



Children's Bill Progress Update:

Changes to the Children's Amendment Bill by the National Assembly

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1. Introduction

On 6 November 2007 the National Assembly is scheduled to vote on the Children's Amendment Bill [B19C and D of 2006]. They will be voting on amendments passed by the Portfolio Committee on Social Development on 23rd October 2007. After the Bill has been passed by the National Assembly it will be sent back to the National Council of Provinces for consideration and should finally be passed by Parliament in December 2007.

In this Progress Update we provide the detail and rationale behind the amendments proposed by the National Assembly. The authors were personally present throughout all the Portfolio Committee's deliberations and have attempted in this document to capture as accurately as possible parliament's rationale behind each amendment.

Please note that this summary does not include minor technical amendments such as typos and renumbering. For example throughout the Bill the phrase 'prescribed by regulation' has been shortened to 'prescribed' and such changes are not recorded in the summary. Where cross-references have been changed and this has a substantive impact the change is detailed below.

NOTE ON REFERENCING STYLE

Please note that the clause numbers in the footnotes refer to the clauses in the Children's Amendment Bill [B19C -2006]. The Bill contains 12 clauses, each clause either amends one or more chapters and sections of the Children's Act No 38 of 2005, or inserts new chapters and sections. For example clause 4 of the Children's Amendment Bill inserts chapters five and six into the Children's Act. Contained within chapters five and six are sections 76 to 104. See appendix 1 for more details.

2. Summary of changes made by the Portfolio Committee on Social Development (National Assembly)

2.1 Cross-cutting issues

Prioritising the prevention of abuse and early intervention programmes to help strengthen families

MEC's are now obliged to provide and fund prevention and early intervention programmes (s146(1))¹. This means that government's policy of moving towards a developmental model of social welfare can be implemented in practice. Services such as family counselling, parenting skills development and home based care for families with chronic illnesses such as HIV will now be able to be rolled out to reach more vulnerable children².

¹ Section 146(1) was amended by the deletion of the word "may" and the insertion of the word "must"

² See section 144 for a list of the types of services and programmes that are considered to be "prevention and early intervention programmes".

Priority spending in poor communities and for children with disabilities

Funding for service provision must be prioritised:

(a) in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children, and
(b) to make facilities accessible and programmes available to children with disabilities, for the following services:

- Partial care (section 78 (4));³
- Early childhood development (section 93 (4));⁴
- Prevention and early intervention (section 146 (4));⁵ and
- Drop-in centres (section 215(4));⁶

Recognising that resources are limited and that marginalised categories of children do not have equal access to child care and protection facilities and programmes, the Portfolio Committee inserted these clauses in order to ensure that children in poor communities and children with disabilities will be prioritised.

Disability

The definition of partial care now excludes medical facilities such as hospitals where children with disabilities are receiving medical treatment (section 76 (c));⁷

Partial care facilities for children with disabilities or chronic illnesses must provide training for their employees on “basic therapeutic interventions” (section 79 (3)(c)(iii))⁸

To ensure that children with disabilities can access services, the Minister of Transport has been added to the list of ministers that the Minister of Social Development must consult when devising a strategy to ensure the provision of:

- Partial care (section 77 (1));⁹
- Early childhood development (section 92 (1));¹⁰
- Prevention and early intervention (section 145 (1));¹¹ and

³ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 31 October 2007, clause 4

⁴ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 31 October 2007, clause 4

⁵ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 31 October 2007, clause 7

⁶ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 31 October 2007, clause 9

⁷ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 31 October 2007, clause 4

⁸ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 31 October 2007, clause 4

⁹ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 4

¹⁰ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 4

- Drop-in centres (section 214 (1));¹²

The definition of early childhood development has been amended by inserting the words 'sensory' and 'communication' development of children and section 91 (1) now reads as follows:

"Early childhood development, for the purposes of this Act, means the process of emotional, cognitive, sensory, spiritual, moral, physical, **[and]** social and communication development of children from birth to school-going age."¹³

This was in response to calls by the disability sector to extend the definition to include programmes that help children with disabilities to communicate and learn to use different senses to understand their environment. There have also been consequential amendments to the norms and standards and the regulations.

