



15 August 2015

**The Chairperson**

**Parliamentary Portfolio Committee: Social Development  
National Parliament**

**SUBMISSION TO THE PARLIAMENTARY PORTFOLIO COMMITTEE  
CHILDREN'S SECOND AMENDMENT BILL: B 14—2015]**

**FROM:**

**National Adoption Coalition of South Africa (herein after referred to as NACSA)**

**CONTACT DETAILS:**

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We would like to request to be allowed the opportunity to make an oral submission to the Committee. If we are allowed this opportunity, NACSA will appoint a representative to travel and to make the submission.

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Ms K Pieterse

Chairperson

## **NATIONAL ADOPTION COALITION**

### **1. Background information of The National Adoption Coalition of South Africa:**

The National Adoption Coalition was established in 2011 with the following vision and objectives:

#### **VISION**

The vision of NACSA is to unify and empower communities and society in South Africa to create positive and permanent change in the lives of children

#### **OBJECTIVES**

Promoting and building awareness and understanding of adoption;

Building partnerships and collaboration across the adoption community;

Sharing best practice and building capacity;

Lobbying government & regulators on behalf of the adoption community;

Developing a code of conduct and best practice guidelines, that serve the best interests of the child in the adoption process; and

Do all that is necessary to achieve these objectives

#### **REPRESENTATION:**

NACSA has 57 registered members, representing Designated Child Protection Organizations and accredited adoption social workers, adoptive parents and other relevant stakeholders.

### **2. Relevant Section to be amended , Section 1 ( c ) of the Children’s Act , 2005**

The Children’s Second Amendment Bill, No.14 of 2015 (“the Children’s Second Amendment Bill”), which was submitted to the National Assembly Committees for urgent consideration, an amendment to Section 1(c) of the Children’s Act, 2005 was introduced and reads as follows:

*An addition to the definition of “adoption social worker” to include ‘a social worker in the employ of the Department or a provincial department of social development, including a social worker employed as such on a part-time or contract basis’*

### **3. Existing legislative and policy framework that acknowledge adoptions as an area of specialty in social work**

When we look at existing legislation and policy, applicable to adoption work, it is clear that adoptions are recognized and emphasized as being a specialized area in social work, requiring highly experienced and competent staff, who can undertake adoption services.

According to the **Practice Guidelines** issued by the Department of Social Development, it is stated that adoption services should include the following:

- Counselling, including preparation of the biological parent/s or guardian/s of the child; where applicable the child taking into account the child's age; maturity and stages of development; and the prospective adoptive parent/s;
- An assessment of a child by an adoption social worker in terms of section 230(2);
- Recruitment, assessment of the prospective adoptive parent/s by an adoption social worker, in terms of section 231(2)
- The gathering of information for proposed adoptions as contemplated in section 237
- Preparation of reports pertaining to the proposed adoption as contemplated in section 239(1)(b)
- Provision of after-care services to biological parent/s, adoptive parent/s and adopted children
- Promotion of adoption services through community education and awareness campaigns and recruitment of prospective adoptive parents/s

#### **3.1 Social Services Professions Act**

Adoptions are a registered and legislated specialty since 1992 as provided by

the **Social Service Professions Act**.

The Social Service Professions Act requires that adoption service providers be registered with the SACSSP, as a specialty in adoption work.

Section 17(2) (a) (ii) also specifies that such an adoption service provider should submit proof that he, or she conforms to the prescribed requirements of specialty. There are specific requirements set out that must be met in order to qualify to register. One of the requirements being that the service provider should have at least three years minimum years' experience in adoption work.

### **3.2 Children's Act 38 of 2005**

It is further a legislative function as indicated in section 250 of the **Children's Act 38 of 2005**, as amended from time to time (the children's Act). Section 250 specifies that only certain persons are allowed to provide adoption services. Section 251 recognizes that both social workers in private practice and child protection organizations that provide adoption services, needs to be accredited.

The National Norms and Standard of the Regulations of the Children's Act, requires that adoption services must be rendered by service providers who have the appropriate training, support and supervision to maximize their abilities and capacity to render adoption programs.

### **3.3 National Adoption Strategy**

According the National Adoption Strategy, issued by the Department of Social Development, it is further stated that the complex nature of adoption requires highly skilled and competent staff. Adoption services require competent and especially trained staff who understands the impact of adoption on the child, birth mother, adoptive family as well as societal attitudes towards adoption.

The National Social Development Children's Act Practice Note 1 of 2010, also addressed the importance of experience as a pre-requisite to do adoption work, through recommending that Department al social workers should have a minimum work experience of three years before they are allowed to render adoptions services.

### **3.4 Accreditation Guidelines for Adoption Service providers**

According to the Accreditation guidelines issues by the Department of Social Development, accreditation of service providers in the adoption field is "**one of the crucial elements in the care and protection of children**. Adoption services must be rendered by competent and experienced adoption service providers, who are adoption social workers in the employ of the Department of Social Development, accredited child protection organizations as well as adoption social workers in private practice who are accredited to provide adoption services".

### **3.5 Hague Convention**

Art 10 of the Hague Convention states: "Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the task with which they must be entrusted".

Art 11(b) also states that accredited bodies shall be directed and staffed by persons qualified by the ethical standards and by training or experience to work in the field of intercountry adoption.

