall be deleted;

(e) immediately after sub-article (7) thereof as amended, there shall be added the following new sub-article :

"(7A) The Review Board shall notify all interested parties with its determination to proceed with the re-integration of the minor or to proceed before the Court with the recommendation for the alternative permanency plan. The Review Board shall also invite the parties to communicate to the Review Board their disagreement, if any, with such decision and reasons supporting such disagreement within a given timeframe. Upon the lapse of such timeframe, the Review Board shall proceed before the Court, putting forward its determination as well as any disagreeing positions received and the Court shall proceed to confirm, revoke or vary the determination of the Review Board.";

(f) sub-article (8) thereof shall be substituted by the

following new sub-article and proviso:

"(8) Prior to pronouncing its final decision, the Court may appoint a hearing within ten (10) working days to hear the views of every person it deems necessary in the circumstances, and in particular the views of the minor if he is deemed to have sufficient understanding:

Provided that if the Review Board indicates to the Court that notification to an interested party has not been possible despite attempts by the Review Board or it is not possible for the parent or parents of the minor, depending on the circumstances of the case, to be traced, located or found or are incapable of being parties to the proceedings, the Court shall proceed to appoint curators in accordance with article 930 of the Code of Organization and Civil Procedure to represent the interests of that party. The procedure of issue of banns as required by article 931 of the Code of Organization and Civil Procedure shall not hinder the hearing."

Cap. 12.

(g) sub-articles (9) and (10) thereof shall be deleted;

(h) immediately after sub-article (10) thereof as deleted, there shall be added the following new sub-articles:

"(11) When the Court issues a decision as mentioned in sub-article (8), it shall order that a copy of the decree is to be notified to all the parties including the Directorates, the Children's Advocate, the parent or parents of the minor depending on the circumstances of the case, the tutor and, or curator if applicable and the Review Board.

(12) Any aggrieved party may file an appeal in accordance with article 66 of this Act."

22. Immediately after sub-article (3) of article 34 of the principal Act, there shall be added the following new sub-article:

Amendment of article 34 of the principal Act.

"(4) When the key social worker, the parent or parents of the minor, or if applicable the tutor and, or curator, feel aggrieved by the decision of the Review Board, any one of them may, within fifteen (15) working days, request the Court to vary or revoke the decision of the Review Board. The Court shall

A 248

proceed to determine this review in the same manner as provided in article 33."

Amendment of article 36 of the principal Act.

23. Sub-article (6) of article 36 of the principal Act shall be deleted.

Addition of new articles 36A, 36B, 36C, 36D and 36E to the principal Act.

24. Immediately after article 36, as amended, there shall be added the following new articles:

"Functions of the Director Alternative Care (Children and Youths).

36A. (1) Without prejudice to any other function or responsibility given to the Director Alternative Care (Children and Youths) in accordance with this Act or any other law, this Director shall:

(a) match foster carers with minors who 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 her 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 36B and write a report to be referred to the Fostering Board for any required action;

(h) investigate any abuse allegations related to foster care placements in accordance with the manual or procedures referred to in article 36B and submit a report to the competent authority as may be required;

(i) regulate the frequency and modality of contact between the minor in alternative care and the parent or parents, depending on the circumstances of the case, siblings, and, or any other such person close to him in accordance with article 63(3);

(j) suspend contact between the minor and any person mentioned hereinabove in view of grave circumstances, which suspension may not be for a period longer than a month:

Provided that should the Director deem it necessary and, or in the best interest of the minor to have a longer suspension from contact, the Director shall inform the Review Board of the circumstances that led to the decision to suspend contact and the Board shall decide accordingly, by not later than ten (10) working days;

(k) carry out periodical assessment of the family members of the minor in order to evaluate progress according to the care plan of the minor:

Provided that as part of this assessment, the Director may be provided with information, as may be reasonably required for this purpose, by professionals and such communication shall be protected by professional secrecy:

Provided further that as part of this assessment, the Director may request the competent authority to furnish it with information, as may be reasonably required for this purpose, relating to criminal proceedings pending against the individuals being assessed;

