

LEGAL NOTICE NO.

THE CHILDREN ACT (No. 29 of 2022)

THE CHILDREN (FOSTER CARE PLACEMENT) REGULATIONS, 2024

ARRANGEMENT OF REGULATIONS

- 1 Citation
- 2 Interpretation.
- 3 Guiding Principles

PART II - PRE-REQUISITES FOR FOSTER CARE PLACEMENT

- 4 Restriction of foster care.
- 5 Eligibility to undertake foster care arrangements.
- 6 Children eligible to be fostered.

PART III -REGISTRATION OF FOSTER PARENT

- 7 Registration as a foster parent.
- 8 Assessment of application.
- 9 Validity of registration certificate.
- 10 Renewal of registration.
- 11 Suspension and revocation of certificate.
- 12 Replacement of lost destroyed or defaced certificate.

PART IV – PLACEMENT IN FOSTER CARE

- 13 Conditions for Placement.
- 14 Assessment of children for foster care placement.
- 15 Temporal placement in an emergency placement with a foster parent
- 16 Agreement for maintenance of foster child
- 17 Supervision of foster parent.
- 18 Temporary approval of friend or other person connected with the child.
- 19 Secretary may extend temporary foster care placement where need arises.

20 - Termination of foster care placement.

PART V - GENERAL DUTIES IN RESPECT OF FOSTER CARE

- 21 Duty to safeguard the rights of a child.
- 22 Duty to report and notify in certain cases.

PART VI- RECORDS OF FOSTER CARE PLACEMENT

- 23 Case records of children in foster care.
- 24 Register of foster care placements (charitable children institution).
- 25 Foster Care Register.

PART VI – MISCELLANEOUS PROVISIONS

- 26 Access.
- 27 Power to inspect foster homes.
- 28 Ongoing arrangements.
- 29 Repeal of the Foster Care Placement Rules, 2001.

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LEGAL NOTICE NO.

THE CHILDREN ACT (No. 29 of 2022)

IN EXERCISE of the powers conferred by section 181 of the Children Act, 2022, the Cabinet Secretary for Labour and Social Protection makes the following Regulations —

THE CHILDREN (FOSTER CARE PLACEMENT) REGULATIONS, 2024

PART I - PRELIMINARY

Citation. 1. These Regulations may be cited as the Children (Foster Care Placement) Regulations, 2024. Interpretation. 2. In these Regulations, unless the context otherwise requires – No. 29 of 2022. "Act" means the Children Act, 2020; "Uthorized officer" has the meaning assigned to it under section 2 of the Act; "applicant" means a person who applies for registration as a foster parent pursuant to section 174 (1) of the Act; "basic education" has the meaning assigned to it under section 2 of the Basic Education Act; "Cabinet Secretary" has the meaning assigned to it under section 2 of the Act; "child" has the meaning assigned to it under Article 260 of the Constitution:

"child in need of care and protection" has the meaning assigned to it under section 142 of the Act;

"Court" has the meaning assigned to it under section 2 of the Act;

"Secretary" has the meaning assigned to it under section 2 of the Act;

"foster care placement" has the meaning assigned to it under section 2 of the Act;

"foster family" means all the individuals living in a home other than the child placed in foster care in accordance with Part XII of the Act;

"foster parent" has the meaning assigned to it under section 2 of the Act;

"home" has the meaning assigned to it under section 2 of the Act; and

"Register" means the Foster Care Register maintained by the Secretary pursuant to section 177 (3) of the Act.

Guiding principles. **3.** The implementation of these Regulations shall be guided by the following principles –

- (a) ensuring that the best interests of the child are upheld;
- (b) promoting the placement of the child in their own socialcultural environment;

(c) achievement of the objectives of foster care placement set out under section 170 of the Act.

PART II — PRE-REQUISITES FOR FOSTER CARE PLACEMENT

4. (1) No person shall undertake foster care arrangements unless they are undertaken in accordance with the Act and these Regulations.

