

## Submission by SmartStart on the Children's Amendment Bill 2020

### Early childhood development

**TO:** The Honourable Members of the Portfolio Committee on Social Development

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#### Background

SmartStart is taking quality and affordable early learning opportunities to tens of thousands of children across South Africa. Our vision is to achieve population-level change in access to early learning by providing an integrated national early learning delivery platform, which builds in the operational structures and systems for accelerated scale. Our innovative social franchise model enables us to harness the experience of implementing partners (who are existing ECD service providers and NGOs such as ELRU, TREE and Kago Ya Bana), who license and support a network of early learning practitioners to deliver the same evidence-based programme for three to five-year-olds. The programme is supported by operational resources and play materials, licensing and quality assurance processes, and a network of 'Clubs' that provide peer support.

SmartStart is not only ensuring that more children have the right foundations in place to succeed at school and beyond; we are also supporting skills development and micro-enterprise, enabling more women to work and stimulating economic activity in poor communities.

In the five years since set-up, our programmes have managed to reach over 75 000 children. In 2020, SmartStart had over 4000 practitioners delivering early learning programmes in every South African province.

This submission is based on our operational experience (and the experience of our implementing partners), supporting early learning practitioners to set up new programmes in some of South Africa's most under-resourced communities. This experience has given us first-hand insights into the barriers and defects of the current registration and funding systems; in particular, the extent to which these systems shut out those programmes, and therefore children, who most need support.

## Introduction

The government's goal is to achieve universal access to early childhood development (ECD) by 2030. However, the current regulatory framework is unnecessarily complex and onerous. This means that many ECD programmes cannot get registered and cannot get the government funding that would help them to improve. As a result, they either have to offer lower quality or to close, and children and families in poor communities lose out most.

**We are calling for parliament to amend the Children's Amendment Bill so that it deals with ECD programmes in an inclusive and enabling way. This mean a one-step registration process and a single set of simplified norms and standards which properly recognise the different contexts and characteristics of different types of ECD programmes. It also means clarifying the use of conditional registration and ensuring that provinces make proper use of their power to assist ECD programmes.**

Unfortunately, the Children's Amendment Bill fails to achieve this and, in some ways, makes things worse. Specifically, there are no amendments towards various key government commitments, including:

'A comprehensive review and harmonisation of policy and legislation within the ECD sector moving towards universal access' (Government's Buffalo City Declaration).

'streamlining of registration processes' (Buffalo City Declaration) and standardisation of norms and standards (ANC manifesto).

'A single streamlined system of Registration – for centres, programmes and practitioners.' (DBE presentation, March 2020)

The Children's Amendment Bill ('the Bill') an important opportunity to fulfil these commitments and to create the inclusive and enabling regulatory framework that is urgently needed. Without this, poor children across South Africa will continue to miss out on the early learning and development opportunities that they need and deserve.

### **1. A complex and inaccessible dual registration process**

The current interpretation of the Children's Act ('the Act') is that early childhood development (ECD) programmes with more than six children must be registered as partial care. They must deliver ECD programmes as defined in the Act, which must be registered as well. So an ECD programme provided in a partial care facility is subject to two sets of legal processes, each with its own requirements, creating a complex and inaccessible system that many ECD programmes find it difficult to engage with.

The Bill as drafted simply replaces one dual registration process with another. New Part II of Chapter 6 means that ECD centres still have to be registered and provide an ECD programme that is also registered. So registration remains a two-stage process, with two separate sets of norms and standards and two sets of regulatory standards.

What is more, there is no amendment to Chapter 5 of the Act which would remove ECD centres from the scope of partial care. This means that ECD centres will now have to be registered three times – though it is unclear whether this is the government's intention or an oversight.

**Recommendation: The Bill should create a one-step registration system, with one set of registration requirements and one set of norms and standards.**

**How?**

1. Delete Clause 55 of the Bill (new Part II to Chapter 6).
2. Amend Clause 34 and delete Clause 47(b) to remove ECD centres from the scope of partial care.
3. Amend Clause 45(c) to create an inclusive definition of 'ECD programme' which captures all modalities and enables a unified registration and funding system under one part in Chapter 6.