Three new types of programme that will be especially beneficial to families supporting children with disabilities have been listed under *the purposes of prevention and early intervention*:

- In the "must provide category" -
144 (1) (c) "developing appropriate parenting skills and the capacity of parents and care-givers to safeguard the well-being and best interests of children with disabilities and chronic illnesses."¹⁴
- In the "may provide category" -
144 (2) "(c) providing families with information to enable them to access services;
(d) supporting and assisting families with a chronically ill or terminally ill family member."¹⁵

All prospective foster parents will be assessed to determine whether they:

"182 (2) (c) have the capacity to provide an environment that is conducive to the child's growth and development."¹⁶

This amendment is aimed at ensuring that foster parents must have the capacity to care for children with disabilities before a child with a disability is placed with them.

¹¹ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 7

¹² Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 9

¹³ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 4

¹⁴ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 7

¹⁵ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 1 November 2007, clause 7

¹⁶ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

Investigations into abuse, serious injury or death in child care facilities

Previously, investigations into abuse focussed on the affected child with the aim of securing their well-being, making it possible for managers of partial care facilities, or child and youth care centres to cover up institutional problems. Now all cases of abuse, serious injury or death must be investigated for two reasons. Firstly, to ensure the protection of the child involved and secondly to see if there are any institutional factors that are leading to these problems. The committee recognised that parents should be informed first where possible of the death of their child, before the report is made to the police or the Department of Social Development.¹⁷

Involvement of local government and promoting inter-governmental co-operation

To ensure that local government is involved and that all three spheres of government collaborate in the implementation of the Act, the Minister of Provincial and Local Government has been added to the list of ministers that the Minister of Social Development must consult when devising a strategy to provide:

- Partial care (section 77 (1));¹⁸
- Early childhood development (section 92 (1));¹⁹
- Prevention and early intervention (section 145 (1));²⁰ and
- Drop-in centres (section 214 (1));²¹

Profiling of services for purposes of planning

Each MEC must compile a profile of each of the services covered by the Children's Amendment Bill. The obligation on the MEC to do so has been changed from 'time to time' to "at the prescribed intervals"²². This means that the time period for profiling will be prescribed in the regulations.

¹⁷ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, section 89 relating to partial care under clause 4 of the amendment bill; section 178 alternative care, and section 226 drop-in centres under clause 9

¹⁸ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 4

¹⁹ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 4

²⁰ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 7

²¹ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

²² Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, section 77(3) relating to partial care and section 92 (3) relating to ECD, section 104(3) relating to protection services; section 145(3) relating to protection services; section 192(3) relating to child and youth care centres and section 214 (3) relating to drop-in centres .

Time limits placed on Department to consider applications for registration

All applications for full registration, conditional registration and renewal of registration must be considered within 6 months of the application being submitted.²³ These time limits were imposed in order to ensure that applications are treated in accordance with the principles of fair administrative action. The time limit of 6 months is longer than the period normally considered reasonable but given the backlogs and capacity constraints within the provincial departments, and the likely increase in applications once the new law is in force, a period of 6 months was considered more pragmatic.

NPOs applying for registration of partial care facilities, ECD programmes, and child and youth care centres will benefit from this provision in that it will help ensure that applications are processed timeously. A successful registration application will provide NPOs with the legal status needed in order to apply for government funding under the Bill.

Time limits for appeals to be lodged and decided

A time limit of 90 days has been set for the lodging of appeals against rejections of registration applications, cancellation of registration or notices of enforcement. An obligation is placed on the MEC to decide an appeal within 90 days of receipt.²⁴

The time limits placed on the MEC to decide appeals will benefit NPOs by providing legal clarity timeously.

2.2 Other key amendments

Definitions

The following definitions have been added to section 1:

“**after-care**” means the supportive service provided by a social worker or a social service professional to monitor progress with regard to the child(’s) developmental adjustment as part of—

- (a) family preservation or reunification services;
- (b) adoption or placement in alternative care; or
- (c) discharge from alternative care;

²³ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, section 82(1) relating to partial care, section 97(1) relating to ECD, and section 200(1) (a) relating to child and youth care centres.

