

**THE IMPLEMENTATION GUIDELINES OF THE REGISTER
ON ADOPTABLE CHILDREN AND PROSPECTIVE ADOPTIVE
PARENTS (RACAP)**

Directorate: Adoptions & ISS

National Department of Social Development

TABLE OF CONTENTS

1. Introduction.....	1
2. Situation Analysis	1
3. Challenges.....	2
4. Rationale of the RACAP Guidelines	2
5. Vision.....	2
6. Mission.....	2
7. Objectives.....	3
8. Legislative Framework.....	3
9. Principles.....	4
10. The RACAP Users	5
11. Roles and Responsibilities of the RACAP users	6
12. Adoptable Children Who may be registered on RACAP.....	8
13. Prospective Adoptive Parents Who may be registered on RACAP.....	9
14. Procedure.....	9
15. Cross-cultural Adoptions.....	11
16. Turn Around Time.....	12
17. Termination of registration of adoptable children on RACAP	12
18. Renewal of Registration of Prospective Adoptive Parents on RACAP	12
19. Termination of Registration of Prospective Adoptive Parents on RACAP	13

1. INTRODUCTION

Section 232 of the Children's Act (38 of 2005) (hereafter referred to as the Children's Act) requires the Director-General to keep and maintain a register called the register on Adoptable Children and Prospective Adoptive Parents (RACAP) for the purpose of keeping a record of adoptable children and a record of fit and proper adoptive parents. The register will assist to facilitate the matching of available prospective adoptive parents and adoptable children in South Africa. These guidelines are intended to provide guidance to adoption service providers regarding the implementation of the RACAP.

2. SITUATION ANALYSIS

- South Africa has an inter-country adoption programme which started in the year 2000. The programme facilitates the adoption of South African children by foreign citizens and an average number of 200 children are adopted to foreign countries each year.
- International instruments like the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which South Africa is a signatory, emphasizes the need for adherence to the subsidiarity principle before inter-country adoption is considered i.e. all avenues to place the child within the country must be explored before inter-country adoption is considered.
- The RACAP came into effect in April 2010 as a tool to be used to facilitate the adherence to the subsidiarity principle. Currently the national Department of Social Development uses a manual system to register adoptable children and prospective adoptive parents. The manual system was developed to be used as a temporary measure while waiting for an electronic web based system to be operationalized. The Directorate: Information Technology has developed the electronic RACAP system and the Gauteng based adoption service

providers have been trained on how to use the system. The system will be piloted with the Gauteng adoption service providers once the Directorate: information Technology finalise to install security features on the system. The average number of 500 adoptable children and 200 prospective adoptive parents are registered on the RACAP per annum.

3. CHALLENGES

- No clear statistics are available regarding the number of adoptable children and prospective adoptive parents in South Africa
- No clear communication, coordination of the roles and responsibilities of RACAP users for effective matching of adoptable children with prospective adoptive parents in South Africa
- Cost implications for matching children with prospective adoptive parents residing in different provinces or areas
- Alignment of adoption service providers priorities to DSD goals and priorities in terms of child care and protection
- Management of competition among service providers
- Lack of monitoring and evaluation mechanisms
- Lack of DSD structure in provinces to render adoption services
- Lack of adoption service providers in certain regions/provinces
- Lack of dedicated officials for the implementation of the register at the National DSD

4. RATIONALE OF THE RACAP GUIDELINES

The rationales of the RACAP Guidelines are as follows:

- To ensure the keeping of a record of adoptable children and prospective adoptive parents
- To ensure effective implementation of the RACAP

- To facilitate the matching of adoptable children with prospective adoptive parents in South Africa

5. VISION

A well-functioning Register on Adoptable Children and Prospective Adoptive Parents (RACAP) that plays an important role in facilitating the finding of prospective adoptive parents to adopt children in South Africa.

6. MISSION

To promote adoption services so that more South Africans consider adopting children in the Republic.

