

**Submission
on the Children's Bill [B70 of 2003]**

to the Portfolio Committee on Social Development

**From the South African Congress for Early
Childhood Development, and Early Learning
Resource Unit**

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Introduction

"Early Childhood Development (ECD) is an umbrella term that applies to the processes by which children from birth to at least nine years grow and thrive - physically, mentally, emotionally, spiritually, morally and socially".¹

Children living in poor households are most at risk of infant death, low birth weight, stunted growth, poor adjustment to school, increased repetition and school drop out. A recent analysis by Woolard concluded that nearly 75% of all children in South Africa are poor and nearly 55% are ultra poor; living in households with less than

¹ Education White Paper 1 on Education and Training (1995), the Interim Policy for Childhood Development (1996), The White Paper for Social Welfare (1997) White Paper 5 on Early Childhood development (2001) and Draft Guidelines for Daycare (2001)

R215 per person per month.² A major challenge facing the newly elected democratic Government in 1994 was the need to provide holistic care for all South African children.³ The environment in which the majority of children find themselves has rendered them developmentally at risk due to decades of racially discriminatory political, social and economic policies and practices.

It is therefore imperative that Government put in place action plans for early development opportunities for all young children and especially those living in poverty. Timely and appropriate interventions can reverse the effects of early deprivation. One way of achieving this is by increasing access to ECD programmes, especially for poor children.⁴ ECD holds particular potential for children living in poverty, as it can enhance their long-term capacity to participate fully in the realisation of their rights and abilities. The early childhood period is one of the greatest vulnerability, as these are critical years for the development of innate potential.

It is therefore also the period in which primary prevention can be most effective. Exposing children to appropriate early stimulation, nutrition, health and care through a range of services has many benefits, which can reduce the need later for costly medical, remedial and welfare services. ECD programmes:⁵

- can assist children's transition to schooling and improve efficiency in the education system by reducing costly repetition rates;
- fall within the ideal phase for the inculcation of values such as anti-racism, anti-sexism and respect for human rights;
- can provide support and information direct to parents and other caregivers building upon existing beliefs and practices around child raising;
- are critical for the identification and prevention of at-riskness, as regards learning difficulties as well as social, behavioural and health problems; and
- are key for providing children with safe environments to play and learn while their parents are away at work, thereby protecting them from abuse and neglect due to being unsupervised at home

There is an increasing need for caregivers to seek employment in order to help with household expenses. The availability of ECD facilities allows caregivers to place their children in a safe and stimulating environment, thus freeing them up to look for employment and engage in economic activities. Regardless of the parent's choice, all ECD facilities should provide a good quality service and high standard of care to children that would aid in the development of the child.⁶ Even if caregivers are not working, some child care support can free them for subsistence activities and to participate in capacity building opportunities.

A number of socio economic factors contributing to an increasing demand for ECD provision. These include the changing roles of women, changing family structures

² Quoted in Streak, J and Kgamphe, L. (2004) **Monitoring Child Socio-economic rights in South Africa: Achievements and Challenges**, IDASA, Cape Town

³ Department of Education (2001) **Education White Paper 5 on Early Childhood Development**,

⁴ Ibid, p

⁵ Biersteker, L.(2001) **Early childhood development a review of public policy and funding**. Cape Town: Idasa, p4

⁶ Department of Social Services and Poverty Alleviation (2003) **Audit of ECD provisioning in the Western Cape**, p4

and increasing economic pressure on families which require caregivers to enter the job market. The other reality is both the paucity of jobs and the subsistence nature of jobs leading to the need for a variety of ECD programmes as noted by both the Departments of Education and Social Development, but subsidies are only available for ECD centre based facilities

Government's Role in ECD Provisioning: A case for including a National Policy Framework in the Children's Bill

The Government has prioritised ECD in many policies and programmes. These are included under the mandate of various departments. Apart from ECD services, other programmes focusing on young children include free maternal and child health care for children under 6 years, the child support grant for children under 11 years and the 'flagship' programme for unemployed women with children under 5 years.

Listed below are the various Government programmes, policies and legislation that provide a framework for current ECD provisioning:⁷

- Constitution of the Republic of South Africa (Act 108 of 1996)
- National Programme of Action (NPA) for Children in SA (May 1996)
- Issue Paper on the Review of Child Care Act
- White Paper for Social Welfare (1997)
- Education White Paper 1 on Education and Training (1995)
- Interim ECD Policy (1996) – Department of Education
- National ECD Reception Year Pilot Project (1996) – Department of Education
- Education White Paper 5 on ECD (2001)
- Quality Education for All: Overcoming Barriers to Learning & Development – Department of Health and Department of Education
- Free Health Care Policy (1994) – Department of Health
- Integrative Nutrition Strategy (1998) – Intersectoral
- White Paper on Disability (1997) – Department of Social Development
- Draft Issue Paper on Transformation of the ECD system in South Africa (1998) – Department of Social Development
- White Paper on Local Government (1998)
- Department of Water Affairs and Forestry: Working for Water Project
- Department of Sports and Recreation: SANGALA Movers in Action Pilot Project
- National Sports Council: Superkidz Programme
- Department of Correctional Services: Females & Youth Unit
- Human Resources Development Strategy for South Africa (2001) – Department of Education & Department of Labour

This list of policies, programmes and laws developed by various Government departments points to Government's commitment to allocate resources to vulnerable children and their caregivers. Not all of the policies have a direct focus on ECD, but they all play an important role in enhancing the well-being of children between 0 and 9 years.

⁷ Department of Education (2001) **Report on national ECD policies and programmes**, pp 10-14

The departments with major responsibility for services to young children in terms of ECD are Education and Social Development. The Department of Education is the lead department in the provision of early childhood education to children between the ages of 5 and 6 years with the provisioning of Grade R. The Department of Social Development registers and subsidises ECD providers that offer services to children who are not in Grade R.