²⁴ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, section 86(1) and 88(6) relating to partial care, section 101(1) and 102(6) relating to ECD; and section 201(1) relating to child and youth care centres, and section 223(1) in relation to drop in centres.

‘assessment of a child’ means a process of investigating the developmental needs of a child, his family environment or any other circumstances that may have a bearing on the child’s need for protection and therapeutic services;

‘assessment of a programme’ means a process of determining whether the provision and the content of a programme complies with prescribed norms and standards by a suitably qualified person;”²⁵.

The following definitions have been amended and now read as follows:

“‘cluster foster care’ means the reception of children in foster care in accordance with a cluster foster care scheme registered by the provincial head of social development;

‘cluster foster care scheme’ means a scheme, managed by a non-profit organisation and registered by the provincial head of social development for this purpose, providing for the reception of children in foster care’

‘quality assurance process’ means the process referred to in section 211;

‘secure care’ means the physical containment in a safe and healthy environment—
(a) of children with behavioural and emotional difficulties;
(b) of children in conflict with the law;”²⁶.

Problem areas in relation to the definitions:

Throughout the Bill certain functions that were the exclusive responsibility of social workers have been given to social service professionals. This was an amendment made by the National Council of Provinces. Whilst this is a positive move allowing the burden of service delivery to be shared between a number of different professionals, it was not the intention to stop social workers from fulfilling these functions. However, the definition of **‘social service professional’** does not currently include a social worker which results in the unintended consequence of social workers being excluded from performing the functions that have been allocated to “social service professionals”. This definition is in the principal Act, therefore, it cannot be amended during this process. However it could be amended in the third Amendment Bill.

Early Childhood Development

Before considering an application for the registration of an early childhood development programme the provincial head of social development must consider the assessment of a “suitably qualified person” (s97(4)).²⁷

²⁵ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 3

²⁶ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 3

The previous version of the Bill required the assessments to be done by a “social service professional”. The change enables early childhood development specialists to do the assessments.

Child protection norms and standards

The Minister must develop norms and standards for child protection services. Section 106(2) lists the programmes and services that the norms must relate to. The Committee removed the following from the list (reasoning is given in brackets):

- Family preservation (covered under the chapter on prevention and early intervention)
- Development (not considered to be a programme or a service)
- Outreach (covered under the chapter on prevention and early intervention)
- Support groups (not considered to be child protection services)
- Preparation programmes (covered by family reintegration); and
- Social security (cannot regulate social security in the Children's Act).

Mandatory reporting of physical and sexual abuse and deliberate neglect (section 110(1))²⁸:

“Immigration officials” have been added to the list of people who are obliged to report children that have been physically or sexually abused, or deliberately neglected.

The caveat of “if it is in the best interest of the child concerned” has been removed so that all cases must be reported.

A police official has been added as a person to whom a report may be made. (section 110(1))²⁹

Voluntary reporting of a child in need of care and protection (s110(2)):

By deleting the words “because of abuse, sexual abuse or deliberate neglect” the restriction on the types of problem that may be reported has been removed. Section 110(2) now reads:

“Any person who on reasonable grounds believes that a child is in need of care and protection may report that belief to the provincial department of social development, a designated child protection organisation or a police official”³⁰

²⁷ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 4

²⁸ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

²⁹ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

Reporting by police official

Previously, “police official” was listed as one of the professionals that must report abuse. This caused a contradiction in terms of the steps that must be followed by the police in handling cases. To ensure clarity and consistency “police official” was removed from the general list of people who are obliged to report (section 110(1)) ,and a special provision for police officials has been created. A police official must take the same action regardless of whether they become aware of abuse through a report made by a third party or through their own observations. The time frames for action have also changed, a police official must immediately ensure the well-being of the child, and ‘within 24 hours’ notify the provincial Department of Social Development (section 110(4)).³¹

Investigation of reports by a designated child protection organization

Designated child protection organizations (e.g. child welfare) are authorised to conduct initial assessments and full investigations into reports, but new sub-sections create a duty on them to report the matter to the provincial head of department (section 110(6)), and a concomitant duty on the head of department to monitor the progress on the investigation (section 110(7)).³²

Reporting of an offence

If, having conducted their investigation, either the department of social development or the designated child protection organisation finds the child in need of care and protection they “must report the possible commission of an offence to a police official” (section 110(8)).³³

This last amendment introduces quite a major change in practice. Currently social workers exercise a discretion whether or not to report the matter to the police. Sub-section 110(8) takes that discretion away and obliges them to report the matter to the police if a criminal offence or an offence created under the Children’s Act has allegedly been committed.