7. OBJECTIVES

The objectives of the RACAP Guidelines are as follows:

- To provide guidance to adoption service providers on the implementation of the RACAP by clarifying roles and responsibilities
- To prevent a fragmented approach to the RACAP implementation by providing training and continuous support
- To ensure the subsidiarity principle before inter-country adoption is considered by ensuring the registration and matching of adoptable children and prospective adoptive parents on RACAP
- To encourage good partnerships, good practice and clear role divisions throughout the process

8. LEGISLATIVE FRAMEWORK

The following national (South African) legislation and international instruments are relevant to the RACAP:

National legislation

- The Constitution of the Republic of South Africa Act, 1996
- Children's Act, 2005 (Act No. 38 of 2005)
- Social Services Professions Act, 1978 (Act 110 of 1978)
- Birth and Death Registration Act, 1997 (Act 67 of 1997)

International Instruments

- The Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption
- United Nations Convention on the Rights of the Child
- African Charter on the Rights and Welfare of the Child

9. PRINCIPLES

The following principles were used as the basis for these guidelines:

- **Best interests of the child** - should be a paramount factor to guide all decisions regarding the care and adoption of any child. Adoption service providers must adopt the child centered approach to adoption services.
- **Subsidiarity** – possibilities for placement of the child within the Republic should be explored before inter-country adoption is considered.
- **Non-discrimination** – no party to an adoption (child, prospective adoptive parent or biological parent) may unfairly be discriminated against on the basis of race, gender, disability, medical condition, financial status etc.

- **Confidentiality** – adoption information must always be protected from unauthorized people and be treated confidentially, and services must respect the privacy and dignity of persons involved.
- **Transparency** – Adoption service providers must be honest and transparent with regard to the adoption procedures and the availability of adoptable children and prospective adoptive parents for matching purposes. Reservation of adoptable children and prospective adoptive parents is discouraged.
- **Cultural sensitivity** – adoption service providers should consider and respect the preservation of cultural identity (language, religion etc.) of the child when considering an adoption (refer to article 8 of the Convention on the Rights of the Child).
- **Child participation** – adoptable children of an age, maturity and stage of development to understand the implications of adoption must be given the opportunity to participate in deciding their adoption and they should be allowed to raise their concerns regarding the matter.
- **Co-operation** – adoption service providers should network and co-operate with each other to facilitate the matching of adoptable children and prospective adoptive parents on RACAP.

10. THE RACAP USERS

- **Adoption service providers**

Adoption services providers in this context includes social workers employed by various Provincial Departments of Social Development, Social Workers employed by Child Protection Organisations and Social Workers in Private Practice.

- **Provincial Departments of Social Development**

The provincial head of social development or an official of a provincial department of social development designated by the head of that department to issue adoption recommendation letters in terms of Section 239(1)(d) will utilise the RACAP.

- **National Department of Social Development**

The designated officials in the Directorate: Adoptions & ISS of the National Department of Social Development will be responsible for both management and administrative functions of the register.

11. ROLES AND RESPONSIBILITIES OF THE RACAP USERS

Adoption Service Providers

The roles and responsibilities of adoption service providers with regard to the implementation of the RACAP are as follows:

- to capture screened, unmatched adoptable children and prospective adoptive parent on RACAP
- to provide required information and attach supporting documents in respect of person/s registered
- to match adoptable children and prospective adoptive parents on RACAP
- to update the status of clients on RACAP through admin clerks at the national office
- to access the list of prospective adoptive parents that match a specific adoptable children on RACAP
- to access the list of adoptable children that match the requirements of a specific prospective adoptive parent/s on RACAP. The requirements of prospective

adoptive parents normally includes the race, age and gender of the preferred child

- to assist in renewing the registration of prospective adoptive parents when a period of 3 years is due to lapse
- to use and treat RACAP information responsibly and with strict confidentiality

Provincial Departments of Social Development

Section 239(1)(d) of the Children's Act 38 of 2005 provides for the Provincial Head of Social Development to issue a letter of recommendation for adoption of a child. The RACAP should be utilised to ascertain if there are no prospective adoptive parents in South Africa who can be matched with a child before a recommendation letter for inter-country adoption is granted. This applies to unmatched children and does not apply to related adoptions. The availability of a child for inter-country adoption after the 60 days of registration on RACAP is not automatically granted. Both the Provincial Head of Social development and the South African Central Authority (SACA) must be satisfied, before granting approval, that efforts were made to find alternative placement within the Republic and there are no prospective adoptive parents who can be matched with the child.