The effectiveness and cost savings that can be brought about through integrated service delivery is generally understood, and is emphasised in current social sector and developmental policies. By definition ECD emphasises a holistic approach. This requires role players and in particular, the public sector departments jointly responsible for delivering ECD services, to work together. It is also recognised that effective collaboration is hard to achieve because of different departmental approaches, priorities, administrative procedure, budget processes, etc.⁸

Therefore, in summary:⁹

- **Department of Social Development** would need to take overall responsibility for non schools based ECD provisioning. ECD sites would have to be registered and subsidized to ensure minimum standards are met and that sites are sustainable. As ECD sites should be accessible for all children, the Department must be able to identify those children who had fallen through the 'safety net', as well as provide services & grants to orphans & vulnerable children & their families/caregivers.
- **Department of Health** would need to provide nutrition programmes. They would then be in a position to monitor the status of the children's nutrition, health, growth & immunization, as well as the integration of children with special needs.
- **Department of Education**, in addition to providing Grade R services, would need to monitor the quality of the ECD programmes, as well as the after school care & recreation programmes.
- **Department of Agriculture** could also play a role by identifying particularly vulnerable ECD sites and ensuring that the ECD site has a food garden to sustain food security.
- **Department of Home Affairs** would need to ensure that all children's documentation was in order, so that caregivers could access available grants & state support.
- **Local Government** would take responsibility for provision of buildings and basic services, as an integral part of their Integrated Development Plans.
- **Provincial Programme of Action for Children** through the establishment of the LPA's (Local Programmes of Action) would need to play a monitoring and coordinating role.
- **Community, youth and women's groups, as well as Faith Based Organisations** could play a vital role in providing support and monitoring.
- **NGO's (Non-Government Organisations) and CBO's (Community Based Organisations)** could provide training, capacity building, support, development and monitoring.
- **The focus would be on developing the capacity of parents/caregivers, stakeholders & community leaders, & ensuring they have the necessary**

⁸ Op Cit 5, p26

⁹ TREE, TREE's vision for child and family support centres.

resources to take responsibility for the welfare of the young children of their community. Government departments would have to ensure provision of inter-sectoral service, support & resource provision.

International and Equality Law provisions relevant to ECD

The Convention on the Rights of the Child recognizes that the duty to care for children lies primarily with both parents¹⁰. The State party to the Convention has a duty to assist the parents in fulfilling this obligation¹¹. It must provide assistance for families with any measures that can help prevent family breakdown. A variety of ECD programme options including parent outreach programmes and day care programmes are mentioned among the practical ways of doing this.¹² The CRC states that State parties 'shall ensure the development of institutions, facilities and services for the care of children'¹³. The State therefore has to provide facilities and services that reach all children whatever their socio economic circumstances. The right of children of working parents to benefit from child care services and facilities and the right of children is specifically pointed out¹⁴.

Article 3(3) deals with institutions that care for and protect children. It states that these institutions must conform to safety and health standards. The staff must be suitable and competent. This article was drafted in reference to child care services particularly for very young children as they have developmental needs for security, consistent individual relationships and one-to-one stimulation.¹⁵ High adult child ratios are more likely or feasible in family settings – this is another reason to promote support for family based programmes.

The Committee of the Rights of the Child has on numerous occasions addressed the need for child care facilities. It has complimented Germany where every child has the right to be in a kindergarten. In its country report for Jamaica the Committee stated that State parties are encouraged to support further measures to promote early childhood development and the provision of child care services and centres for working mothers. To Sri Lanka it recommended that the Ministry of Education should take under its responsibility the establishment and management of preschool facilities.¹⁶ In the guideline for periodic reports the Committee has asked for information on any initiatives by the States to provide early development and education services for young children, especially for young children from disadvantaged social groups.¹⁷ It has stated that facilities must be developed in rural as well as urban areas. These facilities must meet certain standards and the people

¹⁰ Article 18 (1) of the CRC states that the both parents have 'the primary responsibility for the upbringing and development of the child'.

¹¹ Article 18(2) states that for the promotion of the right in the Convention 'State Parties shall render appropriate assistance to parents and legal guardians in the performance of their child rearing responsibilities'.

¹² UNICEF (1998). **Implementation Handbook for the Convention on the Rights of the Child**. R. Hodkins, P. Newell. New York, Unicef publications: 232.

¹³ Article 18(2).

¹⁴ The CRC makes particular reference to children of working parents in article 18(3).

¹⁵ UNICEF (1998). **Implementation Handbook for the Convention on the Rights of the Child**. R. Hodkins, P. Newell. New York, Unicef publications: 233.

¹⁶ UNICEF (1998). **Implementation Handbook for the Convention on the Rights of the Child**. R. Hodkins, P. Newell. New York, Unicef publications: 234.

¹⁷ Guidelines for Periodic reports, paragraph 106.

who are working with children must be properly trained. The need for such facilities should therefore have direct impact on national policy.¹⁸

The nature of ECD facilities must be addressed so that they are not narrowly interpreted as childcare or daycare centres. These are very expensive options, and are not necessarily congruent with South African child rearing practices. Also, without proper resources and trained staff could be potentially harmful to children. Appropriate training of staff needs to be addressed for the nearly 50 000 practitioners working in ECD centres

In the Nation-wide Audit of ECD provisioning in South Africa the qualifications of the nearly 50 000 practitioners can be broken down as:

Qualification	Number (%)
No Training	11033 (23%)
NGO Training	20730 (43%)
Under qualified – JC or Matric plus 2 years	7563 (15%)
Qualified	5620 (12%)
Non ECD Qualification	3615 (7%)

ECD is also relevant in relation to the child's right to develop¹⁹. The Committee on the Rights of the Child has emphasized that it sees 'development' as a concept which is embraced by the Convention as a whole. Measures must be taken to ensure the 'development of the child including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity, and to prepare the child for an individual life in a free society'²⁰. The quality of the care that children receive affects their development of social and educational skills.²¹ Many obligations under the CRC are relevant for the development of the child. One example is article 29, which states that the aim of education is the development of the child. The Declaration on the Right to Develop states that State Parties should take all appropriate measures to realize the right to develop. This includes making available resources for education and access to services such as child care facilities that encourage the positive development of the child's personality.²²

Early childhood development in particular is mentioned in the Plan of Action designed for implementing the World Declaration on Survival, Protection and Development of Children. In the Plan of Action it was stated that education of children and adults alike is enabled through the existence of affordable or free ECD services. The Plan recognizes specifically that women's rights and children's rights are inextricably linked.²³

¹⁸ Martha F. Davis and Roslyn Powell (2003). "The International Convention on the Rights of the Child: A catalyst for Innovative Childcare Policies." **Human Rights Quarterly** 25(3): 689- 719 at page 696.

¹⁹ Article 6(2) of the CRC states that State Parties shall ensure to the 'maximum extend possible the survival and development of the child'.

²⁰ Guidelines for Periodic Reports of the Committee on the Rights of the Child (paragraph 40)

²¹ Martha F. Davis and Roslyn Powell (2003). "The International Convention on the Rights of the Child: A catalyst for Innovative Childcare Policies." **Human Rights Quarterly** 25(3): 689- 719 at page 694.

²² General Assembly (1986). Declaration on the Right to Develop.

²³(1990). Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990's: 8 at page 20.

