

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

27 ta' Lulju, 2007

ATT Nru. XVII ta' l-2007

ATT biex jagħmel provvedimenti speċjali dwar foster care u biex jagħmel emendi konsegwenzjali u emendi oħrajn

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tar-Rappreżentanti, miġbura f'dan il-Parlament preżenti, u bl-awtorità ta' l-istess Parlament, hareġ b'liġi dan li ġej:

PARTI I

INTRODUZZJONI U TIFSIR

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att ta' l-2007 dwar il- Titolu fil-qosor u bidu fis-sehh.
Foster Care.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-politika soċjali jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal raġunijiet differenti u għal dispożizzjonijiet differenti ta' dan l-Att.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtieġx Tifsir.
xort'oħra:

“aġenzija akkreditata” tfisser organizzazzjoni li hija akkreditata mill-Awtorità Ċentrali biex tesegwixxi t-tqeghid ta' tfal taht *foster care*;

“Awtorità Ċentrali” tfisser l-Awtorità stabbilita bis-sahha ta’ l-artikolu 6;

“Bord ta’ Appell” tfisser il-bord imwaqqaf bis-sahha ta’ l-artikolu 14 jew xi bord amministrattiv jew tribunal iehor li l-Ministru jista’ minn żmien għal żmien isemmi biex jaqdi l-funzjonijiet kollha jew xi whud minnhom kif speċifikat f’dan l-Att;

“Bord għall-*Fostering*” tfisser il-bord imwaqqaf bis-sahha ta’ l-artikolu 3;

“*foster care* transkonfini” tfisser:

(i) il-kura mogħtija minn *foster carer* li hu ċittadin Malti, lil tifel jew tifla li m’humix ċittadini Maltin u li huma residenti f’Malta; jew

(ii) il-kura mogħtija minn *foster carer* li mhux ċittadin Malti u li l-approvazzjoni tiegħu minn awtorità barranija hija rikonoxxuta mill-Awtorità Ċentrali, permezz ta’ aġenzija akkreditata, lil tifel jew tifla li huma residenti f’Malta;

“*foster care*” tfisser servizz għal perijodu determinat li bih tifel jew tifla jitqieghdu fil-kura kontinwa ta’ *foster carer*, u li permezz tiegħu t-tifel jew it-tifla jitrabbew f’ambjent ta’ familja skond l-aħjar interessi tat-tifel jew tat-tifla konċernati;

“*foster carer*” tfisser persuna wahda jew aktar approvata mill-Bord għall-*Fostering* biex tifel jew tifla jitqieghdu taħt *foster care*;

“ftehim ta’ *foster care*” tfisser il-ftehim milhuq skond l-artikolu 24;

“haddiem soċjali” għandu jkollha t-tifsira mogħtija lilha fl-artikolu 2 ta’ l-Att dwar il-Professjoni tax-Xogħol Soċjali;

“Ministru” tfisser il-Ministru responsabbli għall-politika soċjali;

“pjan ta’ kura” tfisser pjan imfassal minn haddiem soċjali ta’ aġenzija akkreditata f’kollaborazzjoni ma’ ohrajn involuti fl-aħjar interessi tat-tifel jew tifla;

“tifel jew tifla” ifissru persuna taħt it-tmintax-il sena.

PARTI II

BORD GHALL-FOSTERING

3. (1) Ghandu jkun hemm Bord, maghruf bhala l-Bord għall-*Fostering*, li ghandu jkun kompost minn *Chairperson* u mill-anqas erba' membri ohra. Dan il-Bord ghandu jkun kompost kif ġej:

Twaqqif
ta' Bord
għall-*Fostering*.

(a) professjonisti li jirrapreżentaw dixxiplini differenti; u

(b) persuna li, fil-fehma tal-Ministru, ghandha għarfien adegwat u hija profiċjenti fil-qasam tal-*foster care*.

(2) Il-Ministru ghandu jagħmel li jista' biex bhala parti mill-Bord għall-*Fostering* ikun hemm persuna li tkun għalqet it-tmintax-il sena u li tkun tqieghdet f'*foster care* u persuna li hi jew kienet *foster carer* u dawn il-persuni jistgħu jinhatru f'kull żmien tul it-terminu tal-kariga tal-Bord għall-*Fostering*.

(3) Il-membri tal-Bord għall-*Fostering* ghandhom jinhatru mill-Ministru għal perijodu minimu ta' sentejn.

(4) Kull membru tal-Bord għall-*Fostering* jista' jitnehha mill-Ministru għal raġunijiet ta' inkapaċità biex jaqdi l-funzjonijiet tal-kariga tiegħu jew għal imġieba hażina.

(5) Fil-każ li xi membru tal-Bord għall-*Fostering* ihalli l-kariga tiegħu qabel ma jiskadilu t-terminu tal-hatra, il-membru mahtur floku ghandu jinhatar għaż-żmien tal-hatra originali li jkun għadu ma skadiex.

(6) Il-Ministru ghandu jsemmi persuna biex tagħmilha ta' Segretarju tal-Bord għall-*Fostering* u din il-persuna ghandha, bhala parti minn dmirijietha, tkun responsabbli biex iżzomm id-dokumenti rilevanti u ghandha tagħmel kull xogħol iehor relatat mal-funzjonijiet tal-Bord għall-*Fostering* skond kif tista' tkun imqabba miċ-*Chairperson*.

(7) Bla hsara għad-dispożizzjonijiet ta' dan l-Att u għal kull regolament li jsir tahtu, il-Bord għall-*Fostering* ghandu jirregola l-proċedura tiegħu:

Iżda kull deċiżjoni tal-Bord għall-*Fostering* ghandha tittiehed b'maġġoranza ta' voti; iżda f'każ ta' ugwaljanza ta' voti ċ-*Chairperson* ghandu jkollu wkoll u jeżerċita vot deċiżiv. Is-Segretarju tal-Bord ma jkollux dritt għall-vot.

(8) Il-Bord għall-*Fostering* għandu jiltaqa' kif u meta jkun meħtieġ, iżda mhux inqas minn darba fix-xahar. Fil-każ ta' talba bil-miktub mill-Ministru jew minn aġenzija akkreditata, liema talba għandha tinghadda permezz tas-Segretarju tal-Bord, dan il-Bord għandu jiltaqa' mhux aktar tard minn tmienja u erbghin siegħa wara t-talba.

(9) Il-Bord għall-*Fostering* għandu jkollu s-setgħa li jikkonsulta professjonisti jew persuni oħrajn li għandhom għarfien u esperjenza rilevanti fil-qasam tal-*foster care*.

(10) Il-membri tal-Bord għall-*Fostering*, is-Segretarju ta' dan il-Bord u kull persuna involuta fil-proċeduri quddiem il-Bord għall-*Fostering* għandhom ikunu marbutin bil-konfidenzjalità u m'għandhom jizvelaw lil terzi ebda informazzjoni li tista' tiġi għall-konnoxxenza tagħhom tul il-proċeduri. Dawn il-persuni m'għandhom lanqas jiddistribwixxu lil terzi dokumenti tal-Bord għall-*Fostering* jew kopji tagħhom, għajr meta mitlubin jew awtorizzati jagħmlu dan mill-Ministru jew minn xi qorti.

(11) Il-Bord għall-*Fostering* għandu jibgħat lill-Ministru rapport annwali ta' l-attivitajiet kollha tiegħu tul is-sena kalendarja preċedenti sa mhux aktar tard mill-hmistax ta' April ta' kull sena.

Funzjonijiet
tal-Bord
għall-*Fostering*.