National Department of Social Development

The roles and responsibilities of the national Department of Social Development includes the following:

- the verification of data captured by adoption service providers
- the approval of data captured by adoption service providers
- register the adoptable children and the prospective adoptive parents on RACAP when satisfied that they meet the requirements as outlined in the following

- sections on “Adoptable children who may be registered on RACAP” and “Prospective adoptive parents who may be registered on RACAP”
- issuing registration confirmation letters to adoption service providers
 - updating the register upon receipt of written notice from the adoption service provider
 - sending out lists of possible matching adoptable children and prospective adoptive parents to adoption service providers (that is to assist with matching) when necessary
 - notifying adoption service providers to assist in renewing the registration of prospective adoptive parent/s at least three months before the lapsing of the registration period
 - monitor the implementation of the register

12. ADOPTABLE CHILDREN WHO MAY BE REGISTERED ON RACAP

- Any child who is adoptable in terms of section 230(3) of the Children’s Act may be registered on RACAP except where the child has a guardian or caregiver who is willing to adopt the child (refer to section 230(3)(a) of the Children’s Act), e.g. a child who is to be adopted by a stepparent, foster parent, other known relative or a child who is matched.
- A child whose parent has consented for the adoption of the child may only be registered on RACAP after a period of 60 has lapsed since the signing of the consent. A person who signed consent for adoption has the right to withdraw the consent if he/she changes his/her mind within a period of 60 days. The consent becomes final after this period has lapsed and the child may then be considered available for adoption (refer to Section 233(8) of the Children’s Act).
- An abandoned child may be registered after a period of three months has lapsed since the publication of an advertisement, and no person has claimed responsibility for the child except when this is not in the best interest of the child (refer to section 157(3) and Regulation 56(2)(ii) of the Children’s Act). It

is the responsibility of the presiding officer to make a determination if it is not in the best interests of the child to place an advertisement (Regulation 56(2) of the Children's Act).

- Adoptable children who have guardian or caregiver who is willing to adopt the child or in cases where a suitable adoptive parent in South Africa could be matched with a specific child, do not need to be placed on RACAP

13. PROSPECTIVE ADOPTIVE PARENTS WHO MAY BE REGISTERED ON RACAP

A person may be registered on RACAP as a prospective adoptive parent if he/she complies with Section 231 of the Children's Act.

The prospective adoptive parent must be:

- Fit and proper to be entrusted with full parental responsibilities and rights;
- Willing and able to undertake, exercise and maintain those responsibilities and rights;
- Over the age of 18 years;
- Properly assessed and prepared by an adoption social worker; and
- A citizen or permanent resident of the Republic (in this case the applicant must provide a valid RSA identity document to prove his/her citizenship or permanent resident status)

A person who is unsuitable to work with children in terms of Section 120 of the Children's Act 38 of 2005 may not be registered on RACAP since he/she is not a fit and proper person to adopt a child. Enquiries relating to the unsuitability of persons to work with children or adopt children may be directed to the Child

Protection Directorate of the national Department of Social Development on telephone number 012 312 7500.

14. PROCEDURE

The Adoption Social Worker must determine the adoptability of the child in terms of Section 230 of the Children's Act. If the child is found to be adoptable and has no guardian or caregiver who is willing to adopt the child, the social worker must then register such a child on RACAP.

The prospective adoptive parents who are not matched with an adoptable child must be registered on RACAP for matching purposes. The Adoption Social Worker must determine the suitability of prospective adoptive parent to adopt a child in terms of Section 231 of the Children's Act. If the screened person is found to be fit and proper to adopt a child, his/her details must be registered on RACAP as a prospective adoptive parent.

Matching: Adoption Social Workers are required to use RACAP to find suitable adoptive parents for adoptable children and to find adoptable children to be placed with specific prospective adoptive parent/s.