(2) A person who contravenes sub-regulation (1) shall be liable on conviction to the penalty provided under section 180 of the Act.

(3) Pursuant to section 171 of the Act, the foster care arrangements envisaged under sub-regulation (1) shall include care —

Restriction of foster care.

- (a) placement on a short-term basis for a period not exceeding three years;
- (b) placement for a period exceeding alternative care.

Eligibility to undertake foster care arrangements. **5.** A person shall not be entitled to undertake foster care arrangements unless the person meets the qualifications specified under section 174 of the Act.

Children eligible to be fostered.

6. Subject to section 171 and 172 of the Act, the following children are eligible to be placed under foster care—

- (a) a child in need of care and protection as provided under section 144 of the Act;
- (b) a child in situations of emergency;
- (c) a child who it has not been possible to facilitate their adoption;
- (d) a child whose adoption or other arrangements are pending and the prescribed timelines for the adoption or other arrangement has lapsed;
- (e) a child committed to a rehabilitation school or a charitable children's institution by reason of a care order;
- (f) with the leave of court, a child in respect of whom a care order has been made reason of being found guilty of a criminal offence.

PART III -REGISTRATION OF FOSTER PARENT

7. An application for registration as foster parent shall be made to the Secretary—

- (a) by an individual or jointly by spouses;
- (b) in Form No. FC1 set out in the Schedule;
- (c) accompanied by
 - (i) a passport-size photograph of the applicant or

Registration as a foster parent.

applicants as the case may be;

- (ii) a copy of the applicant's national identity card or identification pages of their passport;
- (iii) a report of the applicant's medical status issued by a registered medical practitioner not more than three months prior to the date of application;
- (iv) the names and contact information of at least two independent referees one of whom must be a chief or assistant chief of their current residence:

Provided that in the case of an individual applied who is married, an applicant's spouse shall not be a referee to their application;

- (v) a valid police clearance certificate of the applicant.
- (vi) where the applicant is married but applying as an individual, the consent of their spouse;
- (d) where the applicant is a foreign national resident in Kenya, accompanied by—
 - (i) a certificate of clearance from their country of origin;
 - (ii) a recommendation from a referee from Kenya and an equivalent from their country of origin;
 - (iii) proof of residency in Kenya for a period of not less than twelve months as required under section 174(5) of the Act.

Assessment of application. 8. (1) Upon Secretary shall un

8. (1) Upon receipt of the application under regulation 4, the Secretary shall undertake an assessment of the applicant's suitability to be a foster parent, and the suitability of the applicant's home to receive a child for foster care.

(2) On conducting the assessment under sub-regulation (1), the Secretary shall –

(a) interview the applicant and assess whether –

- (i) the applicant is a suitable person to foster a child; and
- (ii) the applicant has economic capability to support their family, exclusive of foster children;
- (b) satisfy themselves that the applicant exhibits
 - (i) someone of good standing and good interactions in the community;
 - (ii) knowledge of child development and the needs of children;
 - (iii) ability to administer discipline in a constructive and educational manner;
 - (iv) realistic expectations regarding the behaviour of foster children;
 - (v) sound judgment;
 - (vi) current freedom from substance abuse, and effective resolution of any past abuse of alcohol or other substances;
 - (vii) responsible care and planning for their children, including children who are not in the applicant's custody; and
 - (viii) stable emotional adjustments following any major changes in close interpersonal relationships or other life circumstances;
- (c) conduct a home visit and assess the applicant's home to confirm whether the home is likely to meet the requirements of a child, and that the conditions in it are satisfactory, taking account of the matters specified in subregulation (3);
- (d) verify the authenticity of the written references, if any, given by two persons who know the applicant well and

have vouched for his or her good character and suitability to care for a child;

- (e) assess the applicant's ability and capacity and competence relevant to their capacity to care for a child placed with them; and
- (f) carry out any other investigations that any other aspect the secretary may deem fit.