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

(a) li jeżamina l-*Home Study Reports* u r-*Review Reports* skond Parti V ta' dan l-Att magħmula minn haddiem soċjali ta' aġenzija akkreditata;

(b) li jiehu deċiżjoni dwar jekk il-*foster carers* prospettivi humiex adatti jew le;

(ċ) li jiehu deċiżjoni dwar jekk *foster carer* ikunx għadu adatt biex jaġixxi bħala tali;

(d) li jispeċifika liema xorta ta' *foster care* hi adatta biex tinghata minn kull *foster carer*;

(e) li jzomm reġistru aġġornat ta' *foster carers*;

(f) li jipprovdi dokumentazzjoni uffiċjali lil *foster carers* li tidentifikahom bħala tali u ittra uffiċjali li tidentifika t-tfal fil-kura tagħhom;

(g) li jeżamina rapporti mibnija minn aġenzija akkreditata, wara lment kontra *foster carer*, u li jieħu kull azzjoni li titqies xierqa fiċ-ċirkostanzi;

(h) li jagħmel rakkomandazzjonijiet lill-Ministru fuq il-parametri li għandhom ikunu stabbiliti dwar l-organizzazzjoni ta' programmi ta' taħriġ, valutazzjonijiet, sessjonijiet ta' pariri għal *foster carers* prospettivi kif ukoll sorveljanza ta' *foster carers* u ta' strutturi li jagħtuhom appoġġ;

(i) li jagħmel rakkomandazzjonijiet lill-Ministru għal implimentazzjoni aktar effettiva tal-provvedimenti 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 wahda mill-funzjonijiet tiegħu.

5. (1) Kull deċiżjoni mehuda skond l-artikoli 4 (b), (ċ) u (d) għandha tittiehed wara li l-Bord għall-*Fostering* ikun eżamina l-*Home Study Report*, jew ir-*Review Report* u, jew kull dokumentazzjoni oħra rilevanti, u wara li jkun sama' l-*foster carer* prospettiv u lil kull persuna oħra, inklużi t-tfal konċernati, kif il-Bord jidhirlu xieraq fiċ-ċirkostanzi. Id-deċiżjonijiet u r-raġunijiet għalihom għandhom jiġu komunikati bil-miktub, b'posta reġistrata lill-*foster carer* jew lill-*foster carer* prospettiv, skond il-każ, u lill-aġenzija akkreditata involuta fi żmien hamest ijiem tax-xogħol mid-data ta' dik id-deċiżjoni.

Deċiżjonijiet tal-Bord għall-*Fostering*.

(2) Il-*foster carer* jew il-*foster carer* prospettiv, skond il-każ, jista' jappella minn deċiżjoni mehuda mill-Bord għall-*Fostering* billi jressaq applikazzjoni quddiem il-Bord ta' Appell sa mhux aktar tard minn tmien granet tax-xogħol mid-data meta titwassal id-deċiżjoni bil-posta reġistrata.

PARTI III

AWTORITÀ ĊENTRALI

6. Għandu jkun hemm Awtorità Ċentrali imsemmija mill-Ministru biex taqdi u twettaq il-funzjonijiet, dmirijiet u responsabbiltajiet speċifikati fl-artikoli 7 sa 13 u f'kull regolament li jista' jsir skond dan l-Att.

Twaqqif ta' Awtorità Ċentrali.

7. Il-funzjonijiet ta' l-Awtorità Ċentrali għandhom jinkludu:

Funzjonijiet ta' l-Awtorità Ċentrali.

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

(b) li tagħti, tirrifjuta jew tirrevoka l-akkreditament lil organizzazzjonijiet skond kriterji stabbiliti;

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

(d) li tirċievi talbiet minn persuni barranin li huma approvati bħala *foster carers* barra minn Malta u li, permezz ta' aġenzija akkreditata, jitolbu li jkunu rikonoxxuti bħala *foster carers* skond dan l-Att, u wara li tkun għamlet l-istharriġ kollu li jidhrilha xieraq u tkun għabet id-dokumenti kollha neċessarji, tiddeċiedi jekk taċċettax din it-talba wara li tikkonsulta lill-Bord għall-*Fostering*;

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

(f) li tiehu kull miżura neċessarja fiċ-ċirkostanzi jekk it-tqegħid f'*foster care*, kemm lokali kemm transkonfini, ikun jikser id-dispożizzjonijiet ta' dan l-Att.

Applikazzjoni
għall-ghoti ta'
akkreditament.

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

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

Akkreditament
ta' organizzazzjoni.

9. L-Awtorità Ċentrali tista' takkredita organizzazzjoni jekk tkun sodisfatta li l-organizzazzjoni:

(a) għandha esperjenza u sengha biżżejjed biex tittratta materji li għandhom x'jaqsmu ma' tfal u familja; u

(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*.

10. (1) Meta taghti akkreditament lil organizzazzjoni, l-Awtorità Ċentrali għandha toħroġ Ċertifikat ta' Akkreditament li jkun validu għal perijodu ta' sentejn mid-data tal-ħruġ.

Ċertifikat
ta' Akkreditament.

(2) Iċ-ċertifikat imsemmi fis-subartikolu (1) jista' jiġi mġedded mill-Awtorità Ċentrali jekk l-aġenzija akkreditata tapplika għal tiġdid sa mhux aktar tard minn xahrejn qabel ma jiskadi l-akkreditament tagħha u t-tiġdid jingħata biss jekk l-aġenzija akkreditata tkun għadha konformi ma' l-artikoli 8 u 9. Id-deċiżjoni ta' l-Awtorità Ċentrali dwar jekk iċ-ċertifikat ta' l-akkreditament għandux jiġi mġedded għandha tiġi notifikata lill-aġenzija akkreditata, b'posta reġistrata, fi żmien tletin ġurnata mill-applikazzjoni għat-tiġdid.

11. (1) L-Awtorità Ċentrali għandha d-dritt li tiċhad applikazzjoni għal akkreditament jekk hi tqis li l-organizzazzjoni mhix adatta biex tagħti servizzi ta' *foster care*. Iċ-ċahda flimkien mar-raġunijiet għaliha għandhom jintbagħtu bil-miktub, b'posta reġistrata, lill-organizzazzjoni li tkun applikat għal akkreditament fi żmien tliet xhur mid-data ta' l-applikazzjoni.

Ċahda ta'
applikazzjoni.

(2) L-organizzazzjoni għandha d-dritt titlob bidla tad-deċiżjoni ta' l-Awtorità Ċentrali billi tressaq applikazzjoni quddiem il-Bord ta' Appell, fi żmien għoxrin ġurnata mid-data meta tiġi notifikata kif speċifikat fis-subartikolu (1).

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

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

Revoka ta'
akkreditament.

(a) tressaq talba bil-miktub għal revoka;

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

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

(d) tkun qegħda tikser il-kondizzjonijiet għal akkreditament skond id-dispożizzjonijiet ta' dan l-Att.

(2) L-Awtorità Ċentrali għandha tinnotifika lill-aġenzija, b'posta reġistrata, bir-revoka li tingħata bil-miktub flimkien mar-raġunijiet għaliha u din ir-revoka għandha tidhol fis-sehh fid-data meta tasal in-notifika.

(3) Jekk l-akkreditament ikun revokat għal xi wahda mir-raġunijiet imsemmija fil-paragrafi (b), (ċ) jew (d) tas-subartikolu (1), l-aġenzija għandha d-dritt li tressaq applikazzjoni quddiem il-Bord ta' Appell u titlob it-thassir tad-deċiżjoni ta' l-Awtorità Ċentrali, u dan fi żmien għaxart ijiem min-notifika msemmija fis-subartikolu (2).

(4) Jekk jitressaq appell skond is-subartikolu (3), l-aġenzija tista' titlob lill-Bord ta' Appell jissospendi d-deċiżjoni ta' l-Awtorità Ċentrali sakemm tittiehed deċiżjoni finali.

(5) Jekk l-akkreditament ta' aġenzija jkun revokat, iċ-Ċertifikat ta' Akkreditament u *r-records* u d-dokumentazzjoni kollha relatati mas-servizzi ta' *foster care* isiru proprjetà ta' l-Awtorità Ċentrali. L-Awtorità Ċentrali tista' tahtar aġenzija akkreditata ohra biex ikollha l-kustodja ta' dawk ir-*records* u dokumentazzjoni, tkompli ssegwi l-*foster carers* prospettivi u l-*foster carers*, tkompli tiehu hsieb u ssegwi t-tqeghid tat-tfal f'*foster care*, u taqdi l-funzjonijiet kollha li kellha l-aġenzija li jkun gie revokat l-akkreditament tagħha, skond l-artiklu 17.

