



**REPUBLIC OF KENYA**

**MINISTRY OF LABOUR AND SOCIAL PROTECTION**

**REGULATORY IMPACT STATEMENT**

**ON**

**THE CHILDREN (CARE AND PROTECTION) REGULATIONS**

**PREPARED BY:**

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**APRIL 2025**

*This Regulatory Impact Assessment (RIA) has been prepared by the Ministry of Labour and Social Protection pursuant to Section 6 and 7 of the Statutory Instruments Act (CAP 2A)*

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## **ABBREVIATIONS**

<b>Act</b>	Children Act (Cap 141) Laws of Kenya
<b>ACRWC</b>	The African Charter on the Rights and Welfare of the Child
<b>CCI</b>	Charitable Children's Institutions
<b>Council</b>	National Council for Children's Services
<b>FGM</b>	Female Genital Mutilation
<b>UNCRC</b>	United Nations Convention on the Rights and Welfare of the Child
<b>UNGA</b>	United Nations General Assembly

## **A. INTRODUCTION**

### **Regulatory Making Authority and the legal mandate**

The National Council for Children Services is a State Corporation established under the Children Act (Cap 141) Laws of Kenya, and performs its mandate within the State Department for Social Protection & Senior Citizen Affairs in the Ministry of Labour and Social Protection. Its mandate can be summarised as oversight, regulation, coordination, and advisory on all matters relating to children's affairs in Kenya.

These proposed regulations provide for the responsibilities and standards of all stakeholders when placing children in alternative forms of care especially institutional care. The guiding principles where a child is in need of care and protection, in the use of institutional care include:

- (a) shall at a first instance be limited to taking or placing the child in a place of safety
- (b) where the child is below the age of three years shall, so far as is reasonably practicable, be placed in family-based care;
- (c) shall be limited and only as a matter of last resort to any other place other than a place of safety.

In furtherance of the above, section 247 of the Act grants the Cabinet Secretary responsible for matters relating to children's affairs the power to make regulations for the better carrying out of the provisions of the Act.

## **B. BACKGROUND AND CONTEXT OF THE PROPOSED REGULATIONS**

### **Background of children sector**

Kenya has demonstrated a steadfast commitment to safeguarding the rights and welfare of its children through a comprehensive legal and policy framework. The Constitution of Kenya establishes foundational principles under Article 53, which enshrines children's rights. These provisions are operationalized through the Children Act (Cap 141), which is aligned to the international standards including the United Nations Convention on the Rights of the Child. The Act underscores the State's dedication to protecting children from abuse, neglect and exploitation, while ensuring their access to essential services.

Kenya's commitment extends to addressing all forms of child exploitation and abuse. Legislations such as the Sexual Offences Act (Cap 63A) the Counter-Trafficking in Persons Act (Cap 61) and the Prohibition of Female Genital Mutilation Act (Cap 62B) have been enacted to combat various forms of violence and exploitation against children. These laws provide a robust legal framework to prosecute offenders and protect victims, reflecting the country's zero-tolerance stance on child abuse and exploitation.

These proposed Regulations ensure that alternative care of children takes into account the best interests of the child; promote participatory and inclusive provision of care and protection to a child. It emphasizes that the placement of a child in need of care and protection shall be appropriate to the child's needs, development and evolving capacities; and ensure the safeguarding a child in need of care and protection from abuse, violence, exploitation and any other harmful conduct.

### **International context**

In an endeavour to progressively safeguard the rights and welfare of children and align to global child protection standards, Kenya ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1990.

The UNCRC recognizes the family as a fundamental group of society and underscores its significance in the growth and well-being of all its members and especially children. It mandates States to protect families and accord them the support necessary for them to fully discharge their responsibilities and particularly towards children whose optimal growth and development is dependent on the happiness, love and understanding of family.

