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SOUTH AFRICAN POLICE SERVICE
FREE STATE PROVINCE

**FREE STATE INITIATION SCHOOLS ACT NO. 1 OF 2004 AND REGULATIONS:
AS AMENDED BY THE FREE STATE INITIATION SCHOOLS AMENDMENT
REGULATIONS 2014**

1. Due to the fact that the Free State Initiation Schools Amendment Regulations, 2014, has come into operation, this office deemed it necessary to provide a summary of the Free State Initiation Schools Act no. 1 of 2004 and the Regulations, as amended by the Amendment Regulations, to assist members in the application of the Act and the new Regulations

2. DEFINITIONS:

The Act defines an "**Initiation School**" as a place where one or more initiates are initiated, also referred to as "Lebollo", "Bogowera" or "Bojale".

In terms of the Act, the "**parent**" of an initiate means either the parent or the person legally entitled to custody of an initiate or prospective initiate.

A "**traditional surgeon**" is a person trained and having experience in performing traditional circumcision and treatment of an initiate.

An “**initiate**” is a person who is in any stage of the initiation process as contemplated in the Act.

a “**medical practitioner**” is a person registered as such under the Health Professions Act no. 56 of 1974.

3. PERMISSION TO HOLD INITIATION SCHOOL OR TREAT INITIATES:

Section 2(1) of the Act determines that a person may not hold an Initiation School or treat an initiate without applying for and obtaining written permission from the District Medical Officer for the district in which the School is to be held or the initiate is to be treated.

Regulation 2(1) states that the application must be in the form as prescribed in Part A and the permission must be in the form prescribed in Part B, attached to the new Regulations.

The prescribed application procedure includes **approval by the Local Municipality** and the **Traditional Authority** where applicable, **consent by the parent** where the initiate is under 18 years old, **compliance to Medical and Environmental Health requirements**, and **proof of experience and expertise in holding of an Initiation School** (section 2(2)).

Regulation 5(3) determines that an application to hold an Initiation School must be submitted within (not earlier than) 21 (twenty one) days before the commencement of the Initiation School.

4. CONSENT BY PARENTS:

Section 3 of the Act states that the **parent of a prospective initiate below the age of 18 years**, must complete and **sign a consent form** prescribed in Annexure C to the Act. An initiate who is 18 years of age or older, must complete and sign a consent form which is prescribed in Annexure D to the Act.

Section 3(4) determines that a person, including the parent of an initiate, may not interfere with or obstruct the District Medical Officer in the performance of his or her duties under the Act.

5. PROVISIONS RELATING TO INITIATES:

Regulation 25(1) (as amended) determines that, subject to Regulation 25(3), the minimum age for an initiate to be accepted at an Initiation School is 16 years.

Regulation 25(3) is a new insertion, and reads as follows:

“(3) *The MEC may, in exceptional circumstances, give permission to allow an initiate below the age of 16 years to attend an initiation school:*

Provided that the parent of the initiate give written permission, a report by the traditional healer involved in the holding of the initiation school or in the circumcision of initiates at the initiation school and a recommendation by the principal of the school if a child is a school-going learner, is provided to motivate the attendance of such initiate.”

Note: if a child under the age of 16 years is found at an Initiation School, the required permission from the MEC must be provided.

In terms of **section 4(2)**, all initiates must have a **medical report of good health** dated not more than 30 days and completed on a prescribed form, from either a primary health care nurse or Medical Practitioner prior to admission to an initiation school.

Section 5(2) states that **only the traditional surgeon, medical practitioner, the District Medical Officer or another person authorised by the latter, may treat an initiate.** An initiate may not be treated by another initiate during or after the holding of an Initiation School (section 5(1)).

6. PERMISSION TO PERFORM CIRCUMCISION:

In terms of **section 6(1)** a traditional surgeon **may not perform a circumcision in the Province without written permission of the District Medical Officer** for the district in which the circumcision is to be performed.