Pubblikazzjoni
fil-Gazzetta.

13. Tul ix-xahar ta' Jannar ta' kull sena, l-Awtorità Ċentrali għandha tippubblika fil-Gazzetta:

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

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

(ċ) kull bidla fil-kondizzjonijiet mehtieġa għall-akkreditament jew għat-tiġdid.

PARTI IV

BORD TA' APPELL

Twaqqif
ta' Bord
ta' Appell.

14. (1) Għandu jkun hemm Bord ta' Appell magħmul minn *Chairperson* u żewġ membri ohra. Wiehed minn dawn għandu jkun persuna li kellha *warrant* biex tipprattika l-professjoni ta' avukat għal mill-inqas seba' snin.

(2) Il-membri tal-Bord ta' Appell għandhom jinhatru mill-Ministru għal perijodu ta' tliet snin, u jstgħu jitnehhew mill-kariga mill-Ministru għal raġunijiet ta' inkapaċità bil-provi biex jaqdu l-funzjonijiet tal-kariga tagħhom jew għal imġiba hażina bil-provi.

(3) Membru tal-Bord ta' Appell jista' jkun kontestat jew jista' jastjeni ghal xi wahda mir-raġunijiet li għalihom Imhalled jista' jkun kontestat jew jista' jastjeni skond l-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. F'każ bhal dak, il-Ministru għandu jahtar persuna oħra biex tkun membru tal-Bord ta' Appell biex tissostitwixxi lill-membru msemmi sakemm ikun għaddej l-appell inkwistjoni. Kap. 12.

(4) Persuna ma tikkwalifikax biex tinhatar jew tibqa' fil-kariga bhala membru tal-Bord ta' Appell jekk dik il-persuna tkun Imhalled, Maġistrat, membru tal-Kamra jew ta' Kunsill Lokali, jew kandidat għal elezzjoni għall-Kamra jew għal Kunsill Lokali.

15. (1) Il-Bord ta' Appell għandu jkun kompetenti li:

Ġurisdizzjoni.
u setgħat
tal-Bord ta' Appell.

(a) jikkunsidra mill-ġdid deċiżjonijiet tal-Bord għall-*Fostering* meta jitressaq appell skond l-artikolu 5(2);

(b) jikkunsidra mill-ġdid deċiżjonijiet ta' l-Awtorità Ċentrali meta jitressaq appell skond l-artikolu 11(2);

(ċ) jisma' u jiddeċiedi appell imressaq skond id-dispożizzjonijiet ta' dan l-Att u ta' kull regolament magħmul tahtu;

(d) jaqdi kull funzjoni oħra kif il-Ministru jista' jippreskrivi b'regolamenti li jsiru bis-saħħa ta' dan l-Att.

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

(3) Il-Bord ta' Appell ikollu dawk is-setgħat li bil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili huma mogħtija lill-Qorti Ċivili, Prim'Awla.

(4) Mingħajr preġudizzju għad-disposizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, fl-eżerċizzju tal-funzjonijiet tiegħu, il-Bord ta' Appell jista' jsejjah lil kull persuna biex tixhed u tipproduċi d-dokumentazzjoni neċessarja. Għal dan il-fini iċ-*Chairperson* għandu s-setgħa li jamministra l-ġurament.

(5) Il-Bord ta' Appell għandu jiddeċiedi fuq applikazzjoni għal appell sa mhux aktar tard minn erba' xhur mid-data meta titressaq l-applikazzjoni, sakemm fil-fehma taċ-*Chairperson* ma jkunx meħtieġ

perijodu itwal ghal raġuni valida li ghandha tinghata u tiġi reġistrata fil-proċeduri tal-każ.

(6) Deċiżjoni mogħtija mill-Bord għall-*Fostering* jew mill-Awtorità Ċentrali għandu jkollha effett immedjat kemm-il darba l-Bord ta' Appell ma jiddeċidix li jissospendiha sakemm tinghata s-sentenza finali.

(7) Id-deċiżjoni tal-Bord ta' Appell għandha tkun komunikata lill-applikanti, lill-Bord għall-*Fostering* u lill-Awtorità Ċentrali fi żmien tliet ijiem tax-xogħol mid-data li tittiehed dik id-deċiżjoni.

(8) F'każijiet li jaqgħu taħt il-ġurisdizzjoni tal-Bord ta' Appell skond is-subartikolu (1) ta' dan l-artikolu, ikun hemm dritt ta' appell fuq punt ta' liġi. Dan l-appell għandu jsir b'rikors lill-Qorti ta' l-Appell ikkostitwita skond l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Dan ir-rikors għandu jiġi ppreżentat mhux aktar tard minn tmax-il ġurnata mid-data tad-deċiżjoni tal-Bord ta' Appell.

PARTI V

AĠENZIJI AKKREDITATI

Arranġamenti
għal *foster care*.

16. Organizzazzjoni għandha titqies li tkun għamlet arranġamenti għal *fostering* ta' tifel jew tifla jekk tidhol f'xi ftehim jew tagħmel arranġamenti biex tiffaċilita l-*fostering* ta' tifel jew tifla.

Funzjonijiet
ta' aġenziji
akkreditati.

17. Aġenzija akkreditata tkun responsabbli biex:

(a) tipprovdi servizz skond *standards*, kriterji u proċeduri stabbiliti mill-Awtorità Ċentrali;

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

(ċ) tipprovdi taħriġ tal-bidu lill-*foster carers* prospettivi u taħriġ kontinwu lill-*foster carers* li jkunu reġistrati magħha u tagħtihom appoġġ adegwat meta tqiegħed tfal taħt *foster care*;

(d) tqabbel *foster carers* ma' tfal li jkunu ser jitqiegħdu taħt *foster care*;

(e) tagħmel kull tentattiv raġonevoli biex tqiegħed ahwa ma' l-istess *foster carer* jekk dan ikun fl-ahjar interess ta' l-ahwa;

(f) taghmel kull tentattiv raġonevoli biex tqieghed ġenitur minorenni u t-tifel jew tifla tieghu jew tagħha ma' l-istess *foster carer*;

(g) tiżgura li kull tqegħid taht *foster care* ikun fl-aħjar interess tat-tifel jew tat-tifla;

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

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

(j) tinvestiga lmenti kontra xi *foster carer* skond il-manwal jew proċeduri msemmiya fl-artikolu 18 u taghmel rapport u tghaddih lill-Bord għall-*Fostering* għal kull azzjoni meħtieġa;

(k) tinvestiga kull allegazzjoni ta' abbuż fit-tqegħid taht *foster care*, skond il-manwal jew proċeduri msemmiya fl-artikolu 18, u taghmel rapport skond kif ikun meħtieġ lill-awtorità kompetenti;

(l) tagħti lill-Awtorità Ċentrali access għal kull *record* u dokumentazzjoni li għandhom x'jaqsmu ma' proċeduri ta' *foster care* ta' xi tifel jew tifla u għal rapporti dwar xi *foster carer* jew *foster carer* prospettiv;

(m) tagħti lill-Awtorità Ċentrali access għall-kontijiet tagħha u għall-kontijiet verifikati minn awditur ;

(n) fl-aħħar ta' kull sena kalendarja tibgħat rapport lill-Awtorità Ċentrali dwar l-operat tal-funzjonijiet tagħha;

(o) tikkonforma ruhha ma' kull dmir u obbligu ieħor kif speċifikati mill-Awtorità Ċentrali.

18. Aġenzija akkreditata għandha tiżviluppa, taġġorna u tesegwixxi politika, proċeduri u manwali miktubin li jkunu soġġetti għall-approvazzjoni ta' l-Awtorità Ċentrali. Dawn il-proċeduri, politika u manwali miktubin għandhom jinkludu:

Politika u proċeduri.

