

10 June 2004

Dear Children's Bill Stakeholder

Children's Bill Progress Update

With the elections over and the new Cabinet appointments finalised, we now have a clearer picture of who in Government will be steering the Children's Bill to finalisation.

Minister Skweyiya has been re-appointed as Minister of Social Development. A new appointee to Cabinet is the Deputy Minister, Dr Jean Benjamin. Cas Saloojee has been appointed as interim-Chairperson of the Portfolio Committee on Social Development for a period of 3 months. The approach of appointing interim chairpersons has been adopted because Parliament is considering making changes to the structure of the parliamentary committee system. Within the Department of Social Development, the person in charge of the Children's Bill is Dr Maria Mabetoa. She leads a cross-departmental Steering Committee. For a list and contact numbers of the members of the cross departmental Children's Bill Steering Committee, please check the following weblink: <http://web.uct.ac.za/depts/ci/plr/steering.htm> (Children's Bill link)

With the new government in place, the timeframes for the finalisation of the Children's Bill have become clearer. The Children's Bill Working Group (WG) has done some initial investigations to find out the potential timeframes for the law reform process and we can therefore provide you with an updated progress report.

In this progress report:

- 1) Timeframes update
- 2) The splitting of the Bill into two bills and how this affects timeframes and advocacy
- 3) Working Group priorities for 2004
- 4) What can you do?
- 5) Subscription form

1. Timeframes update

The Minister's first media statement upon re-appointment to Cabinet indicated that he intends to prioritise the speedy finalisation of the Children's Bill. This statement indicates that he would like to see the section 75 Bill¹ (the parts of the Bill affecting national departments) tabled in Parliament as soon as possible.

This would mean that there would be no opportunity to re-open the inter-departmental negotiation process that was rushed before the elections. This rushed process resulted in Cabinet approving a diluted version of the Bill. It also means that all the comments made by civil society in September last year have not yet been incorporated into the Bill and the last chance to convince government to do so, would be through parliamentary hearings.

Normally civil society is given two chances to input into the law making process. The first is to the Department and the second is to Parliament. While civil society was given the opportunity to send submissions to the Department in September 2003, these comments have not yet been considered or incorporated into the Bill that was tabled in Parliament. The fact that the submissions have not yet been considered makes this first round of participation null and void. The second opportunity offered to civil society to participate, namely the parliamentary hearings, will therefore need to take the nature of the first process into account and ensure that civil society is at least given one substantial and real opportunity to participate and influence the decision making process.

Parliament is busy appointing committees and training new members of Parliament. Committees will be focussing on budget oversight from now until mid-year recess which is scheduled to start in the last week of June. It is unlikely that Parliament will start any major legislative work until the beginning of August when Parliament reconvenes after mid year recess. **Parliamentary hearings will therefore probably not happen before August.**

2. The splitting of the Bill into two bills and how this affects timeframes and advocacy

At the end of 2003 the Bill was split into two Bills for technical reasons. The State Law Advisors said that the Children's Bill contained a mix of two different types of provisions – section 75 and section 76 provisions. A section 75 Bill is a Bill that deals with an issue over which the National Government has competence and that does not affect areas over which Provincial Governments also have competence. A section 76 Bill deals with issues that affect the Provinces and over which National and Provincial Government share competence. Each type of Bill has to follow a different procedure in Parliament and Parliament does not have a procedure for a Bill that contains both s.75 and s.76 provisions.

¹ See section 2 below for an explanation of how the Bill has been split in two and what parts fall into which bill.

Therefore the Bill was split into two Bills: a s.75 Bill and a s.76 Bill. The first Bill that will be tabled and passed will be the s.75 Bill. The s.76 Bill will follow after the s.75 Bill has been passed by Parliament. The splitting of the Bill has caused more confusion and has not helped with keeping the holistic and comprehensive approach taken by the South African Law Reform Commission. However, one advantage is that it gives us more time to advocate for changes to the s.76 Bill which is where many of the excisions have been made.