Professional competence implies, among other things, extensive experience in the field of international adoption.

### **3.6 Conclusion:**

Adoption work is clearly widely acknowledged as an area of specialization in social work and in many instances also prescribed where specific conditions and

requirements in respect of qualifications and experience must be met

**4. Possible implications by the proposed amendment to Section 1(c) as it currently reads:**

**4.1** NACSA fully support the inclusion of social workers in the employ of the Department of Social Development, as proposed by the Amendment, **provided** that a high standard of training and experience in this area of specialization of social work will also be applicable to the Department.

**4.2** This is emphasized because we are so aware of the **ethical complexities** within the field of adoptions. Social workers that render adoption services are required on a daily basis to deal with complex and often conflicting situations relating to vulnerable children, biological parents and prospective adoptive parents. By ensuring that practitioners are experienced and equipped, the social work profession, the individual practitioners and the children and families receiving these services, will be protected. This will also ensure that children and families, both in urban and rural areas, receive the same high standard of service.

- We also need to take into account the sensitive and controversial nature of adoption work, which is often portrayed in highly controversial media coverages. Many articles are published reflecting on the difficulties experienced in respect of adoption practices and procedures.
- Adoptions are the only form of alternative care that permanently terminates the rights and responsibilities between a biological family and child.
- Members of NACSA are also involved in training of social workers in adoptions, and have seen the detrimental effect on social workers not having the required experience, supervision and mentoring in this difficult field of service delivery. Unfortunately, it is often also the vulnerable

children and families that are negatively impacted by the inability of these service providers to render high, ethical standards of service.

- Service providers are also allowed to charge a prescribed fee which is currently not standardized and leaves room for problems and inconsistencies. Professional fees are not applicable to service providers who work with other forms of alternative care.

**4.3** In accordance with legislative requirements, existing adoption service providers, are only allowed to provide adoption services, if they have done the following:

(a) **A social worker in private practice** who has a specialty in adoption services and is registered in terms of the social professions Act and who is also accredited in terms of section 251

(b) A **Child Protection organization** should be accredited by the Director General, in terms of section 251 of the Children's Act and

Social workers in the employ of **Child Protection organizations** with adoption accreditation currently are not required to register a specialty with the professional board. The organization only needs to meet the criteria for accreditation, set by the Department of Social Development.

The criteria address the following:

- Organization structures, experience, expertise and competencies
- Resources
- Policies
- Supervision structures within the organization,

**Social Workers in Private Practice however** are required to register as adoption specialist and should work within an adoption unit, since they will lack the structure

provided within organizations. They **further also have to** be accredited by the Department of Social Development as an additional legal requirement.

It is important that in view of the special nature of adoption work, that all service providers are required to meet certain conditions and criteria, and that they are subject to independent monitoring and evaluation. It would make no sense to simply include Departmental Social Workers in the definition of an adoption social worker without addressing the issue of accreditation of social workers in the employ of Provincial and Regional offices of the Department.

If this is not addressed, it will create serious disputes between adoption services providers and recipients of adoption services. This can jeopardize the standard of services that are rendered.

Similar to the Child Protection Organizations, **The Department of Social Development** also has the necessary structures, to establish adoption units with social workers meeting specific requirements with regards to expertise and experience.

## **5. Consultation**

Children's Institute – 29 and 30 July 2015

Center for child Law, NACSA workshop 19 August 2015

Professional Board of Social Service Professions – Dr Marie Kruger

Johannesburg Child Welfare

Circulated to members of the NACSA Executive Steering Committee

Circulated to Representatives of the NACSA Lobbying and Legislation Portfolios

The proposed amendment was also debated in various national child protection forums



## 6. Conclusion:

- We are aware that we currently have a limited number of service providers that meet the requirements and conditions to register a specialty in adoption social work. The requirements as envisioned by the draft regulations to the Social Service Professions Act will make it difficult for new service providers to be able to enter into the scope of adoption work. In view of the lack of service providers and in view of the low numbers of adoption, it is crucial that within our effort to maintain the high standards of service delivery, we do not end up disqualifying access of service providers in this area of specialty.
- In support of this principal, and within the context of the existing structures, providing some safe guard within the Department and organizations, it can be reasoned that DSD and organizational social workers, should not be required to meet the very stringent requirement for specialty as set by the social services professions act and the current draft regulations.
- Rather, these two categories of service providers should be required to meet the same conditions and criteria, as set by the existing guidelines of the accreditation of service providers
- The Department would however not be in a position to accredit itself and therefor independent accreditation of specific units within the Department should be explored.
- **We do not believe that amendment to the definition alone**, will be adequate, since it does not address the issue of specialty registration and/or accreditation
- **Section 251 should also be amended**

## 7. Recommendations

We recommend that the amendment as stated, should be amended as follows:

**All service providers** (Social workers in the employ of the Department of Social Development, Child Protection organizations and in private practice), regardless of their place of employment:

- should be accredited, as such in terms of section 251 of the Children's Act

and

- a social worker in private practice should register as specialist in adoption in terms of regulation 108 of the Children's Act, after adhering to the specialty requirements

Signed \_\_\_\_\_

Date \_\_\_\_\_