(3) Upon conclusion of the assessment under this regulation, the Secretary shall prepare a written report in Form No. FC2 set out in the Schedule.

(4) When determining an application under this regulation, the Secretary shall consider—

- (a) the safety and adequacy of the home for the care of the child;
- (b) the personal characteristics and social relationships of the foster parent and other members of their household;
- (c) the commitment to foster care, and the ability and willingness of the foster family to co-operate in support of the child;
- (d) the ability of the foster family to provide positive and constructive experiences to all children in their care; and
- (e) placement of a child in line with their social background and consideration of child's adjustment in the present home, school and community.

(5) Where an application under this regulation is approved, the Secretary shall –

- (a) in writing, notify the applicant of the approval and require the successful applicant to undergo mandatory foster care training; and
- (b) upon conclusion of the sensitization, place the applicant's name and address on the register of approved foster

parents; and

(c) issue certificate of registration as a foster parent in Form No. FC4 set out in the Schedule.

(6) Upon registration as a foster parent under this Part, the registered foster parent shall furnish an undertaking containing the particulars contained in Form No. FC3 set out in the Schedule.

(7) Where the registration is declined, the Secretary shall notify the applicant in writing of the decision in that regard, giving reasons therefor.

(8) A person aggrieved by a decision of the Secretary can seek redress from the Cabinet Secretary.

Validity of registration certificate.

9. (1) The certificate of registration issued shall remain in force for a period of three years from the date of issue.

(2) A certificate of registration shall not be transferable and shall be valid only in respect of the person or persons named on the certificate and the premises for which the certificate was issued.

Renewal of registration

10. (1) An application for renewal shall be made only by a registered foster parent:

Provided that where an application for the renewal of a certificate of registration is made prior to the expiry of the current certificate, the current certificate shall continue in force until a decision on the application for renewal is made.

(2) An application for renewal of registration shall be made and processed in the manner specified under regulation 8.

(3) When evaluating an application for renewal of registration the secretary shall re-assess the foster home to review compliance with these Regulations and evaluate how well the needs of children (if any) in the care of the foster parent have been met.

(4) The secretary shall not place a child in foster care with a foster parent whose certificate of registration has lapsed, or whose application for renewal is pending determination. 11. (1) The secretary may suspend a certificate of registration of a foster parent if a situation exists in the foster home which immediately imperils the health, safety, or well-being of a child in foster care.

(2) The Secretary may at any time revoke a certificate of registration if -

- (a) an unusual stressful situation exists in the foster home which affects the appropriate care of the foster child, and such situations include, but are not limited to, divorce, separation, death, unemployment, serious illness or injury, or an entry of a new member into the household; or
- (b) the foster parent or other member of the household
 - (i) is disqualified under the third schedule of the Act;
 - (ii) has current, unresolved problem with alcohol or other intoxicating substances; or
 - (iii) has abused or neglected a child.

(3) Where a certificate of registration has been suspended or revoked under this regulation, the Secretary shall —

- (a) notify the foster parent in writing specifying reasons for such suspension or revocation, as the case may be;
- (b) make such arrangements as may be necessary for the removal of any foster child residing in the concerned foster home; and
- (c) within two days of removal of the child-
 - (i) notify the parent or guardian of the child;
 - (ii) where the child has no known parent or guardian, treat the child as a child in need of care and protection.

Suspension and revocation of certificate.

Replacement of lost destroyed or defaced certificate. **12.** (1) A holder of a certificate issued under these Regulations may apply for a replacement of a lost destroyed or defaced certificate.

(2) An application for replacement of a certificate under subregulation (1) shall be made and processed in accordance with regulation 7 and 8.

PART IV – PLACEMENT IN FOSTER CARE

Conditions for Placement.