A snapshot of the status of ECD- based on findings form the Nationwide Audit of ECD provisioning in South Africa²⁴

The Department of Education undertook an audit of ECD sites in 2000 to inform policy decisions regarding ECD. The audit identified 23 482 ECD sites which catered for 1 030 473 children. Less than one sixth of children in the 0-7 year age cohort were in any form of ECD provisioning.²⁵ Half of the learners were in the 5-6 year age cohort whilst most of the rest are under age 5. Only 2% were reported to be older than 7 years. Just over 1% of learners had some sort of disability and these children were disproportionately represented in age 7 and older age group.

It is estimated that about half of the sites are community based; a third home based and less then one fifth are schools based.²⁶ Similarly, 57% learners are enrolled in community sites, a quarter in home based sites and one fifth in school based sites.²⁷ Home based sites tend to operate for longer hours than other sites (at times in excess of 10 hours) and therefore offer after school services. Children under age 5 that are in ECD sites are mostly at home based sites, while 5-7 year olds are found at either community or school based sites.²⁸ 17% of learners of children who fall within the age of range of those requiring reception year services, are catered for in home based sites.²⁹ This must be taken into account, especially since the Department of Education's focus of Reception year provisioning is school and community based sites.

Two thirds of sites were registered, either with Department of Education or Department of Social Development or both. Almost a third of sites charge fees less that R25 a month and half of all sites audited did not receive regular fee payments. A quarter of sites indicated that they relied on fees as their sole source of income thus leaving them financially vulnerable.³⁰

The majority of educators received their training from NGO's and are thus 'unqualified' according to the Department of Education. Anyone with less than a Diploma is considered to be under qualified which includes people trained in the technikons, and Department of Education teachers trained according to older qualifications such as JC +2 and SC +2. Twenty percent of educators have received no training at all and only 10% are adequately qualified. Most ECD educator training is provided by NGO's, of which only a third were accredited at the time of the research. Department of Social Development wants a Level 4 for supervisors and Level 1 for other staff. This increases the number of adequately trained people quite a lot although many of them will not have a full qualification.

Of interest is that home based sites have a higher fee level yet, they offer weaker programmes, and the educators are less qualified and have less experience. This is a matter of concern due to the large number of children, including those requiring Reception year services, in home based sites. Due to the emphasis of ECD policy on providing a holistic service that enhances the development of children, any

²⁴ Department of Education (2001) **The nationwide audit of ECD provisioning in South Africa.**

²⁵ Ibid, p1

²⁶ Op Cit 24, p30

²⁷ Ibid, p39

²⁸ Ibid, p163

²⁹ Ibid, 163

³⁰ Ibid, p34

inadequacies in home based provisioning must be addressed. Whilst the emphasis lies on a structured, preparatory curriculum for 5-6 year age cohort through a Reception year programme, there is an equal need a similar system for younger children to optimise their development.

There is work in progress on a curriculum for children under 5 from Department of Education but without commitment in the foreseeable future for funding for this age group.

Summary of ECD provisions in section 75 and 76 of the Children's Bill

ECD is primarily covered in chapter seven of the section 76 Children's Bill from section 91 to section 103. However, the section 75 Children's Bill [B70 of 2003], the Bill currently before Parliament, also has implications for ECD.

The following is a list of sections relevant to ECD in the **s.75 Bill [B70 of 2003]**, with summarised recommendations:

- **National Policy Framework** – This was excluded from the Bill and should be reintroduced to ensure a comprehensive and integrated approach to ECD provisioning.
- **Child Rights Chapter (chapter 3)** – This chapter should be retained and include provisions to ensure that all children have the right to access ECD services including the right to clean water, shelter, to nutrition, to safety and protection.
- **Definitional provisions (s91)** - The section defining the ambit of ECD is problematic as it excludes a vulnerable group of children requiring ECD services and all children seven and older.
- **Strategies concerning ECD (s92)** – This section calls for a departmental strategy aimed at securing a properly resourced, co-ordinated and managed ECD system. We recommend that the strategy be changed to an inter-departmental strategy that falls under the umbrella of the National Policy Framework in order to ensure co-ordination between government departments involved in providing services and resourcing ECD sites.

Provisions in the s76 Children's Bill:

- **Provisions of ECD services (s93)** – We recommend that subsidisation be interpreted to cover practitioners as well as that funds **must** instead of **may** be made available. A recommendation for developmental grants has been proposed to assist ECD service providers to meet registration requirements
- **Minimum standards for ECD services (s94)** – We recommended that schools be included as ECD providers
- **Registration of ECD programmes (s95)** – Due to the need for regulating and monitoring the sector, it is a welcomed addition to the SALC draft. It is however recommended that registration fee as a requirement be omitted. The

need for the registration of family outreach programmes should also be mentioned here

- **Consideration of application (s96)** – It is proposed that applicants have to be considered for registration even if they have not met minimum requirements but are committed to doing so with financial assistance. It is also recommended that social development staff other than social workers should also be mandated to handle ECD applications to lessen the workload of social workers.
- **Conditional registration (s97)** – This is a positive addition to the Bill. It is recommended that a clause be added to provide for a reasonable time period within which minimum standards must be adhered to.
- **Cancellation of registration (s98)** – We suggest this is retained as is
- **Notices of enforcement (s99)** – It is recommended that notice of enforcement be accompanied by **an offer** of financial or developmental assistance by the state to aid compliance with minimum standards if the ECD centre is unable to meet the minimum requirements due to lack of resources.
- **Assistance (s100)** – It is proposed that ECD service providers who have been granted provisional registration have **access to financial and developmental assistance from the state** to enable them to comply with minimum standards and meet full registration.
- **Assessment of ECD services (s101)** – We suggest this is retained as is
- **Assignment of functions to municipality (s102)** – amend 102 (5) (b) from High court to Magistrate’s Court to make administrative justice more accessible to the people
- **Regulations (s103)** – We recommend that provision 103 (b) related to fees for registration be omitted

Comment on the s.75 Bill [B70 of 2003]

The National Policy Framework and s.92

“At provincial level ECD function is seldom stand-alone and typically falls under other Directorates. The location of ECD within provincial departments differs across provinces. They are managed in an ad hoc, inconsistent, uncoordinated manner”.³¹

Most of the problems in the ECD sector are due to the lack of inter-sectoral collaboration. The SALRC draft of the Bill addressed this problem by including a chapter aimed at ensuring better inter-sectoral co-ordination through the introduction of an umbrella National Policy Framework (NPF) that would co-ordinate and bind all government departments and all civil society organisations providing services to

³¹ Ibid

children. Furthermore, the SALRC Bill included a section [106(A)] in the ECD chapter that called for a national inter-sectoral ECD strategy aimed specifically at ensuring better co-ordination and resourcing of ECD. This strategy would fall under the umbrella of the National Policy Framework.