Child headed households

The Portfolio Committee shared the public’s concerns about children having to head households and take on responsibilities usually shouldered by adults. However, they agreed they should be legally recognised and supported with services to reduce the

³⁰ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

³¹ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

³² Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

³³ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

burden. The National Assembly made the following amendments to improve access to support:

- Children living alone and whose parents are still alive but who have been abandoned are now also considered to fall under the definition of child headed households (section 137 (1)(a)).
- The age limit has been changed – a child heading a child-headed household must be at least 16 (section 137 (1)(c)).
This change was made because the Social Assistance Act defines a primary care giver as a person 16 years or older which means that only children aged 16 can qualify as primary caregivers of their siblings for the purposes of social grants. However, the support envisaged under the mentorship scheme for child headed households goes beyond the provision of social grants and includes the foster child grant and other non-cash related benefits and services such as home based care for terminally ill parents.
- The requirement of a social work investigation before the provincial Department of Social Development can recognise the child headed household has been removed. Therefore assistance can be rendered immediately..
- It has been recognised that the child heading a child-headed household is not taking on full adult responsibilities and must be assisted and supported by a ‘supervising adult’. (section 137 (2))
- A complaint mechanism has been added for children to lay complaints (section 137 (9)).³⁴

The Committee remains concerned about the challenges facing child headed households and in its report of the proceedings recommends that “the practical management and monitoring of child-headed households be further investigated, particularly their access to social protection and adult supervision”.³⁵

Discipline of a child (ex s139)

Section 139 in B19B-2006 has been deleted in its entirety from the Children's Amendment Bill at the last minute.

However, new provisions were introduced in section 144 (*The purposes of prevention and early intervention programmes*), to ensure that parenting programmes promoting positive forms of discipline are rolled out:

³⁴ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

³⁵ Portfolio Committee on Social Development Report. Parliament of the Republic of South Africa, Announcements, Tablings and Committee Reports, Wednesday, 24 October 2007, [No 126 - 2007], Fourth Session, Third Parliament

144(1)(b) developing appropriate parenting skills and the capacity of parents and care-givers to safeguard the well-being and best interests of their children, including the promotion of positive, non-violent forms of discipline;³⁶

In its report, the Committee emphasised its commitment to ensuring that the debate was continued when the next amendment bill is tabled:

“The Committee excised clause 139, dealing with the discipline of children, from the Bill in recognition of the need for further investigation of the matter and anticipates this matter being finalised in a proposed amendment bill to be introduced in 2008.

The Committee however, wishes to emphasise that the existing law regulating inappropriate forms of discipline of children remains in place and urges that the programmes envisaged in this Bill aimed at promoting positive parenting skills be implemented by the Department of Social Development.

The Committee is of the view that this matter should have been tagged as a section 75 matter by the Joint Tagging Mechanism when the comprehensive Children’s Bill was introduced in 2003.”³⁷

Child labour and exploitation of children

“Slavery or practices similar to slavery including but not limited to debt bondage, servitude and serfdom, and forced or compulsory labour or provision of services” has been added to the prohibitions under s141. The use of children in crime is also prohibited and a concomitant offence has been created to deal with people who infringe the prohibition.³⁸

New prevention and early intervention programmes

The definitions of prevention and early intervention have been re-ordered with prevention now coming before early intervention in the Bill (s143)³⁹

Prevention and early intervention programmes are split into two categories those that *must* be provided and those that *may* be provided.