- 13. (1) The Secretary shall not place a child in foster care unless-
 - (a) the prospective foster parent is registered in accordance regulation 8;
 - (b) the home environment where the child is to be placed is suitable to receive a child for the purposes of providing foster care
 - (c) the Secretary has disclosed to the foster parent relevant information about the child;

(2) When placing a child in foster care, the Secretary shall –

- (a) arrange for the child to be accompanied during placement;
- (b) ensure that the foster parent receives, in writing at the time of the placement, information about the child's health and medical history necessary for the care of the child, including specification of any medical disorder, disability, special needs, allergies or limitations on activity.

14. Where the Secretary places a child in foster care otherwise than under an order of the Court, the Secretary shall ensure that –

- (a) a preliminary assessment is first made of the child setting out
 - (i) the immediate needs of the child including any urgent interventions

Assessment of children for foster care placement.

- (ii) where it can be determined in the circumstances, whether the child is likely to be returned home;
- (iii) the child's legal status, including whether the child has been abandoned or is otherwise in need of care and protection within the meaning of section 144 of the Act; and
- (iv) any other information that, in the opinion of the Secretary, is relevant to the immediate provision of foster care to the child; and
- (b) the immediate objectives of the provisions of foster care are determined, taking into account the developmental, emotional, social, medical and educational needs of the child.

15. (1) Where it is necessary to place a child in a situation of emergency, the Secretary may place the child under temporary foster care in line with section 173 (4) who is registered in accordance with these Regulations provided that the placement is for a period not exceeding three months.

(2) When the period referred to in sub-regulation (1) expires, the Secretary shall terminate the placement., unless the terms of the foster parent's registration have been revised to be consistent with the placement.

16. (1) Where a child is to be placed into the care of a foster parent, the foster parent shall, if the secretary so requires, enter into and execute a written agreement pursuant to section 178 of the Act for the maintenance of the child.

(2) The agreement referred to in sub-regulation (1) shall, in all respects, be legally binding on the parties thereto.

(3) The agreement for the maintenance of a foster child entered into under this regulation shall include -

- (a) the terms and conditions on which the foster parent was approved;
- (b) the express duties of the foster parent;

Temporal placement in an emergency placement with a foster parent.

Agreement for maintenance of foster child.

- (c) the duties of the parent or guardian of the child;
- (d) provisions for the allowance for the maintenance of the foster child, including
 - (i) the basis for determining the amount of payment to the foster parent;
 - (ii) the method and frequency of payment to the foster parent; and
 - (iii) the basis for determining the reimbursable expenditures incurred by the foster parent;
- (e) the circumstances on which the agreement may be reviewed or terminated; and
- (f) such other matters as the Secretary considers necessary.

Supervision of foster parent.

17. (1) The Secretary shall supervise and provide services to the foster parent approved under regulation 6 (1) and arrange for the support services required to give effect to the agreement for maintenance of a foster child as provided in section 178(1)

(2) The Secretary shall consult with the foster parent or, in the case of two foster parents, at least one of the foster parent(s), within thirty days and thereafter make a follow up plan.

(3) At least once every three months, the officer designated under sub-regulation (1) shall –

(a) visit the foster home in order to provide such support as may be required by the foster family; or

18. (1) The Secretary may approve a relative, friend or other person connected with a child, as a foster parent for a temporary period not exceeding three months if the Secretary is satisfied that -

(a) the most appropriate placement for the child is with the, friend or other person connected with the child, notwithstanding that they are not registered as foster parents; and

Temporary approval of friend or other person connected with the child. (b) it is necessary for the child to be placed with a person connected with the child before their suitability to be foster parents has been assessed in accordance with these Regulations.

(2) Before making a placement under sub-regulation (1), the Secretary shall –

- (a) assess the suitability of the friend or other person connected with the child to care for the child, including the suitability of –
 - (i) the proposed accommodation; and
 - (ii) other persons over the age of eighteen years, and who are members of the household in which it is proposed to place the child;
- (b) the proposed arrangements will safeguard and promote the child's welfare and meet the child's needs; and
- (c) make immediate arrangements for the assessment of the suitability of the friend or other person connected with the child, in accordance with these Regulations, to be foster parents before expiry of the temporary approval.

