

INVITATION FOR PUBLIC COMMENTS

DRAFT DETERMINATION OF PERSONS OR CATEGORY OR CLASS OF PERSONS WHO ARE COMPETENT TO BE APPOINTED AS INTERMEDIARIES AND A DRAFT CERTIFICATE OF COMPETENCY TO BE APPOINTED AS AN INTERMEDIARY: CRIMINAL AND RELATED MATTERS AMENDMENT ACT, 2021

1. The Department of Justice and Constitutional Development invites interested parties to submit written comments on the attached draft determinations and certificate:
 - (a) Determination of persons or category or class of persons who are competent to be appointed as intermediaries: Criminal Procedure Act, 1977;
 - (b) determination of persons or category or class of persons who are competent to be appointed as intermediaries: Superior Courts Act, 2013, Magistrates' Courts Act, 1944; and
 - (c) certificate of competency to be appointed as an intermediary.

2. The comments on the draft determinations and certificate must be submitted to Ms V Letswalo, on or before **Friday 13 May 2022**. The contact details are:
 - (a) Postal address:
The Director-General: Justice and Constitutional Development
Private Bag X81
Pretoria
0001;
 - (b) address for hand delivery:
SALU Building, Room 23.23
316 Thabo Sehume Street
Pretoria;
 - (c) e-mail address:
Vletswalo@justice.gov.za
 - (d) fax number:
012 406 4632.

4. Further information can be obtained from Ms V Letswalo at **0712652913**

DETERMINATION OF PERSONS OR CATEGORY OR CLASS OF PERSONS WHO ARE COMPETENT TO BE APPOINTED AS INTERMEDIARIES: CRIMINAL PROCEDURE ACT, 1977

I, Ronald Ozzy Lamola, Minister of Justice and Correctional Services, under the powers vested in me by section 170A(4)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), hereby:

1. Determine the following categories or classes of persons to be competent to be appointed as intermediaries:
 - (a) Medical practitioners who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974), against whose names the speciality of paediatrics or psychiatry is registered.
 - (b) General practitioners and family physicians who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974), and who have at least two years' experience as medical practitioners.
 - (c) Occupational therapists, speech therapists, audiologists, physiotherapists and art therapists who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974).
 - (d) Clinical, counselling or educational psychologists who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974).
 - (e) Professional nurses who are registered in terms of section 31 of the Nursing Act, 2005 (Act No. 33 of 2005), who have worked for at least two years in a psychiatric or a paediatric ward in a hospital, including former or retired professional nurses whose names have not been removed from the register in terms of section 44(1) of the Nursing Act, 2005.
 - (f) Family counsellors who are appointed under section 3(1) of the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987), and who fall under any of the categories or classes of persons referred to in this section.

- (g) Social workers who are registered in terms of section 17 of the Social Service Professions Act, 1978 (Act No. 110 of 1978), and who have at least two years' experience in social work.
- (h) Educators as defined in section (1) of the South African Schools Act, 1996 (Act No. 84 of 1996), who—
 - (i) have obtained a minimum post Matriculation teacher's education qualification of three years at a recognised tertiary educational institution;
 - (ii) have at least three years' experience in teaching; and
 - (iii) are registered in terms of section 21 of the South African Council for Educators Act, 2000 (Act No. 31 of 2000),and include former or retired educators, who comply with subparagraphs (i) and (ii), and whose names have not been removed from the register in terms of section 23(1) of the South African Council for Educators Act, 2000.
- (i) Early childhood development practitioners, who—
 - (i) have obtained an education qualification referred to in paragraph (h), or a post Matriculation education qualification in early childhood development, accredited by the South African Qualifications Authority;
 - (ii) have at least three years' experience in early childhood development; and
 - (iii) are employed by an early childhood development centre which is registered with the Department of Social Development.
- (j) Child and youth care workers who—
 - (i) have obtained a minimum post-matriculation education qualification of three years at a recognised tertiary educational institution in child and youth care;
 - (ii) have at least three years' experience in child or youth care; and

- (iii) are registered in terms of section 18A of the Social Service Professions Act, 1978 (Act No. 110 of 1978).
 - (k) Community trauma counsellors who—
 - (i) are employed by a Non-Governmental Organisation;
 - (ii) have received at least two weeks training in trauma counselling;
and
 - (iii) have at least five years' experience in trauma counselling.
2. Determine that a person who fall under any of the categories or classes of persons referred to in section 1, and whose name appear in the register contemplated by section—
- (a) 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
 - (b) 31 of the Older Person Act, 2006 (Act No. 13 of 2006); or
 - (c) 111, read with section 119, of the Children's Act, 2005 (Act No. 38 of 2005),
- is not competent to be appointed as an intermediary.
3. Determine 30 June 2022 as the date on which this determination shall come into operation.
4. Repeal Government Notice R663 of 14 July 2017, with effect from 30 June 2022.