³⁶ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 7

³⁷ Portfolio Committee on Social Development Report. Parliament Of The Republic Of South Africa, Announcements, Tablings And Committee Reports, Wednesday, 24 October 2007, [No 126 - 2007], Fourth Session, Third Parliament

³⁸ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 5

³⁹ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 7

Additions to the 'must be provided' category include "the promotion of positive, non-violent forms of discipline" (section 144. (1)(b)); and "developing the capacity of parents to safeguard the well-being and best interests of children with disabilities and chronic illnesses," (section 144(1)(c)).⁴⁰

New programmes in the 'may be provided' category are:

"144 (1) (c) providing families with information to enable them to access services;
(d) supporting and assisting families with a chronically ill or terminally ill family member;
(e) early childhood development;"⁴¹

Prevention and early intervention norms and standards

The Minister must develop norms and standards for prevention and early intervention programmes. Section 147(2) describes the programmes and services that the norms must relate to. The Committee removed the following from the list (reasoning is given in brackets):

- Protection (covered under the chapter on child protection)
- Social security (cannot regulate social security in the Children's Act)
- Family participation (not considered to be a programme or a service)
- Empowerment (not considered a programme or a service).

Alternative care

No child may be kept in temporary safe care or in a child and youth care centre or any other facility without a court order for longer than six months (section 167(2)).⁴²

This amendment is aimed at preventing children being placed in temporary safe care for long periods of time without a court order.

Existing places of safety are to be regarded as having been approved as temporary safe care (section 167(4)).⁴³

Foster Parents

Foster parents must -

"have the capacity to provide an environment that is conducive to the child's growth and development;" (section 182. (2)(c)).⁴⁴

⁴⁰ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 7

⁴¹ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 7

⁴² Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁴³ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

This new sub-clause was inserted to ensure that children with disabilities will only be placed with foster parents who have the capacity to care for children with disabilities.

Duration of foster care placements

Section 186 allows the court to extend a foster care placement until the child is 18 and to remove the requirements of two yearly social work reports and court reviews.⁴⁵ The effect of this provision is to make foster care a permanent placement option for children who cannot live with their biological parents. The court can also give the foster parent full authority to take major decisions affecting the child and any other parental responsibilities and rights (section 188 (3)). While in law the child remains in foster care, in effect the placement resembles “subsidised adoption”.

In recognition of the burden on the foster care system and the rapid growth in uptake of the foster child grant, the Committee have request that the Department of Social Development “conduct an urgent comprehensive review of the social security policy for children and the foster-care system”⁴⁶.

The section dealing with the *responsibilities and rights of foster parents* now includes a provision requiring the foster parent to consult with the child and take the views of the biological parent or guardian into consideration before taking any major decisions affecting the child (section 188 (2)).⁴⁷

Cluster foster care

Cluster foster care is a new concept in law. The Portfolio Committee identified several gaps in the regulation of cluster foster care schemes. The drafter advised the committee that since this is an amendment bill, there is a limit to the number of clauses that can be inserted. Therefore most of the detail of how these schemes will be formed and managed will be delegated to the regulations. However, changes by the Portfolio Committee mean that all schemes must now be registered (sections 183(1)(c)) and monitored by the provincial Department of Social Development (section 183(2)). All schemes must be run by a registered non-profit organisation (section 183.(1)(a)) and all the people working for such a scheme must go through the same screening process as foster parents (section 182(4)) and the scheme will have to comply with ‘prescribed requirements’ (section 183. (1)(c)). Although, there is no limit to the number of children

⁴⁴ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁴⁵ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁴⁶ Parliament Of The Republic Of South Africa, Announcements, Tablings And Committee Reports, Wednesday, 24 October 2007, [No 126 - 2007], Fourth Session, Third Parliament

⁴⁷ Children’s Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

that may be placed in the scheme the committee expressed a desire to limit the number of children in each household within the scheme to six children.⁴⁸

Child and Youth Care Centres

Child and youth care centres can offer a range of programmes to accommodate the needs of children. All programmes offered by child and youth care centres must be assessed by a suitably qualified person and approved by the provincial head of social development (s191(4)).

Programmes can be offered for children in conflict with the law, therefore, a new sub-section was added to the norms and standards to cover 'security measures' (section 194 (2)(m)).⁴⁹

All government run facilities, children's homes, places of safety, secure care facilities, schools of industry and reform schools will be regarded as child and youth care centres from the date the act is implemented but must re-register within two years.