(a) proċeduri ta' tahriġ u assessjar;

(b) tqabbil ta' *foster carers* ma' tfal;

(c) forom ta' appoġġ ghal *foster carers* u ghat-tfal li jkunu tqieghdu taht *foster care*, kemm qabel, waqt u wara t-tqeghid taht *foster care*;

(d) tqeghid ta' emerġenza ta' tfal li jehtieġu kura;

(e) investigazzjoni ta' lmenti kontra xi *foster carers*;

(f) bdil fiċ-ċirkostanzi tal-*foster carers*;

(g) każijiet ta' abbuż ta' tfal taht *foster care*; u

(h) każijiet ta' mewt ta' tfal taht *foster care*.

Informazzjoni lil
foster carers
prospettivi.

19. Qabel ma jibda l-proċess ta' *fostering*, l-aġenzija akkreditata ghandha:

(a) tinforma lil *foster carers* prospettivi bl-oġġettivi, setghat u hidmiet taghha;

(b) tghaddi kopja taċ-Ċertifikat ta' Akkreditament lil *foster carers* prospettivi bhala prova ta' l-akkreditament taghha; u

(c) tinforma lill-*foster carers* prospettivi b'kull rekwiżit legali.

Żamma ta'
registri.

20. Aġenzija akkreditata ghandha żżomm registru wiehed jew aktar li jkun fihom listi:

(a) tat-tqeghid taht *foster care* u t-tip ta' *foster care* li jkun sar minnha;

(b) tal-*foster carers* prospettivi reġistrati maghha;

(c) tal-*foster carers* reġistrati maghha; u

(d) tal-professjonisti li jkunu qed isegwu kull tqeghid taht *foster care*.

Aċċess ghal
informazzjoni.

21. *Foster carers* ghandhom id-dritt ta' aċċess ghal kull informazzjoni, inkluża informazzjoni medika, li tista' tagħtihom il-kapaċità li jagħtu l-aħjar kura possibbli lit-tifel jew lit-tifla u li jistgħu jolqtu l-aħjar interessi tat-tifel jew tat-tifla li jkunu fil-kura tagħhom.

Taħriġ.

22. Aġenzija akkreditata ghandha tagħmel kull sforz raġonevoli biex tiżgura li kull haddiem soċjali assenjat biex jaqdi dmirijiet dwar

proċeduri ta' *foster care* jkun imharreġ dwarhom b'mod adegwat u jibqa' jirċievi taħriġ kontinwu.

23. (1) Wara li tirċievi applikazzjoni minghand *foster carer* Assessjar ta' *foster carers* prospettivi. prospettiv, l-aġenzija akkreditata għandha r-responsabbiltà li:

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

(ċ) tagħmel rapport li jissejjah "*Home Study Report*" fuq is-sitwazzjoni tal-*foster carer* prospettiv, inkluża kull rakkomandazzjoni, u tghaddih lill-Bord għall-*Fostering* li għandu jiddeċiedi jekk *foster carer* prospettiv ikunx adatt biex ikun approvat bhala *foster carer*.

(2) Għall-finijiet tal-preparazzjoni tal-*Home Study Report*, il-haddiem soċjali awtorizzati mill-aġenzija akkreditata għandu jagħmel iż-żjarat meħtieġa fid-dar. Dawn iż-żjarat jistgħu jsiru bla avviż minn qabel u *foster carer* prospettiv ma jistax jiċhad lil haddiem soċjali milli jidhol id-dar, għandu jikkopera mal-haddiem soċjali u għandu jagħti informazzjoni korretta sa fejn ikun jaf hu.

24. (1) *Foster carer* għandu jkollu d-drittijiet u d-dmirijiet Ftehim ta' *foster care*. imniżżlin fil-ftehim ta' *foster care*.

(2) Kull dritt u dmir li għandu *foster carer* skond il-ftehim ta' *foster care* m'għandux jitqies bhala dritt jew dmir permanenti.

(3) Il-ftehim ta' *foster care* skond is-subartikolu (1) għandu jkun fl-aħjar interessi tat-tifel jew tifla u għandu jagħti informazzjoni dettaljata relatata mad-drittijiet u dmirijiet tal-*foster carer* u għandu jinkludi b'mod speċifiku:

- (a) safejn il-*foster carer* jista' jiehu deċiżjonijiet fir-rigward tat-tifel jew tifla fil-kura tiegħu;
- (b) il-frekwenza ta' kuntatt tat-tifel jew tifla mal-ġenitur jew ġenituri naturali;
- (ċ) il-pjan ta' kura;
- (d) materji ta' edukazzjoni, saħħa u manteniment tat-tifel jew tifla; u

(e) materji ohra li ghandhom x'jaqsmu ma' tifel jew tifla taht *foster care*.

(4) Il-Bord għall-*Fostering*, l-aġenzija akkreditata, l-omm naturali, il-missier naturali jekk dan ikun irrikonoxxa lit-tifel jew tifla, il-*foster carer* u l-Bord Konsultattiv dwar it-Tfal u ż-Żgħażaġh, meta dan ikun japplika, ghandhom jinghataw kopja tal-ftehim ta' *foster care*, u kull emenda li ssirlu ghandha ssir bi qbil bejn il-partijiet u titwassal bil-miktub lill-partijiet kollha li jkollhom kopja tal-ftehim oriġinali.

(5) Il-ftehim ta' *foster care*, magħmul mill-aġenzija akkreditata, ghandu jiġi ffirmat mill-aġenzija akkreditata, mill-*foster carer* u mill-persuna li ghandha l-kura u l-kustodja tat-tifel jew tifla. Dan il-ftehim ghandu jkun magħmul wara li jkunu nstemgħu t-tifel jew it-tifla li jkunu se jitqieghdu taht *foster care*, skond l-età u l-fehim tagħhom, u kull persuna li tkun qieghda tiehu hsiebhom. Ghandha tinstema wkoll kull persuna li jkollha setgha ta' ġenitur fuq it-tifel jew tifla jekk tinsab u tkun tista' tagħti l-fehma tagħha.

(6) Fil-każ ta' nuqqas ta' qbil dwar emendi għall-ftehim ta' *foster care*, kull parti tista' tirreferi l-kwistjoni quddiem il-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja), u din il-qorti ghandha tiddeċiedi fl-ahjar interess tat-tifel jew tifla konċernati.

(7) It-tqeghid ta' tifel jew tifla taht *foster care* jista' jiġi terminat mill-aġenzija akkreditata jekk:

(a) il-*foster carer* jonqos milli jikkonforma ruhu mal-ftehim ta' *foster care*; jew

(b) il-Bord għall-*Fostering* jiddeċiedi li l-*foster carer* m'għadux adatt biex jipprovdi servizz ta' *foster care*; jew

(ċ) jekk it-tqeghid taht *foster care* ma jibqax fl-ahjar interess tat-tifel jew tifla.

Drittijiet ta' tfal taht *foster care*.

25. *Foster carer* ghandu jiżgura li tifel jew tifla mqeghdin fil-kura tiegħu ghandhom ikunu kkurati, mantnuti, mgħallma u edukati skond il-hiliet, aspirazzjonijiet u xeħtiet naturali tagħhom. It-tifel jew tifla ghandu wkoll ikollhom aċċess għall-haddiem soċjali li jkun qed jiehu hsieb it-tqeghid tagħhom taht *foster care*.

Kontroll ta' tqeghid taht *foster care*.

26. (1) Tul it-tqeghid taht *foster care* l-aġenzija akkreditata ghandha tinnomina haddiem soċjali biex isegwi *foster carer* registrat magħha permezz ta' *Review Report*, li jsir mill-inqas darba kull sentejn, biex l-aġenzija tkun tista' tiddetermina jekk il-*foster carer* ikunx qieghed jaqdi l-obbligi tiegħu skond id-dispożizzjonijiet ta' dan l-Att u l-ftehim ta' *foster care* u jekk dan il-*carer* ghandux jithalla jkompli jiehu hsieb

it-tifel jew it-tifla. Dan ir-rapport ghandu jsir qabel ma jghaddu s-sentejn jekk ikun hemm bżonn li l-*foster carer* jiġi assessjat qabel ma jiskadi dan il-perijodu.