## **2. The 'one size fits all' approach and lack of differentiation between different types of ECD programmes**

The Act does not explicitly provide for differentiation between ECD programme modalities, resulting in a 'one size fits all' approach to regulatory oversight. However, ECD programmes in South Africa are characterised by their diverse settings. The current regulatory framework therefore causes particular difficulties for ECD programmes which are 'non-centre based', such as playgroups, toy libraries and childminders, which often serve high poverty rural, peri-urban and informal housing areas.

These types of programmes are invisible in the Act and remain invisible in the draft Bill. It is unclear whether they would be captured by the new definition of 'ECD centre'. If it is the government's intention that these programmes should only register under Part I of Chapter 6, then this needs to be made explicit. However, a better approach would be to create a single registration system with differentiation within it.

**Recommendation: The Bill should include amendments that recognise the different types of ECD programmes – and give the minister the power to have different registration standards for different types of programmes.**

**How?**

4. Amend Clause 45(c) of the Bill to identify different categories of ECD programmes
5. Amend Clause 48 of the Bill to enable differentiation within the norms and standards.
6. If Part II of Chapter 6 is kept, in addition to point 5., amend Clause 55 (new Section 103B(1)) to enable differentiation within the new norms and standards for ECD centres.

## **3. Onerous and inappropriate registration requirements**

The nature of the types of premises and structures in which many ECD programmes operate, makes the current health, safety and infrastructure requirements of the Norms and Standards for Partial Care both inappropriate and unrealistic. They also duplicate the health and safety that are assessed through municipal Health Certificate processes. It is neither logical nor desirable for ECD programmes to have to comply with parallel sets of health, safety and infrastructure standards in the Act's norms and standards and local by-laws

for the purposes of registration. This approach works against the streamlining and clarity that are needed to facilitate wider registration.

In the Bill, the norms and standards headings for partial care have simply been transferred over to the new Part II, with no attempt to review or streamline them. This means that the existing regulatory over-reach is simply being replicated and the bar will continue to be set high too high in terms of entry-level requirements for registration. This perpetuates the exclusionary nature of the existing system and shuts many programmes, and therefore children, out of the regulatory and funding system.

In addition, there is extensive duplication in the Norms and Standards for ECD Programmes. These norms and standards do not speak to the early learning curricula that have been issued by the Department of Basic Education since the Act was passed. These curricula now provide the statutory framework for content in early learning programmes and should be cross-referenced in the Act.

**Recommendation: Norms and standards should focus on basic minimum standards, creating an accessible threshold that pulls as many ECD programmes as possible into the regulatory net, while safeguarding children’s wellbeing. Duplication should be eliminated and there should be proper cross-referencing of the early years curricula prescriptions of the Department of Basic Education.**

**How?**

7. Amend Clause 48 of the Bill a) to streamline and simplify norms and standards’ headings (with a view to substantial simplification of detailed standards in the regulations), and b) to cross-reference the DBE statutory framework.
8. If Part II of Chapter 6 is kept, in addition to point 7., amend Clause 55 (new Section 103B(2)) to streamline and simplify norms and standards’ headings for ECD centres.

#### **4. Inconsistent use of conditional registration and the power to assist**

Conditional registration is an important mechanism for bringing more programmes into the regulatory framework in a managed way. However, it has an uncertain legal footing in the current Act.

The Bill introduces significant confusion around conditional registration and registration with conditions. Furthermore, the Bill does not appear to allow conditional registration to be used to support progressive compliance for currently non-compliant programmes, which should be its primary purpose. This means that the Bill does not reflect DSD’s progress on rolling out its new Conditional Registration Framework to provinces in 2019.

Section 97(5) of the Act gives provinces the power to assist an ECD programme to comply with regulatory requirements. This is an important lever in supporting non-compliant ECD programmes and could be further strengthened by inserting a new duty on provincial DSDs to report on the exercise of the power to assist.

**Recommendation: The Bill should include amendments that a) make clear that conditional registration can be used to bring non-compliant ECD programmes into the regulatory framework in a managed way, and b) strengthen the power to assist.**

### How?

9. Amend Clause 50 of the Bill to clarify that conditional registration can be given to programmes that do not yet meet all the registration requirements.
10. If Part II of Chapter 6 is kept, in addition to point 8., amend Clause 55 (new Section 103G) to make the same change for ECD centres.
11. Amend Section 97(5) of the Act to require the MEC to make an annual report to the Minister on progress achieved through the exercise of the power to assist.