Section 6(2) determines that a traditional surgeon must apply as prescribed for permission to perform circumcision and such **permission may only be given if the conditions set out in Annexure A to the Act are complied with.** Both the traditional surgeon and the District Medical Officer must sign the form prescribed in Annexure A which sets out the conditions for obtaining permission to perform circumcision.

A **traditional surgeon who has applied for permission** to perform circumcision must, **within one month after application, submit proof that he or she has complied with the conditions** referred to in Annexure A, failing which the application shall lapse.

The **period of validity** of permission granted in terms of the Act should be contained in the permission form. The period of initiation **may not exceed two calendar months** (section 4(4)).

7. TIMES WHEN INITIATION SCHOOLS MAY BE HELD:

In terms of **Regulation 6(3)**, (as amended) Initiation Schools **may only be held during winter school holidays or end of the year school holidays: Provided that, where only adult initiates will attend** an Initiation School, permission may be granted by the relevant District Initiation Health Committee to hold such Initiation School **during any time of the year.**

Note: in the past no exception was made for adult Initiation Schools. Such schools may now be held at any time, but the required permission must still be granted by the District Medical Officer (who chair the Initiation Health Committee).

8. REQUIREMENTS RELATING TO APPLICANTS:

Regulation 4 determines that **the person who applies to conduct an initiation school must be at least 45 years of age** or must be the biological parent of the initiate. He or she **must be a South African citizen** and must have **at least 3 (three) years' experience in performing circumcisions**.

Such applicant must also have the **support of five (5) graduated initiates and must submit a letter of confirmation from them that they support the application**.

The applicant must also **submit confirmation of consent by the initiate and the parent** of each initiate (Annexure C and D to the Act) and **must submit a report of good health in respect of each initiate** (Part D of the attachments to the Regulations).

Regulation 5(2), (as amended), determines that the **metropolitan or local municipality, or Traditional Authority or the land owner**, whatever is applicable, must provide **written approval** to the applicant to hold an Initiation School **in respect of the land in question**.

Note: this is only approval to use the land in question for the purpose of an Initiation School, it does not provide approval for the holding of the school. The latter approval must be obtained from the District Medical Officer, as explained above.

9. NUMBER OF INITIATES AT AN INITIATION SCHOOL:

Regulation 5(6), (as amended), states that **the number of initiates at an Initiation School must not exceed 25 (twenty five): Provided that the relevant District Initiation School Health Committee may approve up to 50 (fifty) initiates** to attend, if the Environmental Health Practitioner provides a report that the place where the Initiation School is intended to be held, is **suitable to accommodate** such higher number;

Note: before the amendment, there was no proviso which allowed for the attendance of more than 25 initiates at an Initiation School. The authorisation (permit) for the Initiation School, issued by the Committee, must indicate the number of initiates allowed to attend.

10. POWERS AND FUNCTIONS OF DISTRICT MEDICAL OFFICERS:

Section 8 provides that the **District Medical Officer** must, in addition to the other powers under this Act, exercise and **perform the following functions:**

- **issue permission** to circumcise or treat an initiate;
- **keep records and statistics** pertaining to circumcision and report thereon to the Department of Health;
- **refer an initiate to a health institution if deemed necessary;** and
- **order the closure of an Initiation School where such school does not comply** with the provisions of this Act.

Regulation 26 (as amended) must be read with section 8 of the Act. This Regulation determines that the District Medical Officer may order **closure of an Initiation School that is operating in contravention of the provisions of the Act or these Regulations or without permission** from the metropolitan or local municipality, or the Department, or the local initiation school health committee, or the Traditional Authority (where applicable) in the area.

The Act and Regulations therefore, **authorises the District Medical Officer to close an Initiation School when it is held in contravention of any provision of the Act or Regulations, for instance exceeding the number of initiates, etc., and not only when it is held without the required permission.**

The District Medical Officer also has the right of access to any premises or to attend any occasion or instance, where circumcision is performed or an initiate is treated (section 8(2)).