(2) Sakemm issir il-kompilazzjoni tar-*Review Report*, il-haddiem soċjali ghandu jagħmel dawk iż-żjajjar fid-dar li jkunu mehtieġa. Iż-żjajjar jistgħu jsiru bla ma jinghata avviz minn qabel u l-*foster carer* ma jistax jiċhad lil haddiem soċjali milli jidhol id-dar, ghandu jikkopera mal-haddiem soċjali u ghandu jagħti informazzjoni korretta sa fejn ikun jaf hu. Il-haddiem soċjali li jagħmel iż-żjara ghandu d-dritt li jkun meġjun minn membru tal-Korp tal-Pulizija f'każ ta' ostaklu jew tfixkil fil-qadi ta' dmirijietu.

PARTI VI

REATI

27. (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 tipprova tikseb xi hlas jew kumpens ieħor minhabba xi arrangamenti għal tqeghid taht *foster care* tkun hatja ta' reat u tista', meta tinsab hatja, tehel prigunerija għal żmien ta' mhux inqas minn tliet xhur iżda mhux aktar minn sitt xhur jew multa ta' mhux inqas minn hames mitt lira (Lm 500) iżda mhux iżjed minn elf lira (Lm 1,000) jew għal dik il-multa u prigunerija flimkien, minbarra kull ordni meqjusa xierqa fiċ-ċirkostanzi biex tiproteġi lit-tifel jew lit-tifla li fir-rigward tagħhom ikun sar ir-reat.

Projbizzjoni ta' hlas.

(2) Għall-finijiet ta' dan l-artikolu, l-għemil ta' arrangement għat-tqeghid ta' tifel jew tifla taht *foster care* m'ghandu jinkludi ebda hlas li jsir għall-manteniment tat-tifel jew tat-tifla jew rimunerazzjoni lil professjonisti għal servizz li jkunu taw.

28. (1) Mingħajr preġudizzju għal regolamenti magħmulin taht dan l-Att, hadd ma jista', mingħajr l-approvazzjoni bil-miktub ta' aġenzija akkreditata, jippubblika jew iġieghel li jiġi publikat f'xi gazzetta, perjodiku jew materja stampata ohra jew permezz tax-xandir, televiżjoni, wirja pubblika jew permezz ta' xi mezz ieħor, xi reklam, suġġett ta' ahbar jew materja ohra li tkun indikata, kemm jekk għandha kemm jekk m'għandhiex x'taqsam ma' xi tifel jew tifla partikolari, imweldin jew mhumiex, li:

Projbizzjoni ta' pubblikazzjoni.

(a) tifel jew tifla jridu jitqiegħdu taht *foster care*;

(b) persuna jkun bi hsiebha tiehu tifel jew tifla taht *foster care*; jew

(c) persuna jkun bi hsiebha taghmel arrangamenti ghat-tqeghid ta' tifel jew tifla taht *foster care*.

(2) Minghajr preġudizzju ghal regolamenti maghmulin taht dan l-Att, hadd ma jista', minghajr l-approvazzjoni bil-miktub ta' aġenzija akkreditata, jippubblika jew iġieghel li jiġi publikat f'xi gazzetta, perjodiku, materja stampata ohra jew permezz tax-xandir, televiżjoni, wirja pubblika jew permezz ta' xi mezz iehor:

(a) l-isem ta' *foster carer*;

(b) l-isem ta' tifel jew tifla li jkunu tqieghdu jew li jkunu ser jitqieghdu taht *foster care*;

(c) l-isem ta' ġenitur naturali, kuratur jew tutur ta' tifel jew tifla li jkunu tqieghdu jew li jkunu ser jitqieghdu taht *foster care*; jew

(d) kull materja li tista' twassal biex xi wahda mill-persuni msemmija fil-paragrafi (a), (b) u (c) ta' dan is-subartikolu tkun identifikata.

(3) Kull persuna li taġixxi bi ksur ta' dan l-artikolu tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija ghal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew multa ta' mhux inqas minn hames mitt lira (Lm500) iżda mhux iżjed minn elf lira (Lm1,000) jew dik il-multa u priġunerija flimkien, minbarra kull ordni ghal hlas ta' danni li jitqiesu adatti fiċ-ċirkostanzi.

Użu ta'
forza.

29. Persuna tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija ghal żmien ta' mhux inqas minn tliet xhur iżda mhux iżjed minn sitt xhur jew ghal multa ta' mhux inqas minn hames mitt lira (Lm500) iżda mhux iżjed minn elf lira (Lm1,000) jew dik il-multa u priġunerija flimkien, jekk dik il-persuna:

(a) thedded jew iġġieghel *foster carer*, kontra r-rieda tiegħu, jirrinunzja ghal tifel jew tifla mqeghdin fil-kura tiegħu;

(b) tiehu tifel jew tifla, kontra r-rieda tagħhom, minghand *foster carer*, minghajr l-approvazzjoni bil-miktub ta' aġenzija akkreditata;

(c) thedded jew iġġieghel *foster carer*, kontra r-rieda tiegħu, biex jaġixxi kontra xi ordni mahruġa minn xi qorti jew mahruġa bis-saħħa ta' l-Att Dwar Tfal u Żgħażaġh (Ordinijiet Għall-Harsien); Kap. 285.

(d) thedded jew iġġieghel *foster carer*, kontra r-rieda tiegħu, biex jaġixxi bi ksur tad-dispożizzjonijiet ta' dan l-Att;

(e) thedded jew tikkaġuna xi hsara lil *foster carer*; jew

(f) tidhol b'forza fir-residenza ta' *foster carer*.

30. Kull persuna li b'xi mod tfixkel jew tostakola lill-Bord għall-*Fostering*, lill-Bord ta' Appell, lill-Awtorità Ċentrali jew lil aġenzija akkreditata fil-qadi ta' xi waħda mill-funzjonijiet tagħhom tkun hatja ta' reat u tista', meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew multa ta' mhux inqas minn hames mitt lira (Lm 500) iżda mhux iżjed minn elf lira (Lm 1,000) jew dik il-multa u priġunerija flimkien. Tfixkil.

31. Persuna jew organizzazzjoni li tagħmel arranġamenti biex tqiegħed tifel jew tifla taħt *foster care* mingħajr l-awtorizzazzjoni ta' l-Awtorità Ċentrali tkun hatja ta' reat u għandha, meta tinsab hatja, tehel priġunerija għal żmien ta' mhux inqas minn sitt xhur iżda mhux iżjed minn sena jew multa ta' mhux inqas minn hames mitt lira (Lm 500) iżda mhux iżjed minn elf lira (Lm 1,000) jew dik il-multa u priġunerija flimkien. *Fostering* minn persuni jew organizzazzjonijiet.

32. Meta persuna taġixxi bi ksur ta' xi dispożizzjoni ta' dan l-Att jew ta' regolamenti magħmulin tahtu, u ma jkun hemm provdut dwar ebda piena speċifika għal dak ir-reat taht dan l-Att jew regolamenti magħmulin tahtu, dik il-persuna tista', meta tinsab hatja, tehel multa ta' mhux inqas minn mitt lira (Lm 100) iżda mhux iżjed minn elf lira (Lm 1,000). Reati oħrajn.

PARTI VII

REGOLAMENTI

33. Il-Ministru jista' jagħmel regolamenti: Regolamenti.

(a) għall-harsien, superviżjoni u kontroll ta' tfal imqegħdin taht *foster care*;

(b) għall-akkreditament, monitoraġġ u kontroll ta' aġenziji u għar-rifjut jew revoka ta' dan l-akkreditament;

(c) biex jipprovdi ghal kull dritt u dmir li ghandu *foster carer* inkluz dak li ghandu jiġi stabbilit fil-ftehim ta' *foster care*;

(d) biex jirregola t-tipi differenti ta' *foster care*;

(e) biex jistabbilixxi penali ghal ksur tad-dispożizzjonijiet ta' dan l-Att;

(f) biex jistabbilixxi l-proċedura li ghandha tkun segwita mill-Bord għall-*Fostering* u mill-Awtorità Ċentrali;

(g) biex jistabbilixxi r-regoli dwar is-setgħat tal-Bord ta' Appell u l-proċeduri li ghandu jsegwi; u

(h) għal kull materja incidentali u supplementari li l-Ministru jqis spediti li jipprovdi dwarha, għall-implimentazzjoni effettiva tad-dispożizzjonijiet ta' dan l-Att.