The UNCRC acknowledges that circumstances may arise from time to time that cause children to be separated from their families and in Article 9, states that such separation should be in the best interest of the child. The UNCRC further states institutional care should be considered as a solution in these circumstances as a measure of last resort and urges States to explore alternative forms of family care. It provides that children who are at risk must be provided with the highest standard of protection and care. Specifically, Article 3 emphasizes that the best interests of the child should be a primary consideration in all actions concerning children. Article 19 obligates States to protect children from all forms of physical or mental violence, injury, abuse, neglect, or exploitation

whereas Article 20 states that children deprived from family environment are entitled to special protection and assistance from the State in provisions regarding orphaned or abandoned children.

To bolster efforts by States in addressing the issue of children without parental care, the United Nations General Assembly (UNGA) in 2009, adopted Guidelines for the Alternative Care of Children. Similarly, in 2019 the UNGA adopted a resolution focusing on the rights of children without parental care. This resolution was informed by overwhelming global evidence that institutional care does more harm than good to children and calls upon States to strengthen family care, prevent unnecessary separation of children from their families and end institutional care.

### **Regional context**

Kenya ratified the African Charter on the Rights and Welfare of the Child (ACRWC) in the year 2000 and has, over time, made considerable steps towards compliance. The Charter underscores the importance of a loving and nurturing environment provided by family in facilitating the wholesome growth and development of an African child. It acknowledges that children, for one reason or another, maybe separated and while discouraging the institutional care of such children, makes provision for alternative family care of children without parental care. The Charter underscores the best interest of the child as of paramount importance in any matter concerning a child. Specifically: Article 15 prohibits all forms of economic exploitation and work that may be hazardous or interfere with a child's education, or harmful to his/her health or development; Article 16 provides for the protection against child abuse and torture which calls upon State parties to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment. Article 21 prohibits customs, traditions, and practices that are harmful to the health or life of the child, especially those affecting their physical and psychological development (for instance FGM and child marriage). Article 23 requires that refugee and internally displaced children receive special protection and assistance, in line with international humanitarian law and human rights instruments.

## **Domestic context**

### **i. The Constitution of Kenya ,2010**

Article 53 of the Constitution sets out the rights of children in Kenya and states that the best interest of the child is of paramount importance in all matters concerning them. It bestows parental responsibility upon the father and mother of a child in the first instance, in recognition of the family as the natural and fundamental unit of society. The Constitution further states in Article 43 (1) (e) provides that, “Every person has the right to social security” while Article 43 (3) provides that the State shall provide appropriate social security to persons who are unable to support themselves and their dependents.

### **ii. The Children Act (Cap 141)**

In line with the international and regional legal instruments for children that Kenya is party to and the Constitution, the Children Act makes provisions for safeguarding children in Kenya. The Act echoes the Constitution in emphasizing on the importance of raising children within families and defines alternative family care and the use of child rescue centre, as a form of social security for children and ensuring the care and protection of children,

With regard to children deprived of parental care, section 12(7) of the Children Act in considers Foster Care as a form of social security while Part 13 of the Act makes elaborate provisions for adoption processes, institutional care although as last resort as well as child rescue centres.

Section 144 of the Act makes provision for children who are in need of care and protection. These are children who, for one or various reasons, are unable to live with their families or in a safe environment and thus calls for special care and protection. To address their plight, there is need for a regulatory framework that governs the protection and care of children who are vulnerable due to neglect, abuse, abandonment, or other harmful situations.

The proposed Regulations aim to provide safe, nurturing, and supportive environments for vulnerable children, whether through institutional care or family-based alternatives. It recognizes that children in such circumstances require urgent intervention and protection.

The UNCRC and the ACRWC require that children who are at risk must be provided with the highest standard of protection and care.

## **C. REQUIREMENT FOR REGULATORY IMPACT STATEMENT**

### **Requirements of the Statutory Instruments Act**

The Statutory Instruments Act (Cap 2A) is the legal framework governing the conduct of Regulatory Impact Statement in Kenya. Sections 6 and 7 require that *if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation-making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument.*

The Statutory Instruments Act further sets out certain key elements that must be contained in the Regulatory Impact Statement namely:

- (a) a statement of the objectives of the proposed legislation and the reasons;
- (b) a statement explaining the effect of the proposed legislation;
- (c) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
- (d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
- (e) the reasons why the other means are not appropriate.