The Department may prefer parliamentary hearings to be held on the composite Bill (12 August version before the Bill was split into two) but the Minister may prefer the hearings to focus on the s.75 Bill only. There is no decision yet.

There is no s.76 bill available yet, so you must refer to the certified (12 August) Bill for the s.76 provisions for now until a s.76 version is put together. Please see the table below to find out whether an issue/chapter falls into the s.75 or s.76 Bill. This is important because the s. 75 chapters will be dealt with by Parliament in 2004 while the s.76 chapters will only be debated in 2005.

The table below gives an idea of what issues fall into which Bill, and the timeframes within which we have to work on each issue:

| Section 75 Bill | | Section 76 Bill | |
|---|---|--|---|
| <i>Issues which National Government must decide</i> | | <i>Issues that affect the provinces</i> | |
| Will probably be tabled in Parliament in July 2004 and passed by the end of 2004 | | Will follow after the s.75 Bill is passed – probably mid 2005 | |
| Chapter 1 | Interpretation, objects and application of the Bill | Chapter 6 | Partial care (crèches) |
| Chapter 2 | General principles and the best interests standard | Chapter 7 | Early Childhood Development |
| Chapter 3 | Children's rights | Chapter 8 Part 1, 3 and 4 | Child Protection System, Health decisions, other protective measures. |
| Chapter 4 | Parental responsibilities and rights | Chapter 9 | Prevention and early intervention services |
| Chapter 5 | Children's Courts | Chapter 10 | Identification of children in need of protection and actions to be taken to protect |
| Chapter 8 Part 2 | National Child Protection Register | Chapter 11 | Contribution orders |
| Chapter 16 | Adoption | Chapter 12 | Alternative care of children in general |
| Chapter 17 | Inter-country adoption | Chapter 13 | Foster care and care by family members |
| Chapter 18 | International Child Abduction | Chapter 14 | Child and youth care centres |
| Chapter 19 | Trafficking in Children | Chapter 15 | Shelters and drop in centres (street children) |
| Chapter 20 | Surrogate motherhood | | |
| Chapter 21 | Enforcement of the Bill | | |
| Chapter 22 and 23 | General administrative issues and transitional measures | | |

Certain chapters and provisions were taken out of the SALRC version of the Bill and therefore do not feature in the above table. The deletions from the child rights chapter, and the courts chapters as well as the deletion of the National Policy Framework provisions will need to be re-introduced into the s.75 Bill. We will therefore need to focus our attention on them in the next 2 months in order to get agreement in principle to their re-insertion. The deletions from the protection chapter, foster care, children in especially difficult circumstances, and social security and subsidies, will need to be re-incorporated into the s.76 Bill and will need our attention more towards the end of 2004.

3. Working Group priorities for 2004

The following can be reported on the Working Group's strategy and timetable:

- Members of the Secretariate met with Dr Maria Mabetoa, Musa Mbere and Agnes Muller from the National Department of Social Development, on the 1st June 2004. The meeting was very productive and we managed to put all our concerns regarding the excised sections, on the table for discussion. The Department gave us feedback on the reasoning behind the excisions and their plans for the way forward. We have been invited for a follow up meeting in July for further discussion.
- We are in the process of organising meetings with Vusi Mandonsele (DG), Jean Benjamin (Deputy Minister) and Zola Skweyiya (Minister). We hope to have held these meetings before the end of June. During July we will be meeting with officials from the other affected government departments.
- Briefing letters and packs will be sent to all the new Members of the Portfolio Committee on Social Development in June.
- Working Group members will be engaging key partners to ensure that they are fully aware of the messages. These include the unions and churches in particular.
- We will continue to send out progress reports and summaries of the various issues to a broad network of children's sector organisations. Working Group members will also be organising basic information sharing workshops across the provinces.
- A series of content based workshops are being scheduled for the next 6 months. These workshops will each involve 40 people who have experience and expertise on the topic under discussion and are intended to assist the sector in reaching consensus on key policy questions. The table on the next page sets out the latest list of information sharing and content based workshops and the dates that they will be occurring.