PARTI VIII

DISPOŻIZZJONIJIET TRANSITORJI

Perijodu ta' transizzjoni.

34. (1) Il-persuni kollha li, qabel id-data tad-dhul fis-seħh ta' dan l-Att, kienu approvati bhala *foster carers* mill-*Panel* għal Adozzjoni u *Fostering*, għandhom jiġu approvati temporanjament bhala *foster carers* mill-Bord għall-*Fostering* jekk huma jkunu ikkomunikaw l-approvazzjoni tagħhom bil-miktub lil dan il-Bord, jew personalment jew permezz ta' aġenzija akkreditata, fi żmien tliet xhur mid-data tad-dhul fis-seħh ta' dan l-Att.

(2) Wara l-komunikazzjoni msemmija fis-subartikolu (1), il-Bord għall-*Fostering* għandu:

(a) jordna aġenzija akkreditata biex tinkludi lill-*foster carer* fir-reġistru ta' *foster carers* tagħha u dan il-*foster carer* għandu jkun assessjat mill-aġenzija akkreditata biex tiddetermina jekk għandux jithalla jibqa' jaġixxi bhala tali; u

(b) johroġ id-dokumentazzjoni uffiċjali u l-ittra uffiċjali msemmija fl-artikolu 4 (f).

(3) Wara l-assessjar speċifikat fis-subartikolu (2), il-*foster carer* għandu jidhol fi ftehim ta' *foster care* u jibqa' jkun ikkontrollat u assessjat skond l-artikolu 26.

(4) L-organizzazzjonijiet kollha li, qabel id-dhul fis-sehh ta' dan l-Att, kienu qed jipprovdu servizzi ta' *foster care* għandhom, fi żmien xahar mid-dhul fis-sehh ta' dan l-Att japplikaw għal akkreditament skond l-artikolu 8 biex ikunu jistgħu jkomplu jagħtu s-servizzi ta' *foster care*.

(5) L-organizzazzjonijiet kollha kif speċifikati fis-subartikolu (4) li ma japplikawx għal akkreditament fil-limitu ta' żmien speċifikat u li jibqgħu jagħtu servizzi ta' *foster care* jkunu qegħdin jiksru l-artikolu 31.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 552 tas-17 ta' Lulju, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

27th July, 2007

ACT No. XVII of 2007

AN ACT to make special provision for foster care and to make consequential and other amendments

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:

PART I

INTRODUCTION AND DEFINITIONS

Short title and commencement.

1. (1) The short title of this Act is the Foster Care Act, 2007.

(2) This Act shall come into force on such date as the Minister responsible for social policy may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Definitions.

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

“accredited agency” means an organisation which is accredited by the Central Authority to carry out foster care placements;

“Board of Appeal” means the board established by virtue of article 14 or such other administrative board or tribunal which the Minister may from time to time designate to carry out all or any of the functions as specified in this Act;

“care plan” means a plan drawn up by a social worker of an accredited agency in collaboration with others involved in the best interests of the child;

“Central Authority” means the Authority established by virtue of article 6;

“child” means a person under eighteen years of age;

“cross-border foster care” means:

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

(ii) 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 an accredited agency, to a child who is resident in Malta;

“foster care” means a service for a determinate period whereby a child is placed in the continuous care of a foster carer, and through which the child is brought up in a family environment according to his best interests;

“foster care agreement” means the agreement entered into in accordance with article 24;

“foster carer” means one or more persons approved by the Fostering Board to foster a child;

“Fostering Board” means the board established by virtue of article 3;

“Minister” means the Minister responsible for social policy;

“social worker” shall have the meaning assigned to it by article 2 of the Social Work Profession Act.

PART II

FOSTERING BOARD

Establishment
of the Fostering
Board.

3. (1) There shall be a Board, known as the Fostering Board, which shall be composed of a Chairperson and a minimum of another four members. This Board shall be composed of the following:

(a) professionals representing different disciplines; and

(b) a person who, in the opinion of the Minister, has adequate knowledge and is proficient in the area of foster care.

(2) The Minister shall endeavour to have a person over the age of eighteen years who was placed in foster care and a person who is or was a foster carer as part of the Fostering Board and such persons 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 minimum period of two years.

(4) Any member of the Fostering Board may be removed from office by the Minister on grounds of inability to perform the functions of their office or of misbehaviour.

(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) 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.

(7) Subject to the provisions of this Act and to any regulations made thereunder, the Fostering Board shall regulate its own procedure:

Provided that any decision of the Fostering Board shall be taken by a majority of votes; however in the case of an equality of votes the Chairperson shall have and exercise a determining vote. The Secretary to the Board shall not vote.

(8) The Fostering Board shall meet as and when necessary, provided it meets at least once every month. In the case of a written request by the Minister or by an accredited agency, which request shall be transmitted through the Secretary of the Board, such Board shall meet by not later than forty eight hours following the request.

(9) The Fostering Board shall have the power to consult professionals or other persons having relevant knowledge and experience in the field of foster care.

(10) The members of the Fostering Board, the Secretary to such Board and any person involved in the proceedings before the Fostering Board shall be bound by confidentiality and shall not disclose to any third party any information which may come to their knowledge during the proceedings. These persons shall also not distribute to any third party any document pertaining to the Fostering Board or any copies thereof, unless requested or duly authorised to do so by the Minister or by any court of law.

(11) The Fostering Board shall submit to the Minister an annual report of all its activities during the preceding calendar year by not later than the fifteenth April of each year.

4. (1) The functions of the Fostering Board shall include:

Functions of the Fostering Board.

(a) examining Home Study Reports and Review Reports in accordance with Part V of this Act drawn up by a social worker of an accredited agency;

(b) determining suitability or otherwise of prospective foster carers;

(c) determining that a foster carer is no longer suitable to act as such;

(d) specifying what type of foster care is suitable to be provided by each foster carer;

(e) keeping an updated register of foster carers;

(f) providing foster carers with official documentation that identifies them as such and an official letter identifying the children in their care;

(g) reviewing reports compiled by an accredited agency, following a complaint against a foster carer, and taking any action as deemed fit in the circumstances;

(h) making recommendations to the Minister on the parameters to be established for the organisation of training programmes, assessments, counselling sessions for prospective foster carers as well as monitoring of, and support structures for, foster carers;

(i) making recommendations to the Minister for the more effective implementation of the provisions of this Act and any regulations made thereunder.

(2) The Fostering Board shall have access to all documentation deemed relevant to the foster care procedure and it shall be unlawful for any person to hinder it in the carrying out of any of its functions.

Decisions of the Fostering Board.

5. (1) Any decision in terms of articles 4 (b), (c) and (d) shall be taken after the Fostering Board has reviewed the Home Study Report, or the Review Report and, or any other relevant documentation, and after it has heard the prospective foster carer and any other persons, including the children concerned, the Board may deem fit in the circumstances. The decisions and the reasons therefor shall be communicated in writing, within five working days from the date of such decision, by registered mail to the foster carer or the prospective foster carer, as applicable, and to the accredited agency involved.

(2) The foster carer or prospective foster carer, as applicable, may appeal from a decision delivered by the Fostering Board, by filing an application in front of the Board of Appeal by not later than eight working days from the date of service of the decision by registered mail.

PART III

CENTRAL AUTHORITY

Establishment of the Central Authority.

6. There shall be a Central Authority designated by the Minister to perform and fulfil the functions, duties and responsibilities specified in articles 7 to 13 and any regulations which may be made in terms of this Act.

Functions of the Central Authority.

7. The functions of the Central Authority shall include:

(a) receiving and acknowledging applications for accreditation;

(b) granting, refusing, or revoking accreditation to organisations in accordance with established criteria;

(c) receiving, acknowledging, investigating and taking any necessary action in relation to any complaints against accredited agencies or any organisations purporting to act as such;

(d) receiving requests from foreign persons who are approved as foster carers abroad and who, through an accredited agency, request to be recognised as foster carers in terms of this Act, and after making the investigations it deems fit and obtaining all the necessary documentation, deciding whether to accept such request after consulting with the Fostering Board;

(e) receiving applications from agencies which would like to carry out cross-border foster care and deciding whether to allow such agencies to effect such placements;

(f) taking any measures deemed necessary in the circumstances, if a foster care placement, whether local or cross-border, is in breach of the provisions of this Act.