Section 5 of the Statutory Instruments Act, requires that a regulation-making authority to conduct public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

### **What is a Regulatory Impact Statement?**

Regulatory Impact Statement is a systematic policy tool used to examine and measure the likely benefits, costs, and effects of new or existing regulations. A RIS is an analytical report to assist decision makers to arrive at an informed policy decision. As an aid to decision making, RIS includes an evaluation of possible alternative regulatory and non-regulatory approaches with the overall aim of ensuring that the final selected regulatory approach provides the greatest net public benefit. Typically, the structure of a RIS should contain the following elements:

- (a) title of the proposal;



- (b) the objective and intended effect of the regulatory policy;
- (c) an evaluation of the policy issue;
- (d) consideration of alternative options;
- (e) assessment of all their impacts distribution;
- (f) results of public consultation;
- (g) compliance strategies, and
- (h) processes for monitoring and evaluation.

The regulatory impact assessment is usually conducted before a proposed statutory instrument is passed, to provide a detailed and systematic appraisal of the potential impact of the new regulations and to assess whether the regulations are likely to achieve the desired objectives. The Regulatory Impact Statements promotes evidence-based policymaking as new regulations typically lead to numerous impacts that are often difficult to foresee.

From a societal viewpoint, the Regulatory Impact Statement should confirm whether a proposed regulation is welfare-enhancing, in that, the benefits will surpass costs. It therefore has objectives of improving understanding of the real-world impact of regulatory action, including both the benefits and the costs of action, integrating multiple policy objectives, improving transparency and consultation and enhancing governmental accountability.

#### **D. REGULATIONS UNDER THE ACT**

The Act under section 247 delegates regulation making powers to the Cabinet Secretary subject to the provisions of this Act, and may make regulations—

- (a) to prescribe anything that may be prescribed under this Act; or
- (b) generally, for the better carrying out of the provisions of this Act.

Therefore, an impact assessment of the proposed Regulations has been made in addition to carrying out extensive consultations with stakeholders.

## **E. PURPOSE OBJECTS AND OVERVIEW**

### **Scope**

The Act provides under section 142, the definition of “a child in need of care and protection” as a child who lives in difficult circumstances and needs to be protected from all kinds of neglect, abuse or exploitation. It additionally defines “a child living on or off the streets” to mean a child who—

- (a) because of abuse, neglect, poverty, community upheaval or any other reason, has left his or her home, family or community and lives, begs or works on the streets;
- (b) because of inadequate care, begs or works on the streets but returns home at night.

The scope of these proposed Regulations for children in need of care and protection is to provide a framework for safeguarding children who are vulnerable or in need of care and protection due to various factors as described in section 144 of the Act. These proposed regulations provide a wide range of activities, mechanisms and procedures on how to protect, care for, and or rehabilitate these children in both institutional and family-based settings. It outlines the processes for identifying children who are in need of care and protection and guides on assessing the specific needs of such children to determine the appropriate care and protection interventions.

The proposed Regulations aim to provide a wide range of alternative care options for children in need of care and protection such as Kinship, Foster care, Guardianship, *Kafaalah*, Adoption or institutional care as the last resort. The proposed Regulations ensure a comprehensive approach to safeguarding the physical, emotional and psychological well-being of vulnerable children.

The proposed Regulations establish the minimum standards for the provision of child welfare services, ensuring the well-being of children in a family, community or institutional settings. These services include: protection healthcare, education, shelter, nutrition, rehabilitation, psychosocial support and reintegration of children among others.

**General objective**

The objective of these proposed Children (Care and Protection) Regulations is to establish a comprehensive legal and institutional framework for children in need of care and protection and that the children receive the best possible care, support and protection in accordance with their rights. It seeks to ensure that a child in need of care and protection from abuse, violence, exploitation by providing a place of safety that takes into account the child's needs, development and evolving capacity.