19. (1) The Secretary may extend the temporary approval of a friend or other person connected with a child if -

- (a) the temporary approval is likely to expire before completion of registration of such persons as foster parents; or
- (b) the friend or other person connected with a child, having undergone the full assessment process, is not approved for registration and seeks review of that decision.

(2) In a case contemplated in sub-regulation (1) (a), the Secretary may extend the temporary approval once for a further period not exceeding two months.

Secretary may extend temporary foster care placement where need arises.

(3) In a case contemplated in sub-regulation (1) (b), the Secretary may extend the temporary approval until the outcome of the review is notified.

(4) Before deciding whether to extend the temporary approval under this regulation, the Secretary shall -

- (a) consider whether placement with the relative, friend or other person connected with the child, is still the most appropriate placement available; and
- (b) be satisfied that extension of the temporary approval is in the best interest of the child.

(5) Where the period of temporary approval and of any extension of that period expires, and the relative, friend or other person connected with the child, has not been registered as a foster parent in accordance with these Regulations, the Secretary shall terminate the placement.

Termination of 20. (1) Before the Secretary, by direction in writing, terminates foster care placement of a child in accordance with section 179 of the Act, the Secretary shall -

- consider the views of the foster parent; and (a)
- where the child is above the age of ten years, the views of (b) the child.

(2) On termination of the foster care placement as contemplated in sub-regulation (1), the secretary shall give written notification to –

- the foster parent; (a)
- (b) where the child is above ten years of age, the child; and
- (c) all the persons to whom notification of the placement was given.

(3) In case the placement is by virtue of the court, the secretary who has the supervision powers shall move the court for revocation of the foster care placement.

foster care placement.

PART V – GENERAL DUTIES IN RESPECT OF FOSTER CARE

Duty to safeguard the rights of a child.

21. (1) in line with section 173 (7) of the Act the foster parent shall have the duty to care have the same responsibilities in maintenance of the child as if such foster parent were the parent or guardian of the child.

Duty to report and notify in certain cases.

22. (1) Where a child placed in foster care dies, the foster parent shall, within twenty-four hours of such death, notify the Secretary in writing, briefly explaining the cause (if known) or the circumstances of the death.

(2) Where the parent or guardian of the foster child are known, the Secretary shall, within twenty-four hours of the notification g under sub-regulation (1) inform the parent or guardian.

PART VI- RECORDS OF FOSTER CARE PLACEMENT

Case records of 23. The Secretary shall keep and maintain a case record for each child placed or to be placed in foster care, which shall include –

- (a) full name of the foster child, sex and date of birth, residence, count and sub- county;
- the name, address and telephone number and residence of (b) the person by whom the child is given for foster care placement;
- (c) the reason for the child's placement in foster care;
- (d) any personal, family and social history or assessment that has been prepared or provided regarding the child;
- (e) a cumulative record of reports of medical, dental examinations and treatment given to the child;
- (f) where available, any legal document relating to the child, including a provisional child care order or wardship order given under section 135(1) of the Act;
- (g) where applicable, the child's school records and reports; and



(h) any other information that the Secretary considers appropriate.

24. (1) Pursuant to section 177(2) of the Act, every charitable children institution undertaking foster care placement shall maintain a register of all foster care placement undertaken in conjunction with the Secretary.

(2) The register maintained under sub-regulation (1) shall contain the following particulars with respect to each child–

- (a) the name, sex and date of birth of the child;
- (b) where applicable, the fact that the child has been placed in foster care on short-term basis, or for a period exceeding three years pursuant to section 171 (1) of the Act;
- (c) the name, address and telephone number of the person by whom the child was placed in foster care;
- (d) the physical address of the foster home in which the child has been placed and the date of placement; and
- (e) where the child is transferred or discharged from the foster home, the date of the transfer or discharge, and the name of the person to whom the child was transferred or returned on discharge.