8. (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.

9. The Central Authority may accredit an organisation if it is satisfied that the organisation: Accreditation of an organisation.

(a) has sufficient experience and expertise in dealing with child and family matters; and

(b) has an adequate number of staff who are 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.

10. (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 agency 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 agency is still in compliance with articles 8 and 9. The decision of the Central Authority on the renewal of the accreditation certificate shall be served on the accredited agency, by registered mail, within thirty days from the application for renewal.

Refusal of an application.

11. (1) The Central Authority shall have the right to refuse an application for accreditation if it deems the organisation not fit to carry out foster care services. The refusal together with the reasons therefor shall be served in writing, by registered mail, to the organisation applying for accreditation within three months from the date of application.

(2) The organisation shall have the right to request a reversal of the decision of the Central Authority by filing an application in front of the Board of Appeal within twenty days from the date of service as specified in sub-article (1).

(3) The organisation shall have the right to re-apply to the Central Authority for accreditation if the reason for the refusal no longer subsists.

Revocation of accreditation.

12. (1) The Central Authority shall have the right to revoke accreditation of an agency at any time, if the agency:

- (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.

(2) The Central Authority shall serve the agency, by registered mail, with the written revocation together with the reasons therefor and such revocation shall have effect from date of service.

(3) If the accreditation is revoked on any of the grounds mentioned in paragraphs (b), (c) or (d) of sub-article (1), the agency shall have the right to file an application in front of the Board of Appeal,

requesting a reversal of the decision of the Central Authority, within ten days of the service specified in sub-article (2).

(4) If an appeal is filed in accordance with sub-article (3), the agency may request the Board of Appeal to suspend the decision of the Central Authority until the final decision.

(5) If the accreditation of an agency is revoked, the Accreditation Certificate and all the records and documentation relating to foster care services shall become the property of the Central Authority. The Central Authority may appoint another accredited agency to have custody of such records and documentation, continue to monitor the prospective foster carers and the foster carers, continue to support and monitor the placements of the children who were placed in foster care, and to carry out all the functions that belonged to the agency whose accreditation was revoked, according to article 17.

13. During the month of January of every year, the Central Authority shall publish in the Gazette: Publication in the Gazette.

(a) a list of all accredited agencies specifying their full name, registered address and other relevant contact details;

(b) a list of agencies whose accreditation has been revoked throughout the previous calendar year; and

(c) any changes in the conditions required for accreditation or renewal.

PART IV

BOARD OF APPEAL

14. (1) There shall be a Board of Appeal consisting of a Chairperson and two other members. One of these shall be a person who has held a warrant to practise the profession of advocate for at least seven years. Establishment of Board of Appeal.

(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 proved inability to perform the functions of their office or of proved 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. In any such case, the Minister shall appoint another person to sit as a member on the Board of Appeal in substitution of the said member for the duration of the appeal in question.

(4) 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 or of a Local Council, or a candidate for election to the House or a Local Council.

15. (1) The Board of Appeal shall be competent to:

(a) review decisions of the Fostering Board upon an appeal filed in accordance with article 5(2);

(b) review decisions of the Central Authority upon an appeal filed in accordance with article 11(2);

(c) hear and decide an appeal filed in accordance with the provisions of this Act and any regulations made thereunder;

(d) undertake any other function as the Minister may designate by regulations made by virtue of this Act.

(2) In order to carry out its duties, the Board of Appeal shall have access to all documentation pertaining to the foster care procedure and it shall be unlawful for any person to hinder it in the carrying out of its functions.

(3) The Board of Appeal shall have such powers as are, by the Code of Organization and Civil Procedure, vested in the Civil Court, First Hall.

(4) Without prejudice to sub-article (4) of this article, in the exercise of its functions, the Board of Appeal may summon any person to give evidence and produce the necessary documentation. For this purpose the Chairperson shall have the power to administer the oath.

(5) The Board of Appeal shall decide an application for appeal by not later than four months from the date of the filing of the application, unless in the opinion of the Chairperson a longer period is necessary for a valid reason which must be stated and registered in the proceedings of the case.

(6) A decision given by the Fostering Board or by the Central Authority shall have immediate effect unless the Board of Appeal decides to suspend it until it has given the final judgement.

(7) The decision of the Board of Appeal shall be communicated to the applicants, the Fostering Board and the Central Authority by not later than three working days from the date of such decision.

(8) In cases falling under the jurisdiction of the Board of Appeal in accordance with sub-article (1) hereof, there shall be a right of appeal on a point of law. Such appeal shall be made by an application to the Court of Appeal constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure. Such application shall be filed by not later than twelve days from the date of the decision of the Board of Appeal.

PART V

ACCREDITED AGENCIES

16. An organisation shall be deemed to make arrangements for the fostering of a child if it enters into any agreement or makes any arrangements for facilitating the fostering of a child.

Arrangements
for foster care.

17. An accredited agency shall be responsible to:

Functions
of accredited
agencies.

(a) provide a service according to the standards, criteria and procedures established by the Central Authority;

(b) receive and process applications from persons who apply to be registered as foster carers;

(c) provide initial training to prospective foster carers and continuous training to foster carers registered with it, and provide them with adequate support while they are carrying out any foster care placement;

(d) match foster carers with children who are to be placed in foster care;

(e) make all reasonable attempts to place siblings with the same foster carer if this is in the best interest of the siblings;

(f) make all reasonable attempts to place a minor parent and his or her child with the same foster carer;

(g) ensure that any foster care placement will be in the best interest of the child;

(h) monitor all foster care placements arranged by it and provide support to foster carers during the foster care placement arranged by it;

(i) review and propose amendments, if necessary, to foster care agreements;

(j) investigate complaints against any foster carer in accordance with the manual or procedures specified in article 18 and draw up a report and forward it to the Fostering Board for any necessary action;

(k) investigate any allegations of abuse in any foster care placement, in accordance with the manual or procedures mentioned in article 18, and report as necessary to the competent authority;

(l) grant the Central Authority access to any records and documentation dealing with the foster care procedure of any child and to reports on any foster carer or prospective foster carer;

(m) grant the Central Authority access to its financial accounts and audits;

(n) report to the Central Authority at the end of every calendar year on the performance of its functions;

(o) comply with any other duties and obligations as specified by the Central Authority.

Policies and procedures.

18. An accredited agency shall develop, update and execute written policies, procedures and manuals which shall be subject to approval by the Central Authority. These written policies, procedures and manuals shall include:

(a) training and assessment procedures;

(b) matching of foster carers with children;

(c) forms of support for foster carers and for children who have been placed in foster care, both before, during and after the foster care placement;

(d) emergency placements of children in need of care;

(e) investigation of complaints against any foster carer;

(f) change in circumstances of foster carers;

(g) cases of abuse of children in foster care; and

(h) cases of death of children in foster care.

19. Before commencing the fostering process, the accredited agency shall: Information to prospective foster carers.

(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.

20. An accredited agency shall maintain one or more registers listing: Keeping of registers.

(a) the foster care placements and the type of placements arranged by it;

(b) the prospective foster carers registered with it;

(c) the foster carers registered with it; and

(d) the professionals who are monitoring every foster care placement.

21. Foster carers shall be entitled to have access to any information, including medical information, which would enable them to give the best possible care to the child and which may affect the best interest of the child they are fostering. Access to information.

22. An accredited agency shall make all reasonable efforts to ensure that every social worker assigned to carry out duties with regard Training.

to the foster care procedure is adequately trained in this regard and continues to receive ongoing training.

Assessment of prospective foster carers.

23. (1) After receiving an application from a prospective foster carer the accredited agency shall be responsible to:

- (a) provide training to the prospective foster carer;
- (b) assess the suitability or otherwise of the prospective foster carer;
- (c) draw up a report to be known as the “Home Study Report” on the situation of the prospective foster carer, including any recommendations and forward it to the Fostering Board, which shall decide whether the prospective foster carer is suitable to be approved as a foster carer.