**Specific objectives**

Specifically, the implementation of the regulations is intended to provide for—

- (a) the limitation of the use of institutional care;
- (b) procedure where a child is taken to a place of safety;
- (c) Verification by authorized officer or the child protection unit;
- (d) Action by the Secretary upon notification by an authorized officer where a child is received in a child protection unit;
- (e) Placement of a child in a child rescue centre;
- (f) Application for an interim care order; and
- (g) Persons to be entrusted with a child under a care order

**F. PUBLIC PARTICIPATION**

Article 10 of the Constitution provides that public participation is a principle of national governance. This constitutional power entitles the people of Kenya to unfettered access to the process of making public decisions through their involvement.

Section 6 of the Statutory Instruments Act (Cap 2A) provides that the regulation making authority shall undertake consultations before making the statutory instrument particularly where the proposed instrument is likely to have a direct, or a substantial indirect effect on a community or part of the community.

As part of the efforts to ensure an inclusive development of the proposed Regulations, a Technical Working Group was constituted with membership drawn from the Council and key stakeholders

with varied expertise. The Council engaged in extensive consultations with various stakeholders and the public. This participatory approach enabled the Technical Working Group to gather diverse perspectives and insights for a comprehensive and effective policy framework.

### **Engagement with key stakeholders**

Pursuant to section 5 of the Statutory Instruments Act (Cap 2A), the Ministry identified key stakeholders, being Adoption Societies, CCI managers and Foster Care Parents who are likely to be affected by the proposed Regulations. A hybrid consultative engagement was conducted on 7<sup>th</sup> September 2023, consisting of physical meeting at Lilian Towers in Nairobi County and an online session via Zoom. Their input was important in understanding operational challenges, best practices, and areas requiring interventions.

### **Selection of Clustered Regions and Rationale**

To ensure a balanced and representative consultation process, strategic selection of specific regions based on key factors was done, including:

1. Clustering regional boundaries to ensure comprehensive coverage of all counties in Kenya, while optimizing available resources and addressing financial constraints effectively. This strategic approach enhanced accessibility, promoted equitable service delivery, and maximized impact within the allocated budget.
2. Accessibility and Stakeholder – Locations that could accommodate both in-person and online participation were considered to maximize engagement.

The clustered regions ensured a broad and inclusive consultation process, reflecting diverse views from different parts of the country. Below is the schedule that was put up in the different websites and newspapers.

<b>REGION (CLUSTERED COUNTIES)</b>	<b>VENUE</b>	<b>DATE</b>	<b>TIME</b>
<b>Cluster 1</b> – (Uasin – Gishu, west- Pokot, Turkana, Trans – Nzoia, elgeyo-Marakwet, Nandi, Bungoma	<b>Eldoret</b> - <i>Home Craft Centre</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm

<b>Cluster 2</b> – Isiolo, Marsabit, Samburu, Meru, Tharaka – Nithi & Embu	<b>Meru</b> – <i>Kamunde Hall</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm
<b>Cluster 3</b> – Migori, Kisumu, Homabay, Vihiga, Busia, Siaya, Nyamira, Kisii & Kakamega	<b>Kisumu</b> - <i>Mama Grace County Hall</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm
<b>Cluster 4</b> – Narok, Bomet, Nyandarua, Nyeri, Nakuru, Baringo, Laikipia, Kericho & Nairobi	<b>Nakuru</b> - <i>Shaabab Social Hall</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm
<b>Cluster 5</b> – Taita –Taveta, Kwale, Kilifi, Lamu, Tana- River, Kitui, Makueni, & Mombasa	<b>Mombasa</b> – <i>Tononoka Social Hall</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm
<b>Cluster 6</b> – Kiambu, Muranga, Kirinyaga, Machakos, Kajiado, Garissa, Wajir & Mandera	<b>Murang’a</b> - <i>ACK Mother’s Union</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm
<b>Cluster 7:</b> Other Stakeholders, CSOs, ACIK, Adoption Societies	<b>Nairobi</b> – <i>Kariokor Social Hall</i>	29 <sup>th</sup> – 30 <sup>th</sup> May, 2024	9am – 4pm

### Collection of Public Memoranda

The advertisement for public participation was published on *My Gov.* newspaper, the Ministry of Labour and Social Protection website and the National Council for Children’s Service website, running for 14 days from 14<sup>th</sup> May 2024 to 27<sup>th</sup> May 2024. The Notice was additionally circulated on various social media platforms.

To facilitate public participation effectively, written submissions were invited from individuals, institutions, and organizations. Members of the public were encouraged to share their views, feedback, and recommendations through the email address provided. This approach allowed

stakeholders to provide detailed input at their convenience, ensuring that as many voices as possible were heard in the Regulations review process.

### **Modes of Public Engagement**

The consultation process utilized both online platforms and physical public forums to ensure accessibility for all stakeholders.

1. **Online Engagement** – Virtual meetings and email submissions allowed participants from different locations to contribute their views without geographical limitations. This method facilitated broader participation, especially for those unable to attend physical meetings.
2. **Public Forums** – Physical meetings were held in select regions to engage directly with community members, local leaders, and key stakeholders. These forums provided an opportunity for in-depth discussions and clarifications.

The employment of this hybrid approach ensured that participation was inclusive, accommodating both digital and in-person engagements.

### **G. APPROACHES AND METHODOLOGIES**

This Part considers whether these proposed Regulations are the best form of government action pertaining to matters relating to care and protection. The Statutory Instruments Act (Cap 2A) requires a regulator to carry out, early in the regulatory process, an informed comparison of a variety of regulatory and non-regulatory policy measures, considering relevant issues such as costs, benefits, distributional effects and administrative requirements. Regulation should be the last resort in realizing policy objectives. There are alternatives, which could come in handy in dealing with certain aspects of social security. The options considered under this part are as follows:

- (a) **maintaining the status quo** where there are no regulations;
- (b) **application of administrative measures** or non-regulatory measures; and
- (c) regulatory measure through the **adoption of the proposed Regulations**.

The impact assessment involved evaluating the costs and benefits of implementing the Regulations based on the policy options outlined above. A policy change is considered desirable if it will result

in real or potential improvement. This is determined by accumulating its direct and indirect benefits and costs. Based on this philosophy, policy guideline options present strengths and weaknesses and therefore may result in ineffective implementation of the Act. For instance, issuing policy guidelines or administrative measures without regulations would certainly occasion a sub-optimal result because of limited options for enforcement.

Providing a regulatory option is more practical and sounds effective. However, it is worth noting that all the options were considered and it was found necessary that the regulations to oversee the management and handling of children in need of care and protection be formulated in order to effectively implement the Act as amended in 2022.

## **The Alternatives**

### **1. Option One: The Status Quo**

Maintaining the status quo means that there are no formal regulations for children in need of care and protection. This means that children in care and protection will continue being handled informally. This will result in inconsistencies in the administration of care and protection, leaving children vulnerable to exploitation or inadequate care. The Children Act (Cap 141) which came into force in 2022, requires that Regulations for care and protection be developed to regulate the practice.

### **2. Option Two: Application of Administrative Measures**

This is a non-regulatory measure which, if applied, will depend on the goodwill of public officers to implement the provision of the Act. Administrative oversight would include increased government monitoring, issuance of guidelines, and enhanced reporting requirements for those children in need of care and protection. Administrative measures do not have the force of law and may be challenged in court of law. These Regulations seek to streamline foster care placement.

### **3. Option Three: Adopting the Proposed Regulations**

The development and adoption of these proposed Regulations will ensure full implementation of the Act and more so to regulate the handling of children in need of care and protection as provided under the Act. The Regulations establish a clear legal framework for the care, protection, and placement of children in need. This ensures better accountability, structured interventions, and alignment with international child protection standards.

**The table below outlines the potential costs and implications associated with each option:**

	Option	Possible costs	Possible direct benefits	Implication
1.	The Status Quo	Continued costs of maintaining institutional care systems.  High long-term social costs due to inefficiencies	No disruption to current systems.	Limited progress in aligning with international standards like family-based care models.  Persistent challenges in child protection
2.	Application of administrative measures	Increased administrative costs for training personnel and improving case management systems.	Improved enforcement of existing laws and better service delivery without legislative changes.	Enhances operational efficiency but may not fully address systemic gaps in child protection.
3.	Adopting the proposed regulations	Initial costs for transitioning to family-based care models (e.g., retraining staff).	Long-term cost savings by reducing reliance on institutional care  Improved child protection structured interventions  Clear legal framework	Aligns with global best practices  Formalizes a comprehensive framework for child protection.



## Cost-Benefit Analysis

The impacts of the Proposed Regulations can be categorized as follows:

Gap / Problem/Issue	Proposed reform from regulations	Estimated costs (Kes)	Justification for costs	Estimated benefits (Kes)	Justification for benefits
<b>Financial</b>					
No 24-hour verification mechanism	Mandate 24-hour verification by child protection units <b>Reg. 6 – Verification by officer/unit</b>	Kes.10M per year (field team setup, rapid response tools)	Meet legal mandate for timely child status checks	Real-time intervention and proper documentation	Reduces unnecessary admissions and strengthens accountability
Undefined foster caregivers	Define who can be entrusted with a child <b>Reg. 10 – Persons entrusted with a child</b>	Kes. 3M (guidelines, vetting protocols, training)	Establish minimum standards for caregivers	Safer placements and screening integrity	Prevents abuse and mismatched care arrangements
Lack of rescue centre funding	Integrate rescue centres into public budgets	KES 18M/year ( <i>budget lines, admin support,</i>	Reduces donor reliance and improves continuity	Stable service delivery in all counties	Increases reliability of care services and infrastructure

	<b>Implied in Regs. 4–8</b>	<i>MTEF planning)</i>			
No reintegration funding	Mandate transition funds post- placement <b>Reg. 9 – Care Orders</b>	Kes.10M per year (grants, caseworker follow-up, economic support)	Strengthens families and prevents return to care	Increased sustainability of family-based care	Empowers families and reduces recidivism
<b>Legal/Financial</b>					
Lack of legal placement orders	Require care/interim orders for all placements <b>Reg. 9 – Care Orders</b>	Kes 5M (court liaison staff, documentation, filing systems)	Ensure placements are court- approved and documented	Rights-based, traceable care assignments	Protects child rights and ensures placement accountability
<b>Economic</b>					
High cost of institutional care	Prioritize foster and family-based care <b>Regs. 4 &amp; 8 – Prioritization and transition</b>	Kes. 25M per year (subsidies, home visits, social work support)	Foster care is significantly more cost- effective	Lower public care costs, better individual outcomes	Saves 40– 60% per child and improves quality

Underused community care networks	Incentivize CSOs/FBOs as alternative care partners <b>Reg. 4 – Community-based care prioritization</b>	Kes. 15M (partnership MOUs, grants, outreach)	Brings non-state actors into formal systems	Wider reach and reduced state dependency	Increases care options without heavy infrastructure
Delayed reintegration prolongs dependency	Establish timelines and support economic reintegration <b>Reg. 8 – Reintegration provisions</b>	Kes. 10M per year (livelihood support, skills programs, follow-ups)	Reduces dependency, supports independent life	Better family resilience and self-sufficiency	Reduces reentry into the child protection system
<b>Social</b>					
Over-reliance on institutional care	Prioritize family-based care for children under 3 <b>Reg. 4 – Limitation on use of institutions</b>	Kes. 30M (training, foster care sensitization, network building)	Build and support alternatives to institutional care	Reduced institutionalization; improved developmental outcomes	Family-based care provides better psychosocial outcomes and long-term wellbeing

Uncoordinated intake procedures	Standardize documentation at child entry points <b>Reg. 5 – Procedure where child seeks refuge</b>	Kes. 12M per year (training, tools, forms, staff refreshers)	Ensures consistency and safety at protection entry points	Safer, timely and uniform intake processes	Reduces delays and risk of mishandling vulnerable children
Delays in tracing parents/guardians	Secretary must act within 24 hours of rescue <b>Reg. 7 – Action by the Secretary</b>	Kes. 8M per year (tracing staff, data systems, transport)	Ensures quick family reunification or alternate placement	Reduced trauma, faster reintegration	Supports child stability and mental health
Prolonged stays in rescue centers	Cap rescue center stays at 6 months; require 30-day assessments <b>Reg. 8 – Placement of child in rescue centre</b>	Kes.15M per year (social workers, assessments, placement tools)	Reduces institutional care durations	Timely transition to permanent care or reintegration	Promotes stability and child-centered planning