25. Pursuant to section 177(1) of the Act, the Secretary shall maintain the Foster Care Register containing the particulars of all foster care placements.

(2) The Foster Care Register shall contain the following particulars in respect of each foster care placement -

- (a) the information contained in regulation 25(2) in respect of each child;
- (b) the name and address, date of birth and sex of each foster parent;
- (c) the date of approval, and each review of approval (as the

Foster Care Register.

Register of foster

care placements

institution).

(charitable children

case may be); and

(d) the terms of approval of the Foster Care arrangement

PART VI – MISCELLANEOUS PROVISIONS

26. (1) The secretary shall ensure that foster care placement services are decentralized to the lowest units of service delivery.

(2) Subject to sub-regulation (1), the Secretary shall ensure that there is kept and maintained in every County a register of foster parents in which shall be set out in respect of each foster care placement a record of the matters specified in regulation 14.

(3) A County Children Officer, or other officer designated for that purpose by the Secretary shall, within one month, report every foster care placement in the County to the Secretary in Form No. FC5 set out in the Schedule.

Power to inspect foster homes. 27. (1) The secretary may, at any time, enter any foster home or any premises in which he or she has reason to believe that a child is being maintained contrary to the provisions of the Act or these Regulations, and may inspect every part of the foster home or premises and examine the child and the condition of the child therein.

> (2) Whereupon inspection under sub-regulation (1), the secretary authorised officer as per the Act who has reasonable grounds to believe that a child under foster care is in danger or undergoing any form of violation should report to the secretary for further intervention

> **28.** Upon the enactment of these Regulations, any ongoing foster care arrangements shall be finalised in accordance with these Regulations.

29. The Children Foster Care Placement Rules, 2001 are repealed.

Ongoing arrangements.

Access.

Repeal of the Foster Care Placement Rules, 2001.

SCHEDULE

Form No FC 1		
APPLICATION FOR REGISTRATION AS A FOSTER A CHILD		
Name of the Applicant		
Date of BirthAgeSex		
National ID/Passport Number (attach a copy)		
Physical Address Telephone Number Email Address		
Postal Address Postal Code		
City/TownSub – County		
Location Sub-Location Village		
Marital Status Number of Children (if any)		
Occupation of Applicant		
Occupation of Spouse (if applicable)		
Other Sources of Income (e.g., farming)		
Have you ever fostered a Child /Children Before? (if so, give		
particulars)		
Reason for Fostering		
Are you willing to undertake short term fostering? Yes/No		
Names of two referees and their contact Information		
1		
2		
Age RangeSex of Child you wish to foster		
Applicant's Signature		
Date		

REPORT OF ASSESEMENT OF A	A PROSPECTIVE FOSTER PARENT
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Form needs to be numbered and this form will guide writing of the detailed assessment report		
Name of prospective foster parent(s)		
Date of birthAgeSex		
Physical Address Telephone Number Email Address		
Postal Address Postal Code		
City/TownSub – County		
Location Sub-location Village		
Religion Occupation		
Marital status of prospective foster parent (s)		
Date of marriage remove this (enclose any relevant documents)		
Is the relationship monogamous or polygamous		
Particulars of other people living in the foster home		
Name Relationship to Prospective Foster Parent School/Grade Occupation		
Is there or has there been(why target previous ailments) any seriou		
s (chronic)/infecti (if so, give details)-let it speak to the applicant and not other family members-could be discriminative/too intrusive at the point of application but the intent can be taken care of during assessement(remove this whole part)		
RE-WORD-is there history of any chronic illness that might hinder uptake of foster care? If yes explain		
Source of income/economic capabilityParticulars of the income and wealth of the		