After registering a child on RACAP the social worker must search for a prospective adoptive parent that matches the child. The register will be able to select and provide a list of all prospective adoptive parents that matches a specific child on RACAP. From the list that is provided by the system, the social worker must make a determination of a prospective adoptive parent that matches the child. The matching of the child with the identified prospective adoptive parent/s must be discussed with the social worker who registered the prospective adoptive parent/s. If the social workers are satisfied about the identified match they must then inform the prospective adoptive parent/s about the child and proceed with the adoption if the prospective adoptive parent is also satisfied.

The adoption social worker is required to assist prospective adoptive parent/s registered on RACAP to find adoptable child that meet their requirements. After registering prospective adoptive parent/s on RACAP the adoption social worker must use the system to search for children that fit the criteria specified by prospective adoptive parent/s. The register will be able to provide a list of adoptable children who meet the specified criteria/requirements e.g. a list of children of specific race, gender and age as preferred by the prospective adoptive parents. The social worker will be required to determine, from the list, a child who can be matched with the specified prospective adoptive parent/s. The Social Worker must communicate the identified match to the social worker who registered the child and if the prospective adoptive parent/s are satisfied the adoption process may proceed. It is encouraged that adoption social workers make use of written communication like email among themselves so that they can be able to provide evidence when required to prove that they made efforts to find placement for the child within the country.

15. CROSS-CULTURAL ADOPTIONS

Section 240(1)(a) of the Children's Act emphasises the need to recognize the role of culture when considering the adoption of a child. Culture, and cultural identity is highly valued in the majority of African societies, including South Africa, and therefore it is important to protect the identity rights of African children. Cultural aspects include language, religion, social habits and etc. However, it should be noted that culture cannot, and should not, be used to deny children their right to grow up in a family environment, when that family can only be found from prospective adoptive parent/s of different culture.

An adoptable child must be placed on RACAP and the adoption social worker must use the register to search for prospective adoptive parents sharing the same culture with the child. If such parent/s cannot be found within a period of 30

days after registering the child on RACAP, prospective adoptive parents of different culture from the child may be considered. The same principle applies to inter-racial adoptions i.e. a child must be placed on RACAP and if a prospective adoptive parent of the same race is not found within a period of 30 days after registration then prospective adoptive parents of different race may be considered for the child. However, it is fair to note that cultural considerations may not be applicable in all situations, like in cases of abandoned babies where the child's cultural background is unknown and the child is still a baby who does not speak any language. In cases of cross-cultural adoptions it is important that the adoption social workers keep records of the efforts they made to try to find the prospective adoptive parents of the same culture with the child as these records may be required by the Provincial Head of Social Development before issuing a letter recommending the adoption in terms of Section 239(10(d) of the Children's Act 38 of 2005.

16. TURN AROUND TIME

Applications should be registered within a period of seven (7) working days after receipt

Acknowledgement letter with reference number should be sent to the adoption social worker within seven working days after registration

17. TERMINATION OF REGISTRATION OF ADOPTABLE CHILDREN ON RACAP

The registration of a child on RACAP ceases or may be terminated under the following circumstances:

- On death of the child
- If the child is adopted

- If the child is no longer adoptable for example when the child's parents are found and the child is placed with them, when the child reaches the age of 18 years and etc.

18. RENEWAL OF REGISTRATION OF PROSPECTIVE ADOPTIVE PARENTS ON RACAP

Registration of a person as prospective adoptive parent is valid for a period of three years and may be renewed as prescribed.

19. TERMINATION OF REGISTRATION OF PROSPECTIVE ADOPTIVE PARENTS ON RACAP

Registration of a person as a prospective adoptive parent on RACAP ceases on the following conditions as outlined in Section 232(5)(c):

- On written notice of withdrawal being given to the Director-General (DG);
- On death of registered person;
- On cancellation by the DG if the registered person is no longer a fit and proper person to be entrusted with full parental responsibilities and rights in respect of a child; and no longer willing and able to undertake, exercise and maintain those responsibilities and rights.
- If the registered person is no longer a citizen or permanent resident of the Republic
- If a child contemplated in section 150 is removed from the care of that registered person
- If the registered person is convicted of an offence involving violence
- If the registered person has adopted a child and no longer available to adopt a child.
- If the registered person is found to be registered on the Child Protection Register

THE END
THANK YOU