(l) prepare, agree to, sign, and monitor a social contract in accordance with the provisions of this Act;

(m) grant or refuse permission for a minor to travel with his alternative carers and the issuing of an official document as proof of such permission, when so granted:

Provided that the Director shall communicate immediately with the competent authority about the minor's consented trip in view of article 18(10);

(n) regulate voluntary placements of minors in alternative care in accordance with article 68 of this Act;

(o) affect a change in placement of the minor in alternative care according to the best interest of the same minor:

Provided that the Director shall without delay inform the parent or parents depending on the circumstances of the case as well as the Review Board of such change in placement;

(p) make recommendations to the competent entity in accordance with the provisions of this Act in relation to the reintegration or permanency, the freeing up of the minor for adoption and, or revocation of the protection order, which recommendations shall always be made in the best interests of the minor;

(q) delegate ordinary medical and educational decisions of a minor to the alternative carer or carers and the withdrawal of such delegation, once vested with the care and custody of the minor in alternative care by the Court;

(r) make extraordinary and urgent medical decisions after seeking the advice of medical professionals following the minor;

(s) make decisions relating to the psychological needs of the minor in alternative care including decisions relating to the minor receiving therapy;

(t) undertake the necessary process for a minor in alternative care to be transferred from one school to another upon placement in alternative care and, or a change in placement in accordance with the best interests of the same minor:

Provided that the Director shall without delay inform the parent or parents depending on the circumstances of the case as well as the Review Board of such change of school;

(u) prepare an after care plan when deemed necessary for a minor under a protection order;

(v) perform any other function or duty as the Minister may, by regulations under this Act, assign to it from time to time.

(2) The Director Alternative Care (Children and Youths) shall also have the following functions:

(a) the provision of services in accordance with standards, 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 Director Alternative Care (Children and Youths) 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, including reports on any foster carer or prospective foster carer;

(e) providing the Central Authority with access to its accounts and audited accounts;

(f) the submission 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 agency accredited in accordance with this Act shall also have the functions listed in sub-article (2).

Policies and procedures of the Director Alternative Care (Children and Youths).

36B. The Director Alternative Care (Children and Youths) shall develop, update and fulfil the written policies, procedures and manuals which are subject to approval by the Central Authority, and which shall *inter alia* provide for:

(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.

36C. Before commencing the fostering process, the Director Alternative Care (Children and Youths) 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.

36D. (1) The Director Alternative Care (Children and Youths) 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 Director Alternative Care (Children and Youths) 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.

36E. The Director Alternative Care (Children and Youths) 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."

Amendment of article 37 of the principal Act.

25. In the Maltese version only, in paragraph (c) of article 37 of the principal Act the words "dwar kull ilment kontra d-Direttur" shall be substituted by the words "dwar kull ilment fuq id-Direttur".

Amendment of article 38 of the principal Act.

26. In the Maltese version only, in sub-article (11) of article 38 of the principal Act, immediately after the word "jikkonsulta", there shall be added the word "ma'".

- 27.** In sub-articles (4) and (6) of article 40 of the principal Act, the word "registered" shall be substituted by the word "tracked". Amendment of article 40 of the principal Act.
- 28.** Article 44 of the principal Act shall be amended as follows: Amendment of article 44 of the principal Act.
- (a) sub-article (2) thereof and its proviso shall be substituted by the following new sub-article and proviso:
- "(2) The provisions of articles 36A(2) and 36B to 36E shall apply *mutatis mutandis* to every organisation accredited by the Central Authority in accordance with this article:
- Provided that articles 36B(c) and 36D(1)(c) shall not apply to agencies accredited in accordance with this article.";
- (b) in the Maltese version only, sub-article (3) of article 44 of the principal Act, shall be substituted by the following new sub-article:
- "(3) Aġenzija akkreditata tkun fl-obbligu li tipprovdi lid-Direttur Kura Alternattiva (Tfal u Żgħażaġh) dik l-informazzjoni fil-pussess tagħha, inkluż dwar *foster carers* jew *foster carers* prospettivi, li tkun mitluba minnu bil-għan li l-istess Direttorat jaqdi xi waħda mill-funzjonijiet tiegħu skont dan l-Att."
- 29.** In sub-article (3) of article 45 of the principal Act, the word "registered" shall be substituted by the word "tracked". Amendment of article 45 of the principal Act.
- 30.** In sub-article (5) of article 51 of the principal Act the words "shall have three working days to object to said travelling so that the Review Board" shall be substituted by the words "shall have three (3) working days to object to said travelling and the Review Board". Amendment of article 51 of the principal Act.
- 31.** Article 54 of the principal Act shall be amended as follows: Amendment of article 54 of the principal Act.
- (a) in sub-article (1) thereof, the words "under the care and custody of" shall be substituted by the words "residing with";
- (b) in the proviso to sub-article (1) thereof, the words "in the care and custody of " shall be substituted by the words "residing with".
- 32.** Sub-title II of Title V of Part II of the principal Act (Articles 55, 56, 57, 58 and 59) shall be deleted. Deletion of Sub-title II of Title V of Part II of the principal Act.

