

# **EMBARGO: FOR IMMEDIATE RELEASE**

## **DISCUSSION PAPER 155**

### **MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION**

#### **PROJECT 100D: RELOCATION OF FAMILIES WITH REFERENCE TO MINOR CHILDREN**

The South African Law Reform Commission (SALRC) hereby releases its Discussion Paper: Relocation of Families with Reference to Minor Children for public comments and general information.

The Discussion Paper sets out the SALRC's preliminary proposals for law reform regarding the process of relocation where a minor child is involved. The Discussion Paper also contains a proposed draft Children's Amendment Bill ("the Proposed Bill") marked as Annexure "A".

Relocation disputes often arise where the parent with whom the child resides wishes to move to another country, and the parent with whom the child does not reside refuses consent for the removal of the child from the Republic in terms of section 18(3)(c)(iii) of the Children's Act, 2005 (Act No. 38 of 2005). The relocating parent may decide to approach the court to obtain an order to relocate with the child despite the refusal of consent of the non-relocating parent and the non-relocating parent may also approach the court for an order prohibiting the relocation.

The three approaches that have been identified as having been commonly adopted by courts in settling relocation disputes are – (a) Pro-relocation approach, (b) Neutral approach and (c) Anti-relocation approach. These approaches are however not watertight compartments and their application is somewhat fluid. To bring certainty into this area of the law, the SALRC proposes legislative measures in the Proposed Bill which are aimed at guiding parties when relocating with a minor child in South Africa or abroad.

Workshops to consider the Discussion Paper are planned to take place on **17, 18 and 19 January 2022**. The Discussion paper is available on the SALRC website at

<http://salawreform.justice.gov.za>. Hard copies of the discussion paper are available on request from the SALRC at 012 622 6309.

The closing date for comments on this discussion paper is **31 January 2022**. Comments and submissions should be addressed to:

The Secretary

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