

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

July 25

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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
<b>Chapter 5</b>	<b>Partial Care</b>				
77	Strategy for partial care	Insert Section 77(1)A:  <u><b>The Minister must monitor the implementation of the strategy.</b></u>	Even though the Children’s Act is monitored as a whole, where a separate strategy for partial care must be developed, it should also be monitored. It follows that express provision should be made for such monitoring in the Act, in order to establish accountability for failed implemttaion.		
78	Provision of Partial Care	The MEC for social development	“May” in this context is		

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		<p><b>must</b>, from money appropriated by the relevant provincial legislature, provide and fund partial care facilities and services for the province, taking into consideration the national and provincial strategies contemplated in section 77.</p>	<p>not acceptable, as this does not give enough priority to these kinds of programmes. While it would be unreasonable to prescribe how many such programmes must be funded, or how much funding there should be, it is not unreasonable to expect that such programmes be prioritised to some extent.</p>		
79(1)		<p>The Minister, after consultation with interested persons, <b><u>civil society, relevant stakeholders and the Ministers of Social</u></b></p>	<p>Norms and standards affect more than one department and the inter-departmental</p>		

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		<p><b><u>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></b> must determine national norms and standards for partial care by regulation.</p>	<p>team needs to be comprehensive and inclusive. All national departments have a role in the lives of children, given the integrated nature of the services to young children, and should be included in any consultation aimed at implementing the provisions of the Act.</p>		
82(5)	Consideration of application	Notwithstanding section 78(3) a provincial head of social development	The aim of conditional registration should be to afford a manager of a		

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		<p>may assist the owner or manager of a partial care facility, <b><u>financially through conditional registration or otherwise</u></b>, to comply with the prescribed national norms and standards contemplated in section 79 and such other requirements as may be prescribed.</p>	<p>partial care facility access to some funding in order to assist the manager to comply with the national norms and standards. In other cases, a manager may require assistance with completing forms or may require advice regarding the requirements for registration, and this kind of advice should also be readily available from a provincial head of social development and his/her office.</p>		
86	Appeal	The time frames should be	The period 90 days as		

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		<p>changed from 90 days in each instance, to <b>60 days</b> and in each instance.</p>	<p>currently prescribed unnecessarily delays the finalisation of appeal, during which time a centre's status is uncertain and children are at risk of not having a centre to go to. It is recommended that the 90 day (or three-month) period be shortened, and that appeals be dealt with as matters of urgency.</p>		