Children's Bill Workshops for 2004 (List last updated on 8 June 2004)

| Workshop | Date | Organisator | Who can attend and who to contact |
|---|--|---|---|
| Free State General information sharing workshop with a focus on prevention and protection issues | 17 June | Child Protection Unit at the University of the Free State and the Children's Bill Working Group | Anyone in Free State interested in getting more involved. Contact Marriette Reyneke on tel. 051-4013582; fax. 051-4480381 or email. reynekej.rd@mail.uovs.ac.za |
| General information for SACC and SACBC affiliates | 23 and 24 June | SACC, SACBC – CPLO, and Siyabhabha Trust (Cape Town) | SACC and SACBC affiliates who work on projects involving children. Contact Chance Chagunda at CPLO of SACBC on tel. 021-461 1417; fax. 021-4616961 or email. chance@clpo.org.za |
| New Working Group members briefing meeting | 28 th June | Children's Institute (CI) – Cape Town | New Working Group members by invitation. |
| Working Group Strategy Meeting | 29 th June | CI – Cape Town | All Working Group members by invitation. |
| Corporal punishment workshop | 30 June | Community Law Centre (CLC) – Cape Town | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| Customary law workshop | 30 June | CLC – Cape Town | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| Child Rights Chapter Workshop | 15 July | CI - Johannesburg | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| Children with Disabilities Workshop | 27 and 28 July | Alliance for Children's Entitlement to Social Security (ACCESS) and CI – Cape Town | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| Social security for children not living with their parents (FCG, Kinship Care Grants, CSG) | 2 and 3 Aug | ACCESS | By invitation. Contact albert@access.org.za to be added to the list. |
| ECD and partial care Workshop | 5 and 6 Aug | Early Learning Resources Unit (ELRU), SA Congress on Early Childhood Development and CI | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| National Policy Framework and Children's Protector Workshop | mid Aug | Childline - Durban | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| Health and nutrition workshop | end Aug | CI – Cape Town | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| CSG Means Test Workshop | 7 th and 8 th Sept | ACCESS – Cape Town | By invitation. Contact albert@access.org.za to be added to the list. |
| Resourcing the child protection system (fees and subsidies for NGOs and CBOs) | end Sept | South African Society for the Prevention of Child Abuse and Neglect (SASPCAN) | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |
| Local Government Workshop | mid Nov | CLC – Cape Town | By invitation. Contact Elizabeth Myburgh on emyburgh@rmh.uct.ac.za to be added to the list. |

4. What can you do?

- *Join the network of organisations dedicated to making the Children's Bill the best for children*

Join the network of Children's Bill stakeholders by filling in the attached form and faxing or e-mailing it to Elizabeth at 021 – 689 5404 or emyburgh@rmh.uct.ac.za. If you join the network you will receive bi-monthly updates on the progress of the Bill, invites to relevant content workshops, alerts about information sharing workshops, and alerts about the parliamentary hearings.

- *Write a submission to the Department expressing your support for the good parts of the Bill and your suggestions for changes or additions.*

The Department is busy collating all the submissions that it received last year on the 12 August Draft Bill. If you want to send in a new submission or make sure that the Department did receive your submission last year, please contact Agnes Muller on Agnes.muller@socdev.gov.za or tel. 012 – 312 7586. Agnes has agreed to continue to receive submissions.

- *Write a letter to or have a meeting with a Minister, Deputy Minister or DG*

We would like to encourage organisations to write letters to Ministers, Deputy Ministers and Director Generals of all the relevant government departments (Finance, Education, Home Affairs, Social Development, Justice, Safety and Security, Health, Provincial and Local Government).

Cabinet is meeting in July for a very important first meeting of the new government and it will be important that we have communicated our messages about what we want in the Children's Bill to all Ministers before they meet in July. The Minister of Social Development needs the support of the children's sector to convince Finance to spend more money on children's needs. He also needs our support to encourage other government departments to recognise their responsibility to children and provide for children's needs in all their programmes as well. It's important that we make sure that the other government departments hear what our concerns are, especially about matters over which they hold control, eg. The Children's Courts lie under the control of the Department of Justice.