## 5. De-prioritisation of funding ECD programmes in poor communities

The Act says that MECs **must prioritise** the funding of ECD programmes in poor communities. Inexplicably, the Bill turns the obligation into a discretionary power by changing the wording to **may prioritise**. This works against both the pro-poor developmental imperative of the Constitution, and the NDP goal of universal access to ECD.

**Recommendation: The existing obligation in the Act on MECs to prioritise funding in poor communities should remain.**

### How?

12. Delete Clause 47(b) of the Bill to restore the original obligation in the Act.

## Detailed amendments

The detailed amendments below provide an example of how the above changes can be achieved. Two possible approaches are set out. Under **Proposal 1**, a one-step registration system is created, with a harmonised regulatory and funding process, and a single set of registration requirements and norms and standards. Simply put, this means that two Parts to Chapter 6 are not required. Instead, ECD programmes are defined inclusively to cover any type of setting to enable a unified system. Different modalities/settings are then defined to enable differentiation within regulatory requirements. This is the preferred approach.

Proposal 1 also includes various amendments to strengthen the overall regulatory framework for ECD programmes and to address regressive amendments proposed by the government. These include:

1. Clarifying the use of conditional registration for non-compliant ECD programmes
2. Restoring the obligation on MECs to prioritise ECD funding in poor communities
3. Introducing a new right to ECD
4. Amending the definition of ECD to bring it into line with international norms (referring to age of child rather than school)

Under **Proposal 2**, the government's proposed approach of creating two Parts to Chapter 6 is kept, but amendments are made to a) make clear the status of non-centre based ECD programmes, and b) streamline the norms and standards. Additional amendments 1-4 above should also be made under this approach, but are not repeated in Proposal 2 for the sake of brevity.

Proposal 2 also highlights areas of incoherence that have been introduced by the government's proposed two-part approach, which will need to be resolved.

## **Summary**

Various reviews by the government have found that because of the barriers created by the current Act, many ECD programmes are either not trying to register or failing to meet registration requirements. Unregistered ECD programmes are often allowed to keep running, but without proper oversight to ensure safety and quality. At the same time, these programmes are denied the opportunity to access the very subsidies that would help them to improve their facilities and provision. The Bill does not address these problems and, in some ways, makes things worse.

**This works directly against the best interests of the child – denying poor children across South Africa the right to access essential early learning and development opportunities. It is essential that this opportunity is taken to create a regulatory system for ECD that is fair and inclusive for all. This will mean that many more programmes can get the ECD subsidy, and then use this funding to improve the quality of their programme and to protect and promote the best interests of the child.**

## Proposal 1 – One Part to Chapter 6 (a unified, one-step registration system)

Amendments in the table are shown as follows:

**Bold brackets – [Children’s Amendment Bill]** – shows proposed Government amendment, deleting text.

Underlined – Children’s Amendment Bill – shows proposed Government amendment, adding new text.

~~Crossed out – Children’s Amendment Bill~~ – shows our proposed amendment, deleting text.