RO LAMOLA

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

DETERMINATION OF PERSONS OR CATEGORY OR CLASS OF PERSONS WHO ARE COMPETENT TO BE APPOINTED AS INTERMEDIARIES: SUPERIOR COURTS ACT, 2013, MAGISTRATES' COURTS ACT, 1944

I, Ronald Ozzy Lamola, Minister of Justice and Correctional Services, under the powers vested in me by section 37A(4)(a) of the Superior Courts Act, 2013 (Act No. 10 of 2013) and section 51A(4)(a) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), hereby:

1. Determine the following categories or classes of persons to be competent to be appointed as intermediaries:
 - (a) Medical practitioners who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974), against whose names the speciality of paediatrics or psychiatry is registered.
 - (b) General practitioners and family physicians who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974), and who have at least two years' experience as medical practitioners.
 - (c) Occupational therapists, speech therapists, audiologists, physiotherapists and art therapists who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974).
 - (d) Clinical, counselling or educational psychologists who are registered in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974).
 - (e) Professional nurses who are registered in terms of section 31 of the Nursing Act, 2005 (Act No. 33 of 2005), who have worked for at least two years in a psychiatric or a paediatric ward in a hospital, including former or retired professional nurses whose names have not been removed from the register in terms of section 44(1) of the Nursing Act, 2005.
 - (f) Family counsellors who are appointed under section 3(1) of the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987), and

who fall under any of the categories or classes of persons referred to in this section.

- (g) Social workers who are registered in terms of section 17 of the Social Service Professions Act, 1978 (Act No. 110 of 1978), and who have at least two years' experience in social work.
- (h) Educators as defined in section (1) of the South African Schools Act, 1996 (Act No. 84 of 1996), who—
 - (i) have obtained a minimum post Matriculation teacher's education qualification of three years at a recognised tertiary educational institution;
 - (ii) have at least three years' experience in teaching; and
 - (iii) are registered in terms of section 21 of the South African Council for Educators Act, 2000 (Act No. 31 of 2000),

and include former or retired educators, who comply with subparagraphs (i) and (ii), and whose names have not been removed from the register in terms of section 23(1) of the South African Council for Educators Act, 2000.

- (i) Early childhood development practitioners, who—
 - (i) have obtained an education qualification referred to in paragraph (h), or a post Matriculation education qualification in early childhood development, accredited by the South African Qualifications Authority;
 - (ii) have at least three years' experience in early childhood development; and
 - (iii) are employed by an early childhood development centre which is registered with the Department of Social Development.
- (j) Child and youth care workers who—
 - (i) have obtained a minimum post-matriculation education qualification of three years at a recognised tertiary educational institution in child and youth care;

- (ii) have at least three years' experience in child or youth care; and
 - (iii) are registered in terms of section 18A of the Social Service Professions Act, 1978 (Act No. 110 of 1978).
 - (k) Community trauma counsellors who—
 - (i) are employed by a Non-Governmental Organisation;
 - (ii) have received at least two weeks training in trauma counselling; and
 - (iii) have at least five years' experience in trauma counselling.
2. Determine that a person who fall under any of the categories or classes of persons referred to in section 1, and whose name appear in the register contemplated by section—
- (a) 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
 - (b) 31 of the Older Person Act, 2006 (Act No. 13 of 2006); or
 - (c) 111, read with section 119, of the Children's Act, 2005 (Act No. 38 of 2005),
- is not competent to be appointed as an intermediary.
3. Determine 30 June 2022 as the date on which this determination shall come into operation.

RO LAMOLA

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

**CERTIFICATE OF COMPETENCY TO APPEAR AS AN INTERMEDIARY
IN THE *MAGISTRATES COURT /SUPERIOR COURT**

I,

Surname	
Full names	
Judicial Rank	

In my capacity as**—

Chief Justice

President of the Supreme Court of Appeal

Judge President of theDivision of the High Court

Senior Judicial Officer of theCourt,

hereby issue this certificate of competency to appear as an intermediary to:

Surname	
Full names	
Business address	
Business telephone number	
Cellular number	
Facsimile number	
e-mail address	
Occupation	
Qualifications	
Years of experience	
Professional body registered with	
Professional registration number	

His/her professional registration is valid until the of 20.....

*He/she is competent to appear as an intermediary in respect of**—

witnesses under the biological age of 18

witnesses under the mental age of 18

older person

witnesses who suffer from a physical condition

witnesses who suffer from a mental condition

witnesses who suffer from a psychological condition

witnesses who suffer from an emotional condition

*He/she is competent to appear as an intermediary in respect of witnesses that speak the following language(s)

This certificate is issued in terms of section**—

- 37B(3) of the Superior Courts Act, 2013 (Act No. 10 of 2013)
- 170A(13) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)
- 51B(3) of the Magistrates' Court Act, 1944 (Act No.32 of 1944),

after the enquiry contemplated by section**—

- 37B(2) of the Superior Courts Act, 2013 (Act No. 10 of 2013)
- 170A(12) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)
- 51B(2) of the Magistrates Court Act, 1944 (Act No.32 of 1944),

was held.

*He/she * has taken the oath/made the affirmation prescribed by section**—

- 37B(1) of the Superior Courts Act, 2013 (Act No. 10 of 2013)
- 170A(11) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)
- 51B(1) of the Magistrates Court Act, 1944 (Act No.32 of 1944),

which is attached hereto.

Signed at _____ on this _____ day of _____ 20_____.

Signature _____

**Delete whichever is not applicable*

***Indicate with an "X" in the appropriate block(s) whichever is applicable*