However, the entire chapter on the NPF has been excised from the Bill and the inter-sectoral strategy in s.106(A) has been reduced to a departmental strategy. Furthermore, the removal of budgetary commitment for ECD services and programmes, that was set out in s.106A(1)(f) is a serious omission. This is a vital provision if we want to ensure that budgetary requirements and procedures are in place to secure adequate funds for ECD services and programmes. However, all budgetary commitment has been removed.

The removal of the national policy framework poses a serious threat to the inter-sectoral collaboration required to ensure efficient ECD service delivery. The 2001 White Paper on Early Childhood Development³² seeks to increase the amount and quality of ECD provision through inter-sectoral collaboration. Key elements are the phasing in of a compulsory Reception Year (Grade R)³³ for children by 2010, a variety of programmes for children birth to 5 years including home based and family education outreach programmes, nutrition and health programmes; practitioner development and the development of a strategic plan for inter-sectoral collaboration with the other role players involved in pre-reception year provision. Integration was identified and supported unanimously by all parties as a major goal and as a challenge to be addressed in the development of the Draft Guidelines for Daycare.

We therefore recommend that the chapter including the National Policy Framework is re-introduced into the Bill. We also recommend that **s106A (1)** of the SALRC Bill be re-introduced and replace section **92** of the Bill.

~~92 The Minister, after consultation with the Minister of Education, must include in the departmental strategy a comprehensive national strategy aimed at securing a properly resourced, co-ordinated and managed early childhood development system.~~

Insert:

(1) The Minister, in consultation with the Minister for Education, must include in the National Policy Framework a comprehensive national strategy aimed at securing a properly resourced, co-ordinated and managed early childhood development system, which must include –
(a) mechanisms for the planning, development and implementation of designated early childhood development services and programmes;
(b) strategies for expanding the range of early childhood development services and programmes;
(c) criteria for the selection and designation of early childhood development services and programmes;
(d) minimum standards for early childhood development services and programmes;

³² Op cit 3

³³ The South African Schools Act has been amended to the effect that admission age to Grade R is age 4 turning 5 by 30 June in the year of admission.

(e) mechanisms to ensure impartiality in the provisions of early childhood development services and programmes; and
(d) measures to ensure that budgetary requirements and procedures are complied with to secure adequate funds for the provision of early childhood development services and programmes.

Chapter 3 – Children’s Rights

We recommend that the Bill should include a comprehensive list of rights, particularly including the right to social services, education and nutrition.

We endorse the Children’s Institute’s submission calling for the Child Rights Chapter to be re-instated into the Bill and support the formulation of the rights proposed in that submission.

Section 91- Definitional provision of ECD

Background to age cohorts within the definition of ECD as stated in government policy

ECD is defined by all current government policy documents³⁴ as an umbrella term which applies to the processes by which children from birth to at least 9 years grow and thrive, physically, mentally, emotionally, spiritually, morally and socially. These documents acknowledge the importance of ECD having a holistic approach to child development and indicates that ECD signifies the “importance of considering a child’s health, nutrition, education, psycho social and environmental factors...”³⁵ The White Paper for Social Welfare (1997) states that “No single model or programme is appropriate to meet the varied ECD needs of families, and a range of options will be made available, such as home and centre based services, after care for school going age children, stimulation programmes including part day programmes; and family, education, health and nutrition programmes”.³⁶

The following are the types of ECD services that are described in policy documents:

- Home visiting and parent education programmes;
- Family, education, health and nutrition programmes and as stated in the White Paper for Social Welfare (1997);
- Integrated child development centres which include educare and family outreach programmes;
- After-school centres;
- Play groups;
- Crèches;
- Nursery Schools;
- Educare Centres; and
- Grade R/Reception Year

³⁴ Education White Paper 1 on Education and Training (1995), the Interim Policy for Childhood Development (1996), The White Paper for Social Welfare (1997) White Paper 5 on Early Childhood development (2001) and Draft Guidelines for Daycare (2001)

³⁵ Department of Education (1996) **Interim Policy for Early Childhood Development**,p33.

³⁶ Department of Welfare (1997) **White Paper for Social Welfare**, p

- We recommend the insertion of family, education, health and nutrition programmes as mentioned in the White Paper for Social Welfare (1997).

These services are differentiated by the hours of operation, the age of children catered for, and qualification requirements of practitioners.

As stipulated in the definition above, ECD is a service provided for children from birth to 9 years of age. Regardless of the common definition of ECD used in government policy documents as a concept covering children from birth to age 9, various government departments tailor the age cohort under their jurisdiction when it comes to providing ECD services. However, the White Paper for Social Welfare (1997)³⁷ prioritises the provisioning of ECD services to disadvantaged children under age of 5 years. Following the Department's White Paper, Draft Guidelines for Daycare were developed, which focuses on children under 5 but which also makes provision for children over the age of 5 who need after school care. Provisioning for the 0-5 age group must include family, education, health and nutrition programmes in order to provide a safety net for vulnerable children and families.

The Department of Education focuses on children aged 5 and 6 years, with grade R provisioning as its key policy priority. Children aged 7-9 years are seen as part of the formal schooling system (grades 1-3).³⁸ There is a definite gap in ECD provisioning for children aged 7-9 years as they are not explicitly covered within current ECD policy. For many reasons, most of them related to poor socio economic conditions, children 7-9 years may find themselves out of the formal primary schooling system (grade 1-3) and so not benefit from any ECD programmes. Similarly, even though children in the 0-5 year category are covered in policy, many of them do not have access to centre based ECD facilities.

The Children's Bill's focus on 'school going age' as the end of the spectrum for ECD provisioning is problematic. Whereas in policy, there are specific requirements for school going age, in practice this is often not as simple. Grade R is being incorporated into the formal primary schooling system, thus making it part of the 10 years of compulsory schooling. Grade R would be excluded from the ambit of ECD provisioning as defined by the Bill. Children entering Grade R will be seen as being of school going age and therefore not fall within the Bill's definition of requiring ECD provisioning. This does not make sense as Grade R is the Department of Education's policy priority to ECD provisioning. The Bill should attempt to strengthen the provisioning of ECD, particularly for the under 5's who cannot access centre based provision and 7-9 year old age group as they are not sufficiently covered in policy or programmes.