A 254

Amendment of article 65 of the principal Act.

33. In sub-article (8) of article 65 of the principal Act, the word "registered" shall be substituted by the word "tracked".

Amendment of article 67 of the principal Act.

34. In article 67 of the principal Act, wherever they occur, the words "Director (Child Protection)" shall be substituted by the words "Director Alternative Care (Children and Youths)".

Amendment of article 68 of the principal Act.

35. Article 68 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof

(i) the words "place said minor under the care and custody of" shall be substituted by the words "have said minor reside with" and immediately after the words "relative, or entity," there shall be added the words "for a period exceeding two (2) months, the parents and, or";

(ii) in the proviso thereof, immediately after the words "with a relative" there shall be added the words "not being a brother or a sister, a grandfather and, or grandmother, an aunt and, or an uncle";

(b) immediately after sub-article (10) thereof, there shall be added the following new sub-articles:

"(11) When the minor has been in the placement for a period of two (2) years and the Director Alternative Care (Children and Youths) determines that re-integration with the parent or parents depending on the circumstances of the case, is no longer possible or is not in the best interests of the minor, the same Director may liaise with the Director (Child Protection) so that, by application, they request the Court to issue a protection order and the provisions of articles 18 and 19 or 24 of this Act shall apply *mutatis mutandis*.

(12) In accordance with article 12(3)(h), the Director (Child Protection) may, in the course of the investigation following a report, come to an agreement with the parent or parents of a minor depending on the circumstances of the case, that the minor is placed temporarily in alternative care and a social contract shall be agreed upon between the interested parties including the Director Alternative Care (Children and Youths):

Provided that a copy of the agreed social contract is to be communicated to the Review Board.

(13) Once the parties agree to such a social contract that includes placing the minor in alternative care, the termination of that placement shall only be possible in accordance with the provisions of this Act."

36. Immediately after article 68 of the principal Act, there shall be added the following new articles:

Addition of new articles to the principal Act.

"Court orders under other laws.

68A. (1) When a minor has been placed in alternative care following a court order under the provisions of another law other than this Act, the Director Alternative Care (Children and Youths) may, by application before that court, request that a copy of the acts leading to the court order to place the minor in alternative care, and any subsequent variations to the same order, be referred to the Court.

(2) In the same application, the Director Alternative Care (Children and Youths) may also request the Court to convert that court order into a protection order in terms of articles 18 and 19 of this Act and those provisions shall subsequently apply *mutatis mutandis*.

PART IV *bis* AFTER CARE

After Care.

68B. (1) Young people in alternative care may have their placement in alternative care, which placement needs to be considered as one that offers a family-life environment, extended even after attaining the age of majority, if this is deemed to be in their best interest and not contrary to the best interest of other minors in the same placement:

Provided that this extension should not exceed the period until the young person attains the age of twenty-one (21) years and provided that the same young person had been residing in that same placement for more than two (2) years before the attainment of the age of majority.