11. ENVIRONMENTAL HEALTH OFFICERS:

The MEC must designate an **Environmental Health Officer per district as an inspector for Initiation Schools**. The Environmental Health officer must inspect Initiation Schools in regard to adequate clean water, ablution facilities, hygienic food preparation and the availability of adequate shelter at an Initiation School.

12. INITIATION SCHOOL HEALTH COMMITTEES:

The Act regulates the establishment and composition of Provincial-, District- and Local Initiation School Health Committees.

Local Initiation School Health Committees handle matters relating to the operation of initiation school and make recommendations to District Initiation School Health Committees in respect of the conditions for permitting the holding of Initiation Schools.

The **application forms** and other relevant forms prescribed in the Act and Regulations, are **obtained from the Local Committees** (at municipal offices).

District Initiation School Health Committees give the final approval to an applicant to hold an Initiation School, and determines the final conditions for in respect of such schools.

The District- and Local Committees are chaired by the relevant Health Councillor, provided that, where the Health Councillor is not able to serve on the Committee, the District Health Manager or District Medical Officer or Local Area Health Manager, respectively, shall chair the Committee.

On each of the Committees at local and district level, a representative of the SAPS must also be part thereof. Police officials have been identified at stations to coordinate matters relating to Initiation Schools and to be part of the Committees.

13. OFFENCES AND PENALTIES:

The Act and Regulations make provision for the following offences:

- **Operating an Initiation School without written permission** in terms of section 2(1) is an offence in terms of section 11(1) of the Act;
- **Interfering with or obstructing the District Medical Officer in the performance of his duties** is an offence in terms of section 3(4) read with section 11(1) of the Act;
- **Treating of an initiate by a person other than the traditional surgeon or a medical practitioner or District Medical Officer** in contravention of section 5, is an offence in terms of section 11(1) of the Act;

Note: the penalty for the above 3 offences is a fine or maximum 6 months imprisonment.

- **Performing a circumcision by a traditional surgeon without the written permission** of the District Medical Officer, in contravention of section 6(1), is an offence in terms of section 11(2) of the Act;

Note: the penalty for this offence is a fine or imprisonment for a maximum of 10 years.

- **Failure to comply with Regulation 4(1)(a) to (f)** (requirements for Applicant, explained above) is an offence in terms of the newly inserted Regulation 27(a);
- **Admission of more initiates than provided for in Regulation 5(6)** is an offence in terms of Regulation 27(b);
- **Accepting an initiate under the age of 16 years** at an Initiation School, in contravention of Regulation 25(2), is an offence in terms of Regulation 27(c);

Note: the penalty for the above offences in terms of Regulation 27, is a fine or imprisonment for a maximum of 2 years.

14.ROLE OF THE SAPS IN ENFORCING COMPLIANCE AT INITIATION SCHOOLS:

When members are visiting Initiation Schools, the **required permission by the Committee / District Medical Officer to hold the school as well as the permission to perform circumcision must be requested** from the person in control of the Initiation School. If the permission cannot be produced, a charge must be registered in terms of the relevant section of the Act, mentioned in par. 13 above.

It is recommended that members who experience problems in determining whether an Initiation School is held in compliance with the Act, or whether the prescribed permissions, authorities, etc. have been obtained, should contact the District Medical Officer to assist in the investigation.

When it has **been determined that an Initiation School is not held in accordance with the Act**, including practices that occur on such premises, members **must report the matter to the District Medical Officer with a view of closing such Initiation School**. Police members are not authorised to close Initiation Schools. The investigation into the matter must continue, irrespective of whether the District Medical Officer has closed the Initiation School in question already.

The **relevant charges must be registered in terms of contraventions under the Regulations**, for instance, allowing more initiates than the permitted number, allowing initiates under the age of 16 and non-compliance with Regulation 4 (not having the required medical report in respect of each initiate or the consent of parents, etc.).

15.The contents of this letter is for the information of all members under your command.

BRIGADIER
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