Section 196 (3) makes it clear that reform schools that are currently managed by the provincial departments of education will become the responsibility of provincial departments of social development within two years of the Act coming into effect. This sub-section should also have included a reference to schools of industry but this reference was left out by mistake.

Centres run by provincial and national government are now also required to be registered (section 197(1)).⁵⁰

Conditional registration for a child and youth care centre may not exceed one year (section 201(b)).⁵¹

Under the terms of section 208 the management board of a child and youth care centre must create a children's forum to ensure the participation of children, in the operation of the centre, but the following qualification has been added: "taking into consideration the age, maturity and stage of development of the children".⁵²

⁴⁸ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁴⁹ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁵⁰ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁵¹ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁵² Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

The quality assurance process is now fully defined in the substantive text and the definition section is merely a cross-reference. This is just a technical amendment and does not change to the quality assurance process (section 211).⁵³

Drop-in centres

The definition of a drop-in centre has been substantially changed because the committee wanted to ensure that community workers and grannies in rural communities can get support to provide basic services, i.e. food and homework provision. They also did not want to associate children on the streets with basic services, believing that children on the streets are children in need of care and protection and therefore that specialist services rendered to such children would be covered under the protection chapter, the prevention and early intervention chapter or the child and youth care centre chapter.

The new definition reads:

213. (1) A drop-in centre is a facility providing basic services aimed at meeting the emotional, physical and social development needs of vulnerable children.

(2) A drop-in centre must offer any of the following basic services:

- (a) Provision of food;
- (b) School attendance support;
- (c) Assistance with personal hygiene; and
- (d) Laundry services.⁵⁴

(3) A drop-in centre may offer any of the following additional programmes appropriate to the developmental needs of the children attending that centre:

- (a) Guidance, counselling and psychosocial support;
- (b) Social skills and life skills;
- (c) Recreation;
- (d) Community services;
- (e) School holiday programmes;
- (f) Primary health care in collaboration with the local health clinic;
- (g) Reporting and referral of children to social workers or social service professionals;
- (h) Promotion of family preservation and reunification;
- (i) Computer literacy; and
- (j) Outreach services.

The norms and standards have been revised to accommodate this change.

⁵³ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

⁵⁴ Children's Amendment Bill [B19C of 2006] – Amendments proposed by the National Assembly 01 November 2007, clause 9

Added to the list of functions that can be delegated to municipalities is the functions under section 224 that covers the *record, inspection of and provision of drop-in centres* (section 225 (1))

3. The Parliamentary Process

Parliament passed the first Children's Bill on 14 December 2005. The President signed it into law in June 2006 and its official name and number is the Children's Act No 38 of 2005. Certain sections of the Act came into effect on 1 July 2007. The full Act will not come into force until the second Bill, the Children's Amendment Bill is passed. The Child Care Act of 1983 therefore still governs the child care and protection system until the new Children's Act is put into force.

The Children's Amendment Bill [B19 of 2006] was tabled in Parliament in August 2006. The NCOP began their deliberations on the Amendment Bill in September 2006 and there were public hearings in all nine provincial parliaments. The NCOP made many changes to the Bill in response to the public hearings and passed it on 29 May 2007. The Portfolio Committee for Social Development then considered the Bill. The committee held public hearings in eight rural communities in four provinces, and at the seat of Parliament in Cape Town. The Portfolio Committee on Social Development voted on the Bill on the 23rd October, and the National Assembly will vote on the 6th November.

On 07 November, the Department of Social Development will brief the Select Committee on Social Services (NCOP) on the amendments to Bill that were passed by the National Assembly. Representatives will be sent back to their provinces and asked to return with Provincial Mandates by 20 November. The NCOP now has three options: it can pass the Bill as is, it can reject the amendments collectively or individually, or it can reject the Bill. If it passes the Bill, the Bill will be submitted to the President for assent. If it rejects the amendments or the whole bill, Parliament will have to use the mediation process outlined in the Constitution.

4. Contact details for the Children's Bill Working Group

The Children's Bill Working Group is a network of networks. It has representatives of all the child sector umbrella bodies and representatives of the churches, trade unions, legal experts and academic institutions. The Children's Bill Working Group was established in March 2003 with the aim of promoting debate and decision-making that is informed by:

- child rights,
- evidence, and
- consultation with the children's sector.