The Children's Bill Definition of ECD

The SALRC draft of the Children's Bill was comprehensive, and legislated obligations on all government departments concerned with delivering ECD services to children. However, through the inter-departmental negotiation process, it has reverted back to those areas of core Department of Social Development responsibility. Therefore, because the Department of Education is responsible for

³⁷ Op Cit 3

³⁸ Department of Education (2001) **White Paper 5 for Early Childhood Development**, p12

grade R provisioning, it would not make sense to provide for the regulation of grade R in the Children's Bill.

However, if our recommendation that the Children's Bill be considered an inter-sectoral Bill that binds all government departments, is accepted, there is no reason why ECD cannot be defined as services for children aged 0 – 9.

Considering that grade R provision has not yet been legislated, the Bill's definition of ECD could be expanded to 9 years thereby including grade R provisioning. The Bill should however be explicit that the Department of Education is responsible for providing and regulating grade R services that are attached to the formal schooling system and the Department of Social Development be responsible for all other ECD provisioning, including grade R offered at community, home based facilities and family outreach programmes. The Department of Social Development should be responsible for providing for and regulating all other ECD services outside the formal schooling system. This includes services for 6 – 9 year olds who are in the formal system but use ECD centres outside the formal system, such as after school centres run by NGOs.

It is recommended that the definitional provision of ECD in section 91 of the Children's Bill be changed to the following:

91 (1) Early childhood development, for the purposes of this Act, means the process of emotional, mental, spiritual, moral, physical and social development of children from birth to ~~school-going~~ **nine years of age.**

91 (2)(b) provided by a person, other than a child's parent or primary caregiver, on a regular basis to children up to ~~school-going~~ **nine years of age.**

Comment on the s.76 Bill

Section 93- Provision of early childhood development services

Description of the current situation- Cash subsidies for crèches and for ECD programmes

ECD facilities are currently eligible for subsidies from the Department of Social Development if they are registered with the Department (or from the education department if they are registered grade R providers). But many facilities often operate in poor areas and are in need of state support/subsidies in order to comply with the standards required for registration. Registration is a lengthy and expensive process and facilities cannot apply for a subsidy until they are registered. This is a catch twenty two situation because if the registration requirements are examined, it is clear that facilities will need a stable source of income to meet some of the registration requirements. Often ECD facilities assume they will automatically receive subsidisation upon registration.³⁹ ECD facilities should be allowed to apply for registration and subsidisation jointly to avoid unnecessary delays.

³⁹ Interview with Eric Atmore CECD

The Children's Bill, in section 97 allows for conditional registration of ECD service providers. Therefore ECD service providers are granted conditional registration and will be granted full registration on compliance with minimum standards. It would be effective for those facilities with few resources to be able to call upon the assistance of the departments of Education and Social Development to meet registration requirements, thus enabling them to apply for subsidies. It is recommended that facilities that are conditionally registered be in receipt of developmental subsidisation that would aid the facility to satisfy the conditions to be fully registered

The Department of Education is responsible for subsidising Grade R whereas the Department of Social Development subsidises all other ECD services.

Subsidisation, as it currently stands, it is open to the interpretation of officials. Subsidies need to be covered in the regulations in such way that they are transparent, easy to administer, do not overload bureaucracy, and keep pace with inflation.

It is recommended that section 93 of the Children's Bill be amended as follows:

93 (1) The MEC ~~may~~ **must**, from funds appropriated by the relevant provincial legislature for this purpose, provide for:

- (a) Facilities and services for early childhood development services; and
- (b) the subsidisation of facilities and services by non governmental bodies and other organs of the state for early childhood development services,
- (c) development grants for ECD service providers with conditional registration to enable them to reach full registration and become eligible for full registration and subsidisation**

The Interim Policy for ECD recognises the importance of public funding for ECD services. "The public funding of ECD programmes is justified on many grounds. It can help redress past discrimination against young children, protect the rights of children and women, promote human resource development, help prevent costly social pathologies, secure more efficient performance by children in school and improve the effectiveness and efficiency of the schooling system"⁴⁰

The Report on the National ECD pilot project outlines the importance of a strong political will within provincial government to enhance ECD provisioning. This is particularly important with regard to budgeting processes because in certain provinces funding for ECD services are absorbed for other expenditures. It is proposed that funding for ECD projects be ring fenced so that they are not used for any other purposes, or provided through a conditional grant. ECD should be moved from the periphery of government to its core thus getting the appropriate budgeting attention it requires.⁴¹

Norms and Standards

The Bill does not prescribe what the norms and standard are but it mentions the determination of National norms and standards in section 93 (2).

⁴⁰ Op Cit 2, p28

⁴¹ Op Cit 20 ,p4

93 (2) Services provided must be in line with the national norms and standards for such services as determined by the Minister after consultation with the MinMec for Social Development, the Financial and Fiscal Commission, the Minister of Finance and the Minister of Education.

There is confusion within the sector on what Norms and standards are currently in operation. The Department of Social Development drafted a manual called 'Guidelines for Day Care' in 2001. This manual was never finalised. A more recent version of the document was drafted in June 2002 and is called 'Guidelines for ECD Services'. This document covers norms and standards for ECD provisioning. One of the drafters of the manual stated that "latest norms and standards are reasonable even for the poorest, otherwise the safety of children will be compromised. It doesn't even stipulate that there should be running water on the property, only that it be nearby".⁴²

The latter document is an improvement on the earlier version. We submit that that the final document should be used as the basis for the development of regulations to legislate for national norms and standards. There should be one document that governs both ECD and partial care. Such a document must be endorsed by all role players. Included in the document should be National norms and standards that bind all provinces.

Section 94 of the Children's Bill – Minimum standards for early childhood development services

This section specifies that **all** partial care facilities (eg. creches and after school centres) **must** provide ECD services. Furthermore, these services must comply with the minimum requirements that will be set out in regulations to the Act. There is concern over the viability of such a provision. Is it practically possible for every partial care facility to be forced to provide an ECD programme, especially one that needs to comply with minimum requirements? If this is going to be an obligation imposed on partial care facilities, there needs to be a clear obligation on the provincial department of Social Development to provide partial care facilities with financial support to establish ECD programmes with trained personnel. This can be done through the mechanism of conditional registration and the developmental grant recommended in our comments on sections 93 and 97 of the Children's Bill.