(2) For the purposes of drawing up the Home Study Report, the social worker authorised by the accredited agency shall carry out the necessary home visits. The visits may be unannounced and the prospective foster carer shall not refuse entry, shall co-operate with the social worker and shall provide correct information to the best of his knowledge.

Foster care agreement.

24. (1) A foster carer shall have the rights and duties listed in the foster care agreement.

(2) Any rights and duties pertaining to the foster carer in accordance with the foster care agreement shall not be perceived to be seen as a permanent right or duty.

(3) The foster care agreement in terms of sub-article (1) shall be in the best interest of the child and shall provide for detailed information related to the rights and duties of the foster carer and it shall specifically include:

- (a) the extent to which the foster carer may make decisions with regard to the child in his care;
- (b) the frequency of contact of the child with the natural parent or parents;
- (c) the child’s care plan;
- (d) matters of education, health and maintenance of the child; and

(e) any other matter pertinent to the child in foster care.

(4) The Fostering Board, the accredited agency, the natural mother, the natural father if he has recognised the child, the foster carer and the Children and Young Persons Advisory Board, where applicable, shall be provided with a copy of the foster care agreement, and any amendments thereto shall be agreed to by the parties and shall be communicated in writing to all the parties having a copy of the original agreement.

(5) The foster care agreement, drawn up by the accredited agency, shall be signed by the accredited agency, the foster carer and the person having care and custody of the child. This agreement shall be drawn up after having heard the child to be fostered, according to his age and understanding, and any person caring for the child. Any person having parental authority shall also be heard if such person can be found and is capable of expressing his views.

(6) In the event of disagreement on the amendments to the foster care agreement, every party may refer the matter to the Civil Court (Voluntary Jurisdiction Section), and the court shall decide in the best interest of the child concerned.

(7) The foster care placement may be terminated by the accredited agency if:

(a) the foster carer does not conform with the foster care agreement; or

(b) the Fostering Board decides that the foster carer is no longer suitable to provide foster care; or

(c) the foster care placement is no longer in the best interest of the child.

25. A foster carer shall ensure that the child placed in his care shall be cared for, maintained, instructed and educated according to the child's abilities, aspirations and natural inclinations. The child shall also have access to the social worker who is taking care of the placement.

Rights of children in foster care.

26. (1) During a foster care placement the accredited agency shall designate a social worker to monitor a foster carer registered with it by drawing up a Review Report at least once every two years so that it may determine whether the foster carer is fulfilling the obligations in accordance with the provisions of this Act and the foster care agreement and whether such carer should be allowed to continue caring for the

Monitoring of foster care placement.

child. This report shall be drawn up before the two year period has elapsed if the foster carer needs to be assessed before the expiration of this period.

(2) For the purposes of drawing up the Review Report, the social worker shall carry out the necessary home visits. The visits may be unannounced and the foster carer shall not refuse entry, shall cooperate with the social worker and shall provide correct information to the best of his knowledge. The social worker carrying out the visit shall be entitled to be assisted by a member of the Police Force in case of any hindrance or obstruction in the exercise of such duty.

PART VI

OFFENCES

Prohibition
of payment.

27. (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 reward for or in consideration of 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 exceeding six months or to a fine (*multa*) of not less than five hundred liri (Lm500) but not more than one thousand liri (Lm1,000) or to both such fine and imprisonment, in addition to any order deemed fit in the circumstances in order to protect the child 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 child in foster care shall not include any payments made for the maintenance of the child or remuneration to professionals for services rendered by them.

Prohibition of
publication.

28. (1) Without prejudice to any regulations made under this Act, a person shall not, without the approval in writing of an accredited agency, publish or cause to be published in any newspaper, periodical or any other printed matter or by means of broadcasting, television, public exhibition or by any other means or medium, any advertisement, news item or other matter indicated, whether or not in relation to a particular child, born or unborn, that:

- (a) a child may be placed in foster care;
- (b) a person intends to foster a child; or

(c) a person intends to make arrangements for the placement of a child in foster care.

(2) Without prejudice to any regulations made under this Act, a person shall not, without the approval in writing of an accredited agency, publish or cause to be published in any newspaper, periodical, any other printed matter or by means of broadcasting, television, public exhibition or by any other means or medium:

(a) the name of a foster carer;

(b) the name of a child who is or will be placed in foster care;

(c) the name of a natural parent, curator or tutor of the child who is or will be placed in foster care; or

(d) any matter likely to enable any of the persons mentioned in paragraphs (a), (b) and (c) of this sub-article to be identified.

(3) 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 five hundred liri (Lm500) but not more than one thousand liri (Lm1,000) or to both such fine and imprisonment, without prejudice to any payment of damages that are deemed fit in the circumstances.

29. 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 five hundred liri (Lm500) but not more than one thousand liri (Lm1,000) or to both such fine and imprisonment, if such person: Use of force.

(a) threatens or forces a foster carer, against his will, to give up a child placed in his care;

(b) takes the child away from a foster carer against the child's will, without the approval in writing of an accredited agency;

(c) threatens or forces a foster carer, against his will, to give up to any order issued by any court of law or issued by virtue of the Children and Young Persons (Care Orders) Act; Cap. 285.

(d) threatens or forces a foster carer, against his will, to act in breach of the provisions of this Act;

- (e) threatens or causes any type of damage to a foster carer;
- or
- (f) forces entry into the residence of a foster carer.

Hindrance.

30. Any person who in any way hinders or obstructs the Fostering Board, the Board of Appeal, the Central Authority or an accredited agency 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 five hundred liri (Lm 500) but not more than one thousand liri (Lm 1,000) or to both such fine and imprisonment.

Fostering by unauthorised persons or organisations.

31. A person or organisation who makes arrangements to place a child in foster care without the authorisation of the Central Authority 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 five hundred liri (Lm500) but not more than one thousand liri (Lm1,000) or to both such fine and imprisonment.

Other offences.

32. Where any person acts in breach of any provision of this Act or 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 one hundred liri (Lm100) but not more than one thousand liri (Lm1,000).

PART VII

REGULATIONS

Regulations.

33. The Minister may make regulations:

- (a) for the protection, supervision and control of children placed in foster care;
- (b) for the accreditation, monitoring and control of agencies and for the refusal or revocation of such accreditation;
- (c) to provide for any rights and duties pertaining to a foster carer, including that which should be established in the foster care agreement;
- (d) to regulate the different types of foster care;

(e) to establish penalties for breach of the provisions of this Act;

(f) to establish the procedure to be followed by the Fostering Board and the Central Authority;

(g) to lay down the rules on the powers of and the procedures to be followed by the Board of Appeal; and

(h) for any incidental and supplementary matter which the Minister considers expedient to provide for, for the effective implementation of the provisions of this Act.

PART VIII

TRANSITORY PROVISIONS

34. (1) All persons who, prior to the date of entry into force of this Act, were approved as foster carers by the Adoption and Fostering Panel, shall be temporarily approved as foster carers by the Fostering Board if they have communicated their approval in writing to such Board, either personally or through an accredited agency, within three months of the date of entry into force of this Act. Transition period.

(2) Following the communication referred to in sub-article (1), the Fostering Board shall:

(a) direct an accredited agency to include the foster carer in its register of foster carers and such foster carer shall be assessed by the accredited agency in order to determine whether he should be allowed to continue acting as such; and

(b) issue the official documentation and official letter referred to in article 4 (f).

(3) Following the assessment specified in sub-article (2), the foster carer shall enter into a foster care agreement and continue to be monitored and assessed in accordance with article 26.

(4) All organisations which, prior to the coming into force of this Act were providing foster care services shall, within one month of the coming into force of this Act apply for accreditation in accordance with article 8 in order to be able to continue providing foster care services.

(5) All organisations as specified in sub-article (4) which do not apply for accreditation within the specified time limit and which continue providing foster care services shall be in breach of article 31.

Passed by the House of Representatives at Sitting No. 552 of 17th July, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives