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Social Development, Department of

Government Notice

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GOVERNMENT NOTICE

DEPARTMENT OF SOCIAL DEVELOPMENT**No. 585****19 July 2011****COURT ORDER**

In the matter between the Centre for Child Law (Applicant) and the Minister of Social Development, the South African Social Security Agency and the MECs for Social Development in Limpopo, Mpumalanga, Gauteng, Northwest, Free State, Northern Cape, Kwa Zulu Natal, Eastern Cape and Western Cape (Respondents) (case number 21726/2011) the North Gauteng High Court ordered on 22 June 2011 as follows:

1. Notwithstanding the provisions of section 314 of the Children's Act 38 of 2005, any foster care order that was granted prior to 1 April 2010 that has not yet expired, shall, when it becomes due to expire, be dealt with under an administrative process following the procedure previously provided for in terms of the Child Care Act 74 of 1983 and the regulations thereto.
2. The procedure set out in paragraph 1 will continue to be followed until 31 December 2014 or until such time as the Children's Act 38 of 2005 is amended to provide for a more comprehensive legal solution, whichever happens first.
3. All foster care orders that have expired since 1 April 2010 are deemed not to have expired and are hereby extended for a period of 2 (two) years from the date of the court order (22 June 2011) excluding all foster care orders that have expired due to the child turning 18 years of age.
4. All foster care orders that expired within a period of not more than 2 (two) years prior to 1 April 2011, are deemed not to have expired and are hereby extended for a period of 2 (two) years from the date of the court order (22 June 2011) excluding all foster care orders that have expired due to the child turning 18 years of age.
5. During the two year period allowed in paragraphs 3 and 4 the MECs for Social Development shall direct the relevant social workers to identify and investigate foster care orders referred to in paragraphs 3 and 4. Subsequent to the investigation, in the case of each foster care order identified, the social worker must decide whether the foster care order must remain extended for the full two year period ordered in

paragraph 3 and 4. If a foster care order should not remain extended for the full two year period ordered in paragraph 3 and 4, or should be extended for longer than 2 years, the social worker may approach the Children's Court for an appropriate order in terms of the Children's Act.

6. Nothing in this order shall prevent the Children's Court from hearing a matter and making an appropriate order in terms of the Children's Act when approached by a social worker with an application concerning a foster care order falling within the ambit of this order, which may include terminating or varying the foster care order in terms of section 159 or extending the foster care order in terms of section 186 of the Children's Act.
7. The administrative extensions referred to in paragraphs 3 and 4 shall be communicated to the South African Social Security Agency as soon as they are effected.

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