prospective foster parents. (Give description of the home); Nature of the		
home/Rooms/Toilet/ Water supply/source of power		
••••••		
Number of rooms	Type of	toilet
Source of water supply]	[
Will the applicant or family/ person need any other support for successful fostering (explain)material support in order to start fostering? If the answer is yes, specify what will be needed		
.Remove this		
		······
Does the person understand	the temporary nature of foster	care placement? Yes/No
Has the person/ any member of the family had a criminal conviction (if Yes, give details and dates and state whether in your opinion it is of such seriousness as to prevent the family / person from taking on a foster placement)		
Assessment of the suitability	of that family/ person to foste	er children
	or main fulling, person to rosa	
Recommendation		
What type of foster child would benefit from this person /family? Baby, child, male, female, intersex)		
(Indicate suitable age brackets)		
Details of foster child/(ren) already placed with foster parents		
Name	Sex	Date of Placement
Age at Placement	Date of Termination	Why Placement Terminated

Details of parents and siblings of foster children if known			
Names of Foster Parents	Age	Religion	Physical Address
••••••			
Names of Brothers	Names of Sisters	Age	Physical Address
••••••			
Name of Children's Officer.			
Signature			
Address		<u> </u>	
Date			\mathcal{O}
	•••••••••••••••••••••••••••••••••••••••		

Form No FC 3		(r)
F	FORM OF UNDERTA	KING
	To be completed in Trip	licate)
I/ We (names of foster parent) received		who
(name of child)		
Into my/our home on (date)		
from (name of children's offic	cer)	
undertake that –		
I/We will care for (name of cl As if the child were my/our ov	,	
I /We will bring the child up in persuasion)	· •	fy religious
I/We will look after the child's	s health and allow the ch	nild to be medically examined as

required by the children's officer.

I/We will allow a children's officer to visit my/our home, and to see the child at any time.

I /We will inform the children's officer immediately if the child is seriously ill/ or missing, or is involved in an accident, or is any kind of trouble.

I /We will inform the children's officer immediately if I/ we plan to change residence and address.

I/We understand that a children's officer has the right to remove the child from my/our home in certain circumstances.

(Signed of foster father)	
(Signed of foster mother)	
(Address of foster parents)	
In the presence of (Name)	Designation sub county children
For Secretary DCS	-01
Stamp	
B	

Form No FC 4 (r)	
CERTIFICATE OF REGISTRATION AS A FOSTER PARENT		
Having satisfied the requirements of application as a foster parent and successf assessed.	fully	
	Designa	
tion)		
parent)) ID		
NOTelephone noResidence area	in	
Sub countywithinCountyas a registered foster parent(s) as provided for under the Children Act 2022 and the Foster care Regulations of 2023.		
Signed Stamp		
Name Designation		

(Secretary) DCS
Date
I have explained the undertaking provided for under regulation 7(2) of the foster care placement regulations in the
Signed
Children's Officer
Signed
(witness)
(address of witness)
Foster care placement certificate to be developed
This is to satisfy that (child)
(sex)been placed with
NO Telephone no
Signed
NameDesignation
(Secretary) DCS
Date
Stamp

Form No FC 5	(r.)
FOSTER CHILD CA	ARE RECORD
Name of Child (surname first)	

Date of birth	Age	
SexCity/Town	-	
Sub – County .		
Location Sub-location		
VillageReli		
Vinage	gi0ii	
Names of the faster parents		
Names of the foster parents		
Foster parents address		
Biological Father's name		
Biological mother's name		
Biological father or	Biological mother or	
Guardian's address	Guardian's address	
City/Town County	Sub – County	
Location Sub-location		
Village	\sim	
Details of foster child brothers, sisters and rel	atives (if known)	
Names Addresses	Alive/Dead	
(
Where was the child Living immediately prio	r to this foster placement? (please give	
names and address of carers or institution)	to and rester procession (preuse give	
Case history of the child and their family		
What offerts have been made to trace the new	unte en neletivos en dite neuroite the shild te	
What efforts have been made to trace the pare		
their family		
Details of medical history including immunisations		
Give details of education		
School Grade		
Name of Children's Officer		
Date	Children's Officer's	
Signature		