Section 94 should be amended as follows to be in line with our recommendation in section 91

94(1) Early childhood development services complying with the minimum requirements prescribed by regulation must be provided by-

- (a) a partial care facility providing partial care services for any children up to ~~school-going age~~ **nine years of age**
- (b) a child and youth care centre which has in its care any children up to ~~school-going age~~ **nine years of age**
- (c) **a primary school as part of its regular education programmes.**

Section 95 of the Children's Bill- ECD programmes to be registered

⁴² Interview with Eric Atmore from CECD

Description of the current situation -Registration

Registration procedures are currently very cumbersome. They involve a number of different government departments including the Department of Social Development, Department of Education, and divisions of Local government. Thus ECD facilities often have to meet norms and standards and minimum requirements set by all these Departments. In addition to that, some ECD service providers have to register as NPO as well.

Any person wanting to operate an ECD facility has to make contact with a social worker at the nearest Social Development office where the applicant will be given an application form and other complex documents to complete. Due to the wide geographical spread of the population and the deep rural nature of large parts of the country, access to a Social Development Office can be extremely difficult. Also, departmental staff are not specifically allocated to handle ECD registration or other ECD related queries. The ECD function of social workers is often put on the back burner whilst they attend to their other tasks. ECD is not seen as a priority by staff and therefore it does not get the appropriate attention. The completion of documents is a cumbersome process with which the applicant may require guidance and supervision. In many poor areas quality partial care is provided, often by unqualified individuals who will find the completion of such documents difficult and view it as a stumbling block. These requirements should be flexible enough to allow for registration or conditional registration for all providers. In addition, applicants should be trained or informed on how they could meet registration requirements.

Once all these documents are completed, the social worker has to instruct the Local Authority to investigate and issue an environmental health certificate. For similar reasons outlined under step one, particularly that of social workers being caught up in other matters, the application can lay unattended to for long time. The application procedure can be held up whilst waiting for the clearance certificate from Local Authority. It is not stipulated what requirements the applicant must abide by to get the clearance certificate.

All requirements for registration should be covered in one document. Local Authority should be given a time frame within which to provide the clearance certificate so that applicants wanting to register are not kept waiting unnecessarily. If all conditions are met, centres are awarded registration for two years after which they will be monitored.

A centre has to re-register when an applicant **intends** to:

- move the centre to another building or premises
- extend or decrease the size of the existing structure
- increase the number of children enrolled
- sell the business
- change ownership.

The criteria under which a facility has to re register should be reviewed, and a simpler process be put in place. For example, if the only changes a facility is undergone is a change of ownership and everything else is transferred there is no point in undergoing re registration. Instead the facility can notify the Department

Social Development of the change in ownership and the facility can be closely monitored to see that it is operating as it was under the previous owner.

Apart from the registration requirements for the Department of Social Development, the Department of Education is responsible for the registration of Grade R. Therefore, facilities offering services for children aged 0-6 years will have to meet the registration requirements of both Departments in addition to that of Local Authority.

“Provincial human, financial, and infrastructural resources to support ECD provincial work are variable and, in most cases, inadequate for the provinces to carry out appropriate monitoring of ECD sites. These include: not enough personnel; personnel with many other duties besides ECD; lack of facilities and funding for transport and communication materials”⁴³

Provisions in the Children’s Bill

The SALC draft Bill did not include provisions for the registration of ECD programmes. Instead it provided for partial care facilities to be registered. It referred to ECD as “programmes” that partial care facilities would be obliged to provide, and that the obligation to provide and the norms and standards of programmes would be enforced by provincial department of social development, education or the municipality through inspections and notices of enforcement. The Departmental Draft of 12 August introduces the compulsory registration of ECD programmes/services in section 95 (1). In effect, this will mean that applicants will be required to register their partial care facility and the ECD programme/service with the provincial Department of Social Development.

Comment

Partial care facilities will be required to register according to norms and standards based on their infrastructure. Those that do not meet registration requirements should be registered on a conditional basis and provided with a developmental subsidy. There should be a single registration body and process.

All partial care facilities need to provide a basic programme which needs to be registered. Registration for additional levels of ECD “educational” provision is voluntary and incentivised.

ECD Family based outreach programmes need to provide a basic programme which should be registered. Additional levels of provision are voluntary and incentivised.

All registered programmes, either facility based or outreach, should receive a basic subsidy. Additional levels of provision will make programmes eligible for additional levels of subsidy.

If registration of partial care facilities were to remain with the provincial department of social development, then there could be one registration and application process for both partial care and ECD, thereby enabling one registration. However,

⁴³ Department of Education (2000) **National ECD Pilot Project**, p4

municipalities may be more accessible and therefore appropriate as a registration authority. The Bill provides for the delegation of registration to municipalities in section 102.

Registration, as much as it is a monitoring and regulating mechanism, should be viewed as a means of ensuring the protection of children. Registration of places of care, which include home-based, community-based and centre-based facilities, should be viewed by caregivers primarily as a measure to protect children and their rights. These minimum standards for early childhood services are applicable to all provinces. The manual prescribes minimum standards for early childhood services in order to ensure that children receive good quality service and that children are protected. Registration is seen as one means of ensuring quality ECD provisioning.⁴⁴

The re introduction of compulsory registration is positive, as the sector requires regulation and monitoring. It is therefore recommended that section 95 (1) remain as is. The regulations that govern registration however need to be simplified

Section 95 (2)(c)

Of concern is s95(2)(c)(ii) which requires the payment of fees accompanying registration. The main concern about registration fees is that they can and do bar access. ECD is a very vulnerable sector and many service providers operate in impoverished communities. Fees should not therefore be regarded as the norm in deeply impoverished environments characterised by unemployment and the increasing impact of HIV AIDS.⁴⁵

ECD is a service provided to communities, and it benefits children of a particularly vulnerable age group. The benefits of ECD are well documented and some of them have been highlighted in the introduction above. Service providers of ECD are assisting the State towards its obligations to young children. It does not make sense for them to have to pay the State for providing a service which in itself is already regulated by the State.

All documents required for the application process must be kept to the minimum and be directly linked to the provision of quality ECD services.

The following amendment is recommended:

95(2) An application for registration or conditional registration of an early childhood development programme or for the reinstatement or renewal of a registration must-

(c) be accompanied by-

- (i) any documents that may be **reasonable and necessary for the application that is** prescribed by regulation; and
- (ii) ~~such fee as may be prescribed by regulation.~~

Section 96 - Consideration of applications

⁴⁴ Op Cit 4, pii

⁴⁵ Van Niekerk (2003) **Differences between the SALC Draft Children's Bill December 2002 and Departmental Draft June 2003**, p3.

Section 96 of the Bill is also an addition to the SALC draft of the Bill. Of particular concern are sections s96(2)(a) and (c). These sections call for ECD facilities to comply with minimum requirements prescribed by legislation and for applicants to have necessary skills, funds and resources available to provide ECD services.