(2) Prior to the extension of such placement, the Director Alternative Care (Children and Youths) shall carry out an assessment of the needs and wishes of the young person that is approaching adulthood and of the other residents. Moreover, an agreement has to be reached with the professionals following the same young person that this extension would be in the best interest of the same young person, and with the young person himself, which agreement is to be reflected in a social contract to be signed by all the interested parties:

Provided that if during the extension of the placement, the young person is in breach of the conditions set out in the social contract, that breach shall bring about the termination of the placement.

Provided further that the placement may also be terminated upon the expressed will of the young person and if the actions of said young person are deemed to be contrary to the best interests of the other residents in the family-like environment."

Addition of new article 73A to the principal Act.

37. Immediately after article 73 of the principal Act, there shall be added the following new article:

"The processing of personal data by the entities under this Act. Cap. 586.

73A. (1) Without prejudice to the provisions of this Act, Regulation (EU) 2016/679 and the Data Protection Act, including the regulations made thereunder shall apply to all functions and procedures under this Act, and the fundamental rights and freedoms of the data subjects shall be respected by each and every entity.

(2) Relevant entities mentioned in this Act including the Director (Child Protection), the Director Alternative Care (Children and Youths), the Review Board, the Fostering Board and the Board of Appeal, in their capacity as data controllers shall process personal data, including special categories of personal data, in accordance with the data protection principles pursuant to Article 5 of Regulation (EU) 2016/679.

(3) Taking into account the nature, scope, context and purposes of the processing, the entities abovementioned shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk posed, and in particular prevent unauthorised disclosure of, or unlawful access to information pertaining to data subjects.

(4) Where the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) processes information about data subjects pursuant to their functions under this Act and for the purposes which derive therefrom, the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) may restrict the rights and obligations provided for in Articles 14 to 20 and Article 34 of Regulation (EU) 2016/679:

Provided that such rights and obligations shall only be restricted in those cases where the restriction is considered as a necessary and proportionate measure to enable the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) to exercise their functions pursuant to this Act:

Provided further that the data protection officer designated pursuant to Article 37 of Regulation (EU) 2016/679 shall, when necessary, be consulted in a timely manner in the entire process of applying the restriction.

(5) The Director (Child Protection) and, or the Director Alternative Care (Children and Youths), shall only apply the restriction referred to in sub-article (4) for as long as the reasons justifying it remain applicable following a necessity and proportionality test:

Provided that such reasons justifying the restriction shall be documented and made available to the Information and Data Protection Commissioner when and as required.

(6) Where the reasons for a restriction no longer apply, the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) shall lift the restriction and inform the data subject concerned accordingly and comply with the rights and obligations provided for in Articles 14 to 20 and Article 34 of Regulation (EU) 2016/679.

(7) The Director (Child Protection) and, or the Director Alternative Care (Children and Youths) shall review on an annual basis the application of the restriction referred to in sub-article (4) and depending on the outcome of such review, inform the data subject accordingly.

(8) For the purpose of safeguarding the rights and freedoms of the data subjects, the following conditions and safeguards shall apply to the information processed in relation to the data subjects, which data shall be subject to a restriction in terms of sub-article (4):

(a) the data protection officer of the Foundation for Social Welfare Services shall keep a register to record the restrictions applied by the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) in relation to the data protection requests made by the data subjects. The register shall include the details of the data subjects, the right requested to be exercised, the purpose of the restriction and the reason for justifying the restriction following the exercise of a necessity and proportionality test. The restriction of the obligation set forth in Article 34 of Regulation (EU) 2016/679 shall also be recorded in the register;

(b) data subjects shall be informed of the restriction applied by the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) in reply to their request to exercise any of the rights in terms of Regulation (EU) 2016/679, unless this may be prejudicial to the purpose of the restriction:

Provided that upon a request by the Information and Data Protection Commissioner, the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) shall clearly demonstrate the prejudice that they would suffer.

(9) Records and documentation kept and stored by the Director (Child Protection) and, or the Director Alternative Care (Children and Youths) shall be kept according to the retention policy of the respective Directorate. Once this time period would have elapsed, data shall be disposed of according to the Data Protection Act.

Passed by the House of Representatives at Sitting No. 107 of the
27th March, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