### Risk Identification and Mitigation Strategies

	<b>Risk Identification</b>	<b>Risk Description</b>	<b>Mitigation Strategies</b>	<b>Expected Outcome of Mitigation Strategy</b>
<b>1.</b>	Insufficient resources	Transition to family-based care models may strain budgets due to retraining and infrastructure needs.	<ul style="list-style-type: none"> <li>i. Leverage partnerships with stakeholders</li> <li>ii. Allocate phased budgets for reforms.</li> </ul>	<ul style="list-style-type: none"> <li>i. Sustainable funding for community-based care systems and reduced reliance on institutions</li> <li>ii. Improved service delivery</li> </ul>
<b>2.</b>	Resistance to systemic change	Institutions accustomed to traditional care models may oppose family-based care adoption.	<ul style="list-style-type: none"> <li>i. Conduct stakeholder workshops to demonstrate benefits of family-based care</li> <li>ii. Introduction of gradual implementation phases</li> </ul>	<ul style="list-style-type: none"> <li>i. Increased buy-in from childcare institutions</li> <li>ii. Smoother transition to new models.</li> </ul>
<b>3.</b>	Child rights violations in institutions	Risk of continued child abuse and exploitation in child care facilities	Conduct regular inspections and ensure strict adherence to the laws and regulations	Enhanced child protection

4.	Low public awareness	Families/communities may not understand new legal requirements for child protection.	i. Launch nationwide awareness campaigns ii. Use multiple communication channels iii. Simplify reporting procedures	i. Improved access to child welfare services ii. Increased compliance iii. Community participation in care.
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## H. COMPLIANCE AND IMPLEMENTATION

It is crucial to establish how adherence to and execution of the proposed Regulations will be ensured. The Council is responsible for evaluating the strength of the institutional framework that will enforce the regulation and for developing effective implementation strategies.

The enactment of the proposed Regulations should foster the coordination of all stakeholders both in the private and public sector. These Regulations will be carried out within the current national legal and institutional framework to streamline the regulation and management of alternatives forms of care and ensure that they guarantee the best interests of the children within these institutions. The Council, in consultation with the Cabinet Secretary for Labour and Social Protection will oversee the implementation.

In developing the proposed Regulations in compliance with legal requirements based on the analysis above, the following points are evident:

1. Assessment of a child being reported at risk must be conducted within 24 hours. A child must then be placed within a temporary care and comprehensive needs assessment and care plan are developed. Care plans must include timelines for reintegration with family, foster care, guardianship, or adoption, depending on what is in the child's best interest;

2. A Care Order for any prolonged alternative care arrangement is required ensuring that judicial oversight and child rights are upheld.
3. The use of a centralized Protection Information Management System, which records case histories, interventions, service providers involved, and follow-up actions, will be effected in order to enhance compliance;
4. The Council will develop plans and allocate resources to bring the Regulations to fruition. The Regulations outline a clear process of identification and assessment of vulnerable children who are in need of care and protection in order to determine to determine the appropriate care and protection interventions; and
5. Regarding Regulatory-Making Authority and the legal mandate, section 247 of the Children Act (Cap141), authorizes the Cabinet Secretary to establish Regulations to implement the Act. Consequently, the Cabinet Secretary holds the necessary legislative power to propose these Regulations.

## **I. CONCLUSION**

The proposed Regulations are necessary in the operationalization of the Children Act (Cap. 141) and the actualization of the best interests of the child and is therefore the preferred option. It is clear that the benefits and impact of developing these Regulations by far outweigh any estimated cost of its implementation.

## **J. RECOMMENDATION**

In view of the assessment elucidated above and particularly that the proposed Regulations will facilitate effective implementation of the Children Act (Cap 141), it is recommended that the Children (Care and Protection) Regulations be adopted.