Many ECD programmes serving the poorest communities are unlikely to have the funds and resources unless they become registered and subsidised. Regulations must be drafted carefully so that they do not act as barriers for ECD provisioning.

If the Bill places the obligation on ECD service providers to meet all these requirements in order to register, the Department of Social Development should indicate its willingness to assist these service providers to meet these requirements.

This section also specifies the role of a social worker in the application process. As discussed under section 95 i.e. registration process, the burden placed on social workers in the application process often slows down the process. It is suggested that other competent staff of the department of social development assist with the application process for ECD registration thus lessening the burden placed on social workers. All officials involved in different components of ECD should receive some form of training on the principles and importance of ECD.

The following amendment is recommended:

96 (2) When considering an application for registration, the provincial head of social development must take into account all relevant factors including whether-

(a) the early childhood development programme complies with the minimum requirements prescribed by regulation; **or does not comply but submits a proposal that shows commitment towards compliance and has requested assistance for this purpose.**

(c) the applicant has the necessary skills, funds and resources available to provide the early childhood development services in accordance with the early childhood development applied for; **or does not have the necessary skills, funds and resources, but submits a proposal that shows commitment towards obtaining them and has requested assistance for this purpose.**

(d) the early childhood development programme meets the emotional, mental, spiritual, moral, physical and social development needs of the children in that partial care facility or child and youth care centre, or does not meet the emotional, mental, spiritual, moral, physical and social development needs of the children in that partial care facility or child and youth care centre but shows commitment towards meeting these needs and has requested assistance for this purpose.

96 (4) The provincial head of social development must consider a report of a social worker, **or any other authorised official of the department of social development** before deciding an application for registration, conditional registration or renewal of registration.

Section 97 - Conditional registration

We welcome the provision that the Bill makes for **conditional registration**. This allows for ECD facilities to be registered if they have not met all requirements but on condition that they meet the requirements as stipulated by the Department. It is however proposed that the section be amended to acknowledge that service providers be given a time frame within which to adhere to minimum standards. They should also be awarded with a developmental grant (covered in section 93) to assist them to meet minimum standards and be fully registered.

It is recommended that the following be added to section 97:

97. The registration or renewal of registration of an early childhood development programme may be granted on such conditions as the provincial head of social development may determine, including conditions-
(d) specifying a reasonable time period whereby which minimum requirements must be adhered too.

Section 98 - Cancellation of registration

This section outlines instances where the registration of ECD programme will be cancelled. Of particular concern is section 98 (4) which suggests that an ECD service provider has to register both as an ECD programme and as a partial care facility.

“98(4) The cancellation of the registration or conditional registration of an early childhood development programme in terms of subsection (1) does not affect the registration or conditional registration of a partial care facility or a child and youth care centre.”

Section 99 - Notices of Enforcement

The Bill allows the Department to issue ‘Notices of Enforcement’ to a partial, child and youth care facility that does not provide ECD services to offer the service. It also issues a notice to those that are providing ECD services but where minimum requirements are not being met. Thus facilities will be given the opportunity to comply with the requirements in the notice within the specified time period.

As has been recommended throughout the submission, where reference has been made to minimum requirements, the department of social development should indicate access to assistance that would aid ECD service providers to meet minimum requirements.

It is recommended that the following be added to section 99:

99 (2) Notice of enforcement must indicate access to an assistance programme that would aid towards the compliance with minimum standards

Section 100 - Assistance

This section states that the department of social development may provide assistance to ECD service providers to meet minimum requirement. It does not stipulate the type of assistance. This should be fleshed out in regulations. An

assistance 'package' should be designed outlining the different elements of assistance. The criteria must be spelt out with regard to who qualifies for the assistance. This provision should include service providers that are conditionally registered.

It is recommended that the following be added to section 100:

100 (2) A provincial head of social development must ensure that ECD service providers granted with conditional registration have access to financial and other appropriate assistance to enable them to comply with minimum standards and thus reach full registration.

Section 102- Assignment of functions to municipality.

This section allows for the delegation of registration, conditional registration, consideration of application, cancellation of registration, notices of enforcement, assistance and assessment of ECD services to municipalities. Municipality offices are more accessible to registration applicants than social development offices.

Section 103- Regulations

It is recommended that section 103 be amended as follows:

103 The Minister may make regulations in terms of section 299 concerning-
(b) the procedure to be followed [~~and the fees to be paid~~]-in connection with the lodging and consideration of applications for registration **and conditional registration** in terms of this Chapter and for the renewal of such registrations;

This is in line with our submission on section 95(2)(c) that calls for the abolition of payment of registration fees.

Practitioners

Nothing is said in the Bill about the importance of training of ECD practitioners and support for ECD family workers who work directly at community level. This is particularly important due to the interfacing with vulnerable children and families thereby requiring assisting with accessing resources and sharing vital information about child growth and development building upon existing child raising beliefs and practices.

Any registered facility must be able to indicate how practitioners are proceeding with their training requirements. It is the responsibility of the Department of Education to provide learnerships and work collaboratively with NGO's and other institutions regarding training programme delivery and quality assurance.

ECD Programmes and Facilities

South Africa's ECD non governmental organisations provide a range of ECD services and impact on policy and programme development. Yet the role they play as vital delivery agents is underutilised and financially unsupported.

ECD remains the most vulnerable sector in relation to provincial budgets. ECD NGO's are facing even greater challenges in the face of dwindling financial resources caused by the withdrawal of direct funding by many international donor agencies and problems that have emerged with the designated South African agencies. The Children's Bill needs to ensure that the range of ECD programmes that meet the needs of all children and families in South Africa is extended and endorsed. Centre and school based ECD programmes are not the only alternatives. Programmes and services with direct outreach to the primary caregivers of children must also be recognised. Children who do not have access to school or centre based ECD sites due to ill health or other reasons should not be left out of the loop of ECD provisioning. ECD outreach services should be extended to these children who are home bound.

The role of non governmental organisations as well as organs of state as partners in ECD programme and service delivery must receive appropriate subsidisation. Homes are the basic unit of ECD provision and the child's family needs to be supported as the main duty bearers of their children. An integrated approach to programming is required in both existing and planned ECD centres in order to strengthen the safety net around all children and families in every community. Public works and local government must be called upon to provide one stop centres for children and families which can become a nucleus for ECD services in a variety of ways. ECD centres must be encouraged to adapt to changing needs and supported to respond to the HIV AIDS as it increases by adapting programmes to meet the needs of affected or infected children and their families

Nutritional support for children in ECD facilities

There is no mention of nutrition in the ECD chapter of the Children's Bill as it presently stands or the SALC document. Nothing is said about the critical need for a comprehensive nutrition plan to address malnutrition and under nutrition.

Studies from neuroscience have shown that the first two years of the child's life are critical for brain maturation. Many children in SA suffer from malnutrition or under nutrition and this leads to stunting, which can be both physical and intellectual. The Primary School Nutrition Programme is inadequate in that it serves the needs of only those ECD children in the Grade R classes attached to primary schools. An ECD nutrition programme is needed for the vast majority of children who are outside of the existing school based Grade R programmes. Nutritional support must go beyond ECD at schools and centre based facilities, and also serves the needs of vulnerable children in other ECD outreach programmes such as family programmes.

As adequate nutrition is so critical to early years, the Children's Bill must make provision for the inclusion of a comprehensive Nutritional Plan as a very specific requirement. The Department of Health has stopped its nutrition subsidy for crèches and has transferred the primary school nutrition programme over to the Department of Education. The Department of Health should look at other ways it could assist ECD facilities deal with the problem of malnutrition. A possible suggestion is the use of community health workers to educate ECD service providers on adequate nutrition requirements for young children. This type of information sharing should take into account the practical constraints faced by these service providers and provide them with guidance on how to meet nutrition requirements with the minimum resources at hand. Poverty alleviation programmes is providing some nutritional support which

differs in the different provinces. Emergency rations for three months provide some relief but do not go far enough to assuage the dire need for vulnerable children and particularly those at risk and those infected and affected by HIV AIDS.

Children with disabilities⁴⁶

Despite a policy commitment to broad programming, the main focus of the ECD chapter in the Children's Bill is entirely on centre based services, and not on family programmes. Family programmes (such as those run by parents of children with disabilities or chronic illnesses) have the potential to provide direct support to the primary caregivers of vulnerable young children. However, in order to provide a sustainable and high-quality service, they need subsidies, training for practitioners and nutritional support⁴⁷.

Opportunities for ECD are critical for young children with disabilities or chronic illnesses who (more than many others) require every opportunity for stimulation, in order to develop basic communication, mobility and life skills. Particular focus needs to be placed on children who are deaf or blind, as well as those who have multiple disabilities. It is essential that the principles of ECD be consistent with those of the Education White Paper 6⁴⁸, so that an *inclusive approach* to ECD is advocated and that there is a focus on removal of barriers to learning. It is also recommended that the ECD sector specifically play a role in terms of:

- *Promotion* of children's well-being, including nutritional support and *prevention* of illnesses and injuries. Prevention in early childhood is particularly important - as this is a stage at which much potential damage can be averted.
- *Early identification and intervention* for children with disabilities and chronic illnesses.
- Appropriate *referral* of children identified who have health or social needs.

Currently in the Children's Bill⁴⁹, there is no reference made to appropriate norms and standards for ECD facilities to cater for children with disabilities and chronic illnesses. These might include for example the physical adaptations that may need to be made, or specialised seating provided. There is also no reference to the appropriate training of ECD personnel to ensure that they are suitably trained and equipped to cater for children's diverse needs (e.g. First Aid training, feeding children through feeding tubes, comforting a child whose parent has passed away).

Recognition and support need to be given to parents of children with disabilities and chronic illnesses, who run home-based informal stimulation centres. These parents need to be given training and financial support, so that the centres can be registered and further developed in partnership with the Department of Social Development and/or Education. ECD centres and home based programmes in poor communities

⁴⁶ Excerpt taken from DICAG **Submission to the Portfolio Committee on Social Development on the Children's Bill: Section 75 [B70-2003 (Reintroduced)]**

⁴⁷ Draft submission for discussion - ECD sub-group submission on the Children's Bill (ELRU August 2003)

⁴⁸ Dept of Education 2001

⁴⁹ Children's Bill, Minister for Social Development August 2003

that are without funds and resources are unlikely to meet the requirements - thus condemning the children in such places to unregistered and often substandard care⁵⁰. Funding policies need to include ECD sites that cater for children with a range of impairment types.

It is recommended that there be a comprehensive national strategy aimed at securing an inclusive ECD system which is properly resourced, co-ordinated and managed, as proposed by the SALC.⁵¹

Provision must be made for special education programmes for ECD practitioners that deal with HIV AIDS.

Partial Care

Partial Care is governed by chapter 6 of the section 76 Children's Bill from section 76 to section 90. There is a lot of overlap between the provisioning governing partial care and ECD. For this reason the chapter on partial care will be dealt with briefly. Do the similarities between partial care and ECD provisions in the Children's Bill it is important to draw distinctions between the two chapters to understand they are governed separately.

Key difference between Partial Care and ECD

"Definition– 76. Partial care is provided when a person, whether for or without reward, takes care of more than six children on behalf of their parents or care-givers during specific hours of the day or night, or for a temporary period, in terms of a private arrangement between then parents or care-givers and the provider of the service, but excludes the taking care of a child-

- (a) by a school as part of tuition, training and other activities provided by the school;
- (b) as a boarder in a school hostel or other residential facility managed as part of a school; or
- (c) by a hospital or other medical facility as part of the treatment provided to the child."

Partial Care is defined to provide services to all children, regardless of their age, whereas ECD is specifically tailored to children from birth to school going age (refer to discussion above on s95 about definition of ECD). According to section 94 of the Children's Bill all partial care facilities must have ECD programmes operating from it. Thus partial care facilities are obliged to see to the ECD needs of children within the age range of requiring such services, in addition to taking care of children outside this age category. Therefore partial care facilities offering ECD services should be regulated under Chapter 7 of the Children's Bill. Similarly:

- Section 77 should be amended to reflect the changes proposed in section 93;
- Section 80 should be amended to reflect the changes proposed in section 99;
- Section 81 should be amended to reflect the changes proposed in section 95;
- Section 82 should be amended to reflect the changes proposed in section 96;
- Section 84 should be amended to reflect the changes proposed in section 97;

⁵⁰ Draft submission for discussion - ECD sub-group submission on the Children's Bill (ELRU August 2003)

⁵¹ Draft Children's Bill submitted to Minister for Social Development 2002: Chapt 7 s106A (1)

- Section 88 should be amended to reflect the changes proposed in section 102; and
- Section 90 should be amended to reflect the changes proposed in section 103

Most of the proposed changes relate to the availability of assistance from the State to aid facilities to meet minimum standards. Partial care should also be awarded such benefits as ECD. As discussed under section 93, guidelines for ECD should include partial care and form the basis for drafting the regulations. There should also be a single registration system for partial care and ECD. Due to partial care offering services to children of any age, if the ECD provisioning is not up to standard, the facility should still be permitted to provide other partial care services.