

Amendments to the Children's Act 38 of 2005 and the Children's Amendment Act 41 of 2007

July 25

This document is a summary of proposed amendments to the Children's Act 38 of 2005 and the Children's Amendment Act 41 of 2007 to be submitted by 25 July 2011.

Please complete columns 1-4

Section number	Section title	Proposed amendment/addition	Reasons	Decision by DSD: Proposal accepted Y/N	Reasons
Chapter 6	Early Childhood Development				
92(1)	Strategy concerning early childhood development	The Minister, after consultation with interested persons <u>civil society, relevant stakeholders and the Ministers of Social Development, Education, Health, Finance, Co-operative Governance and Traditional Affairs, Home Affairs, Justice and Constitutional Development, Correctional Services, Public Works, Rural Development and Land Reform, Women Children and People with Disabilities, and</u>	Many government departments, especially those in the social cluster, have a role to play in implementing the Children’s Act, and consequently all relevant departments must be included in any consultative process aimed at implementation. It is not necessary to		

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		<p><u>Agriculture, Transport and provincial and local government</u> must include in the departmental strategy a comprehensive national strategy aimed at securing a properly resourced, co-ordinated and managed early childhood development system, giving due consideration as provided in section 11, to children with disabilities <u>or other special needs.</u></p>	<p>single out children with chronic illnesses as a separate group of children, as chronic illness denotes a special need like many others.</p>		
92(2)(b)		<p>...within the national strategy referred to in subsection (1), provide for a provincial strategy aimed at a</p>	<p>Monitoring the efficacy of services and programmes for young children is critical, and</p>		

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		properly resourced, co-ordinated and managed, <u>monitored and supported</u> early childhood development system.	merits express mention.		
93(1)	Provision of early childhood development programmes	The MEC for social development <u>must</u> , from money...	Early childhood development programmes have become a national priority, in accordance with many national initiatives, and should therefore be accorded budgetary priority. While it would not be reasonable to prescribe the number of programmes to be funded, or how much		

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			funding should be given, in the Act, it is reasonable to expect that every province will fund ECD programmes as a matter of law, and that an amount of money will be set aside for ECD services and programmes.		
93(2)		Insert Linda document			
93(2)		Old 2 now becomes 3			
93(3)		Old 3 now becomes 4			
93(4)		Old 4 not becomes 5			
93(5)(b)		...a child and youth care centre which has in its care any children	It is not necessary to single out children with		

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		up to school-going age, <u>or children with disabilities or other special needs</u>	chronic illnesses as a separate group of children, as chronic illness denotes a special need like many others.		
93(6)		6 Insert Linda 29 (B)document			
		Old 5 now becomes 7			
		Old 6 now becomes 8			
94(1)	National norms and standards for early childhood development programmes	The Minister must determine national norms and standards for early childhood development programmes by regulation after consultation with interested persons, <u>civil</u>	Many government departments, especially those in the social cluster, have a role to play in implementing the Children’s Act, and consequently all		

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		<p><u>society, relevant stakeholders and the Ministers of Social Development, Education, Health, Finance, Co-operative Governance and Traditional Affairs, Home Affairs, Justice and Constitutional Development, Correctional Services, Public Works, Rural Development and Land Reform, Women Children and People with Disabilities, and Agriculture, Transport and provincial and local government</u></p>	<p>relevant departments must be included in any consultative process aimed at implementation.</p>		
94(2)(c)		<p>...caring for children in a constructive manner and providing support, <u>protection</u> and security;</p>			

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94(3)		An early childhood development programme provided in terms of this section must be appropriate to the needs of the children to whom the programme is provided, including children with a disability, <u>and other special needs.</u>	It is not necessary to single out children with chronic illnesses as a separate group of children, as chronic illness denotes a special need like many others.		
96	Application for registration and renewal of registration	90 days becomes 60 days	The 90-day time frame as it currently stand in the Act is unnecessarily long, and given the priority nature of services to young children, a 60-day period is more		

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			appropriate.		
101	Appeal against and review of certain decisions	90 days becomes 60 days	The 90-day time frame in relation to appeals delays the finalisation of appeals unnecessarily, and during such time the status of a programme is uncertain. A 60-day period is more appropriate.		
102(1)	Assignment of functions to municipality	The provincial head of social development may, by written agreement with a municipality, assign the performance of some or all of the functions contemplated in sections 95, 96, 97, 98, 99 and 100 to the	It is not acceptable to leave the responsibility of managing early childhood development programmes and services in the hands of a municipality where none of its staff have		

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		municipal manager if the provincial head of social development is satisfied that the municipality complies with the prescribed requirements with 50 regard to the capacity of that municipality to perform the functions concerned, <u>and has the necessary early childhood development expertise.</u>	ever dealt with such programmes and services before. ECD services and programmes are specialised priority services, and the entity responsible should have some experience in the field.		
102(3)		The municipal manager referred to in subsection (1) may delegate any power or duty assigned to him or her in terms of this section to a social service <u>practitioner</u>	In this context, the scope of persons to whom powers may be delegated should not be governed by a professional status, but rather by experience in		

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		(professional) in the employ of the municipality.	ECD. Furthermore, social service professionals are under huge strain, with large case loads, and it is in the interest of quality ECD services and programmes for children that the scope of persons to whom the powers may be delegated be broadened beyond social service professionals, to other social service practitioners, such as ECD practitioners.		
102(6)		An applicant or a registration	It is in the best interest		

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		holder aggrieved by a decision of an official in the employ of a municipality in terms of this chapter may lodge an appeal against that decision in the prescribed form within 60 days with the municipal council, who must decide on the appeal within 60 days of receipt thereof.	of children and parents and caregivers that appeals with regards to ECD services and programmes be finalised with urgency, in order that the status of a service or programme is not uncertain for long period of time, and beneficiaries are assured of quality services. In this context, a sixty period for lodging and deciding an appeal is more appropriate.		
102(8)		The provincial head of social	It is critical that ECD		

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		development must <u>monitor and evaluate</u> the performance of the functions assigned in terms of this section.	services and programmes be monitored and evaluated to allow for on-going planning, realistic and appropriate budgeting and strategising for the delivery of sufficient quality services to all young children in a particular province.		