Please check <http://www.gov.za/contacts/index.html> for contact details of the above ministers and departments.

- *Write a submission to Parliament*

Parliament will soon call for submissions on the Bill and will then hold public hearings later this year. We will alert you when they call for submissions or you may see an advert in the newspaper. When you get that alert, write a submission and send it to Parliament. A submission doesn't have to be long, it can just be a letter about your opinion of one small part of the Bill.

- *Write a letter to your local newspaper or hold a community meeting about the Bill and why its important for children*

We need to spread the word and get everyone talking about the Bill and how to improve it before it is passed by Parliament and becomes law. We can do this by writing letters, holding meetings, having marches, talking on the radio and talking in our churches.

If you have any queries, please contact Elizabeth Myburgh on 021 – 689 5404 or emyburgh@rmh.uct.ac.za You can also check out all the latest research and information on the Bill on the Children's Institute website <http://www.uct.ac.za/depts/ci> (Children's Bill link). The contact numbers for key government decision makers are also on the website.

Kind regards

Paula Proudlock
Child Rights Programme Manager, Children's Institute
On behalf of the Children's Bill Working Group

Children's Bill Working Group Members

South African Society for the Prevention of Child Abuse and Neglect (SASPCAN)
Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN)
Network Against Child Labour
Children's Institute, UCT
Alliance for Children's Entitlement to Social Security (ACCESS)
Johannesburg Child Welfare Society
Pietermaritzburg Child Welfare Society
Children's HIV/AIDS Network (CHAIN)
Children's Rights Project, Community Law Centre (UWC)
National Association of Child Care Workers (NACCW)
Lawyers for Human Rights
Childline SA
Early Learning Resources Unit
Western Cape Street Children's Forum
National Alliance for Street Children
South African Council of Churches
South African Catholic Bishops Conference , Parliamentary Office
South African National Council of Child and Family Welfare
ChildrenFIRST
Disabled Children's Action Group (DICAG)
Disability Action Research Team (DART)
National Welfare, Social Service and Development Forum

CHILDREN'S BILL NETWORK SUBSCRIPTION FORM

Please complete this form to receive regular updates and information on the Children's Bill.

Contact Person Name and Surname

Position

Name of Organisation/department/institution

Telephone number e.g. (021) 685-7441

Cell number

Fax number

Email address

Address (including province and post code)

Area of interest in the Children's Bill

- | | |
|--|---|
| <input type="checkbox"/> Protection from abuse and neglect | <input type="checkbox"/> Health and Nutrition |
| <input type="checkbox"/> Child Rights Chapter | <input type="checkbox"/> Corporal Punishment |
| <input type="checkbox"/> International issues (abduction & adoption) | <input type="checkbox"/> Social Security (grants and subsidies) |
| <input type="checkbox"/> Local Government | <input type="checkbox"/> Courts |
| <input type="checkbox"/> Children's Protector | <input type="checkbox"/> Street Children |
| <input type="checkbox"/> National Policy Framework (promoting an intersectoral approach) | <input type="checkbox"/> Children with disabilities and chronic illnesses |
| <input type="checkbox"/> Early Childhood Development and partial care | <input type="checkbox"/> Child and youth care centres |
| <input type="checkbox"/> Foreign Children (refugee and undocumented children) | <input type="checkbox"/> Trafficking |
| <input type="checkbox"/> Child Labour | <input type="checkbox"/> Parenting rights and responsibilities |
| <input type="checkbox"/> Primary prevention of abuse and neglect | <input type="checkbox"/> Foster care |
| <input type="checkbox"/> Children affected by HIV/AIDS | |

Thank you for taking time to complete this form. Please return it to Elizabeth Myburgh at emyburgh@rmh.uct.ac.za or fax nr. 021-689 8330.