We are all committed to this aim in order to ensure that the new law is drafted in a way that will provide workable solutions to the major challenges facing children in the areas of social services and protection from abuse and neglect. The Children's Bill Working

Group is divided into sub-groups that work on specific issues relating to the Children's Amendment Bill. Spokespeople are as follows:

- Children with disabilities: Nonceba Meyiwa 073 273 1126
- Child labour and exploitation: Dawie Bosch: 082 557 8597
- HIV/AIDS: Wanjirũ Mũkoma 082 423 8515
- Discipline of children: Sam Waterhouse 082 423 8515; Carol Bower 083 777 3793 and Keith Vermeulen 082 523 0701
- ECD and partial care: Mary Newman 078 311 5827
- Child-headed households: Zeni Thumbadoo 082 418 7915 and Jackie Lingalo 073 143 4666
- Foster care: Jackie Loffell – 082 454 0991
- Prevention and early intervention: Nokuku Sipuka 083 276 4339 and Carol Bower 083 777 3793
- Child and youth care/ care in the community: Zeni Thumbadoo 082 418 7915
- Drop-in centres: Sam Mokgopha 083 488 0955
- Provisioning and funding of social services: Paula Proudlock 083 412 4458

If you want spokespersons with a general overview of the whole Bill, please contact:
Lucy Jamieson (Children's Institute UCT) 021 – 689 8303 or 083 458 9075
Paula Proudlock (Children's Institute UCT) – 083 412 4458
Joan Van Niekerk (Childline) – 083 303 8322

Appendix 1

Clauses in the Children's Amendment Bill

CLAUSE 1 Amendment of the Long Title

CLAUSE 2 Amendment of the Table of Contents

CLAUSE 3 Insertion of definitions

CLAUSE 4 Insertion of Chapters Five and Six with amendments to [B19B – 2006]

CLAUSE 5 Amendment of Chapter 7 of Act of 38 2005

CLAUSE 6 Amendment of section 142 of Act 38 of 2005

CLAUSE 7 Insertion of Chapter 8 in Act 38 of 2005

CLAUSE 8 Amendment of section 156 of Act 38 of 2005

CLAUSE 9 Insertion of chapters 11, 12, 13, and 14 in Act 38 of 2005

CLAUSE 10 Amendment of section 250 of Act 38 of 2005

CLAUSE 11 Amendment of section 304 of Act 38 of 2005

CLAUSE 12 Amendment of section 305 of Act 38 of 2005

Appendix 2

Networks and key organisations in the Children's Bill Working Group:

Aids Law Project, University of Witwatersrand
Aids Legal Network (ALN)
Alliance for Children's Entitlement to Social Security (ACCESS)
Blacksash
Caring Schools Network (CASNET)
Centre for Early Childhood Development (CECD)
Child Welfare South Africa
Childline SA
Children's HIV/AIDS Network WC (CHAIN)
Children's Institute, University of Cape Town
Children's Litigation Project, University of Pretoria
Children's Rights Centre
CINDI
Community Law Centre, UWC
COSATU
Dikwankwetla
Disability Action Research Team
Disabled Children's Action Group (DICAG)
Disabled People South Africa (DPSA)
Early Learning Resources Unit (ELRU)
Gender Advocacy Programme
Johannesburg Child Welfare Society
Lawyers for Human Rights
Legal Resources Centre
Molo Songololo
Naledi
National Alliance for Street Children
National Association of Child and Youth Care Workers (NACCW)
National Early Childhood Development Alliance
National Welfare and Social Development Forum
Network Against Child Labour (NACL)
Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN)
SANAC children's sector network
SA Congress for Early Childhood Development
Soul City
South African Catholic Bishops Conference (SACBC)
South African Council of Churches (SACC)
South African Society for the Prevention of Child Abuse and Neglect (SASPCAN)
Southern African Catholic Bishops Congress (SACBC)
Trafficking Task Team
TECL
UCT Legal Aid Clinic
University of the Western Cape