***Bold italics – Children’s Amendment Bill*** – shows our proposed amendment, adding new text.

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
Clause 1(j) (to Section 1)	<p><del>(j) 'early childhood development centre' means a centre that provides an early childhood development programme as contemplated in section 91(3) for more than six children from birth to school going age;</del></p>	<p>'Early childhood development centre' is a non-inclusive term and excludes key ECD programme modalities – including community-based programmes and mobile programmes. It does not make sense to define only one modality in the Act and not others.</p> <p>An inclusive definition of 'ECD programme' which captures all modalities is proposed against Clause 45(c) below. Definitions of individual modalities are more appropriately set out in regulations and not on the face of the Act. This will give the government more flexibility in future to make regulatory adjustments to reflect the changing ECD landscape.</p>
NEW CLAUSE 13A	<p><b><i>13A Right to Early Childhood Development Programmes</i></b></p> <p><b><i>(1) Every child has the right to have access to quality early childhood development programmes that ensure to the maximum extent possible the survival and development of the child.</i></b></p> <p><b><i>(2) Government is responsible for taking all appropriate legislative, administrative and other measures necessary to secure the realisation (and progressive realisation, where appropriate) of the universal early childhood development rights of all children.</i></b></p>	<p>The proposed amendment would make explicit children’s right to ECD and is in line with the National Integrated Early Childhood Development Policy, the government’s commitment to universal access to ECD, the Constitution and international law (specifically the UN Convention on the Rights of the Child, to which South Africa is a signatory).</p> <p>Section 29 of the Constitution holds that “everyone has the right to basic education”. This must include a child’s rights to education in the early years. This is further bolstered by section 28 of the Constitution which requires that we must adopt an interpretation that promotes the “best interests” of the child.</p> <p>Further, under international law, the right to education under the UNCRC has been confirmed to include early learning. Other clauses in the UNCRC (such as Articles 5, 6 and 31) are also understood to combine to create a right to early childhood development. (See General Comment No.7 on the UNCRC).</p> <p>The wording in proposed subsection (1) mirrors the wording in Article 6 of the UNCRC, and therefore confirms a legal principle to which South Africa has already subscribed.</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
<p>Clause 34 (to Section 76(1))</p>	<p>76.(1) <b>[Partial]</b> <u>Subject to subsection (2), partial</u> care is provided when a person, whether for or without reward, takes care of more than six children on behalf of their parents, <u>guardians</u> or care-givers during specific hours of the day or night, or for a temporary period, by agreement between the parents, <u>guardians</u> or care-givers and the provider of the service, but excludes the <del>full-time</del> care of a child—</p> <p>(a) by a school as part of tuition, training and other activities provided by the school;</p> <p>(b) as a boarder in a school hostel or other residential facility managed as part of a school; <del>or</del></p> <p>(c) by a hospital or other medical facility as part of medical treatment provided to the child; <b>or</b></p> <p><b>(d) at an early childhood development programme as contemplated in Section 91.</b></p>	<p>1. In order for ECD programmes to be dealt with under a single system (in a single chapter), they need to be removed from the scope of partial care.</p> <p>2. The proposed insertion of ‘full time’ does not make sense in the context of the types of care listed. It suggests that part-time care at these types of facility <i>would</i> have to register as partial care, which is unlikely to be the government’s intention.</p>
<p>Clause 45(a) (to Section 91(1))</p>	<p>91(1) Early childhood development, for the purposes of this Act, means the process of emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children from birth <b>to six years old</b> <del>to school-going age or, in the case of a child with developmental difficulties and disabilities, until the year before the child enters school.</del></p>	<p>1. It is not clear how school-going age is deduced and it is not defined in the Children’s Act. It is likely to be inferred by reference to either:</p> <ul style="list-style-type: none"> <li>• Section 1 of the South African Schools Act 1996 which defines a school as, ‘a public school or an independent school which enrolls learners in one or more grades from grade R (Reception) to grade twelve’. Or</li> <li>• Section 3 on compulsory school attendance which states, ‘every parent must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of seven years.’</li> </ul> <p>If the period of early childhood development is defined by reference to ‘school going age’ it means that if Sections 1 and/or 3 of the SASA are changed, then children fall out of the scope of ECD. However, the National Integrated ECD Policy sets out a comprehensive package of support and services for young children which goes well beyond what can be accessed in or through schools. For example, the Policy includes measures relating to support for parents, psychosocial support, housing, health, and social protection. If Grade RR was brought within the scope of Sections 1 and/or 3 of SASA (as DBE are proposing), the consequential effect is that 4-5 year-olds are taken out of the scope of ECD, and therefore</p>



Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
		<p>they are also taken out of the scope of the wider measures and policy goals in the NIECDP. This would be highly regressive.</p> <p>In order to avoid this and to create greater clarity in the law, the upper age boundary of ECD in the Children’s Act should be amended to make it absolute (i.e. a fixed age), rather than something that relates to changing definitions of ‘school’. Internationally, there is no agreed definition of the age period covered by ‘ECD’. However, the World Health Organisation, the Committee on the Rights of the Child and the World Bank are some of the international organisations that define ECD as the period between birth and eight years old.</p> <p>This change recognises that measures and interventions to promote early childhood development are not limited to those provided in ECD centres and programmes.</p> <p>2. Children with developmental difficulties and disabilities have the right to start school at the same age as all other children, with appropriate provision to meet their needs. This government amendment suggests that these children are not the responsibility of DBE at age 5 in the same way as all other children are. If the intention of the amendment is to indicate that DSD might have ongoing responsibilities to children with difficulties and disabilities, <i>in addition to</i> DBE’s responsibilities, then this amendment should be worded differently and without reference to school.</p>
<p>Clause 45(c) (to Section 91(3))</p>	<p><u>91(3) An early childhood development programme, as prescribed, is a <b>any type of programme</b> that provides one or more forms of daily care, development, early learning opportunities and support to children from birth until school-going age: <b>to six years old.</b></u></p> <p><b><i>(3A) The minister may by regulation define different types of early childhood development programmes, including:</i></b></p> <p><b><i>(a) early childhood development centres;</i></b></p> <p><b><i>(b) home and community-based early childhood development programmes;</i></b></p> <p><b><i>(c) sessional early childhood development programmes; and</i></b></p>	<p>1. The framing ‘any type of’ helps to make clear that these programmes will take many forms.</p> <p>2. See commentary against Clause 45(a) regarding age.</p> <p>3. The four categories proposed in sub-section 3A cover all modalities contemplated in the NIECDP. The Act’s regulations should create legal definitions that are consistent with and fulfil the purposes of the Policy. The definitions in the regulation should relate to the characteristics of ECD programme modalities that a) distinguish them from each other, and b) are relevant for regulation. For example, the distinctions between these categories have relevance in terms of defining appropriate standards and requirements (for instance on health and safety, practitioner qualification levels and meals) and in terms of identifying the different cost drivers and therefore subsidy eligibility for different types of programmes.</p> <p>This amendment also clarifies that an ECD programme is the provider, place and programme content together. The lack of</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
	<p><i>(d) outreach early childhood development programmes.</i></p> <p><b><i>(3B) Early childhood development programmes do not include-</i></b></p> <p><b><i>(a) care provided in:</i></b></p> <p><b><i>(i) a partial care facility</i></b></p> <p><b><i>(ii) a child and youth care centre;</i></b></p> <p><b><i>(iii) a drop-in centre;</i></b></p> <p><b><i>(iv) a hospital or other medical facility as part of medical treatment provided to the child;</i></b></p> <p><b><i>(v) a homeless shelter;</i></b></p> <p><b><i>(vi) a women’s refuge;</i></b></p> <p><b><i>(b) care provided for a child by a person with parental responsibility for the child.</i></b></p>	<p>clarity over whether an ECD programme is only the <i>programme content</i> (i.e. curriculum) has caused significant confusion and inconsistency in the practical implementation of Chapter 6. The NIECDP makes it clear that the term ‘ECD programme’ refers to the whole entity. In other words, ECD centres and home-based childcare can be understood both to <i>be</i> types of ECD programmes and to <i>provide</i> ECD programmes.</p> <p>4. New subsection (3B) expands on the exclusions currently in Section 76. Partial care facilities (Chapter 5), child and youth care centres (Chapter 13) and drop-in centres (Chapter 14) all need to be clearly excluded from the definition of ECD programme in order that they are not subject to dual registration requirements. Any requirement for these types of facility to provide ECD opportunities should be framed as a requirement to provide <i>‘structured early learning and development opportunities in line with prescribed requirements published by the Department for Basic Education’</i>, which is written into the respective chapters.</p>
<p>Clause 92 (Strategy for ECD)</p>	<p><i>[Incorporate new Section 103J]</i></p>	<p>Only one section is required to deal with strategy and planning for ECD. New Section 103J elaborates on what should be included in the strategy. These provisions should be merged with existing Section 92 to create a single, coherent section on strategy and planning for ECD.</p>
<p>Clause 47(b) (to Section 93(4))</p>	<p>93(4) The MEC for social development <del>may</del> <b>must</b> prioritise and fund early childhood development programmes-</p>	<p>It is concerning that the government is proposing abolishing the duty to prioritise the funding of ECD programmes in poor communities. The government’s proposed amendment to section 93(4) turns the obligation to prioritise the most vulnerable ECD programmes into a discretionary action. This amendment works against the government’s overarching pro-poor goals and will also undermine progress towards universal access to ECD.</p> <p>It is arguable that this amendment is impermissible because:</p> <ul style="list-style-type: none"> <li>- It is a regressive amendment enacted without any public policy justification, and therefore will likely be unconstitutional. When the state takes away existing rights they are under an obligation to provide reasons that ought to be scrutinised at a higher threshold.</li> <li>- It is anti-developmental. Any law, policy or development plan must prioritise the most marginalised and place considerable weight to the best interests of children (Government of the Republic of South Africa and Others v Grootboom and Others [2000] ZACC 19).</li> <li>- The state must legislate in a manner that ensures the safety and protection of children. As children in poor communities</li> </ul>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
		<p>are more likely to attend ECD programmes that are unsafe, it is incumbent on PDSs to prioritise funding in these communities.</p> <p>- It is unlawful in light of the MEC's obligation to prioritise the needs of the vulnerable. According to case law, the MEC has a legal obligation to prioritise the needs of the vulnerable, which means this duty cannot be made discretionary.</p>
Clause 47(e) (to section 93(5))	<p><del>93(5) An early childhood development programme <b>[must]</b> may be provided by:</del></p> <p><del>(a) a partial care facility providing partial care services for any children up to school-going age; and</del></p> <p><del>(b) a child and youth care centre which has in its care any children up to school-going age.</del></p>	<p>This amendment ensures that partial care facilities and child and youth care centres only have to register once. The requirement for a child and youth care centre that cares for young children to provide an appropriate ECD programme should be framed as a requirement to provide 'structured early learning and development opportunities in line with prescribed requirements published by the Department for Basic Education'. This should be written into Chapter 13 and not dealt with here.</p>
Section 94(1)	<p>94.(1) The Minister must determine national norms and standards for <b><i>different types of</i></b> early childhood development programmes by regulation after consultation with interested persons and the Ministers of Education, Finance, Health, Provincial and Local Government and Transport.</p>	<p>This amendment is proposed to make clear the presumption that the Minister will provide differentiation within the norms and standards to reflect the different circumstances and purpose of different types of ECD programmes. See also commentary against Clause 45(c) above.</p>
Clause 48 (to Section 94(2))	<p>(2) The prescribed national norms and standards contemplated in subsection (1) must relate to the following:</p> <p><del>(a) The provision of appropriate developmental opportunities;</del></p> <p><del>(b) programmes aimed at helping children to realise their full potential;</del></p> <p><del>(c) caring for children in a constructive manner and providing, protection support and security;</del></p> <p><del>(d) ensuring development of positive social behaviour;</del></p> <p><del>(e) respect for and nurturing of the culture, spirit, dignity, individuality, language and development of each child; <b>[and]</b></del></p> <p><del>(f) meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of children.</del></p>	<p>The amendments proposed here achieve four goals:</p> <ol style="list-style-type: none"> <li><b>1. Incorporating the proposed headings relating to ECD centres in government Clause 55 (new Section 103(c)) to create a single set of Norms and Standards for ECD Programmes.</b> This ensures that requirements and standards relating to <i>all aspects of</i> ECD provision – including facility (health and safety), provider and curriculum – are dealt with together, and can be assessed together under a unified registration system.</li> <li><b>2. Streamlining the current headings relating to ECD programmes in Section 94.</b> There is significant duplication between these headings, as well as lack of clarity around scope. This is reflected in the content of the Norms and Standards, in which a number of standards are repeated or overlap.</li> </ol> <p>- Key standards under current headings 94(2)(a),(b),(d),(e) and (f) can be covered under new headings (a),(b) and (e). These areas are also dealt with through new subsection (2A).</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
	<p><i>(a) nurturing environments that provide protection, support and security;</i></p> <p><i>(b) appropriate and adequately resourced environments for play and learning;</i></p> <p><i>(c) group size and ratios;</i></p> <p><i>(d) support for children with disabilities;</i></p> <p><i>(e) support and information for parents and caregivers;</i></p> <p><i>(f) record-keeping;</i></p> <p><i>(g) qualifications, skills and training;</i></p> <p><i>(h) minimum health and safety standards;</i></p> <p><i>(i) proper care for children who are ill;</i></p> <p><i>(j) adequate space and separation of age groups;</i></p> <p><i>(k) hygienic and adequate toilet and ablution facilities.</i></p> <p><b><i>(2A) An early childhood development centre and a home and community-based early childhood development provided in terms of this section must provide structured early learning and development opportunities in line with prescribed requirements published by the Department for Basic Education.</i></b></p> <p><b><i>(2B) A sessional or outreach early childhood development provided in terms of this section must have due regard to the need to provide structured early learning and development opportunities in line with prescribed requirements published by the Department for Basic Education.</i></b></p>	<ul style="list-style-type: none"> <li>- New (b) addresses resources and the learning environment, a crucial area not covered in the current headings.</li> <li>- The rights and needs of children with disabilities are not adequately addressed under the existing N&amp;S and the introduction of new heading (d) helps to deal with this (in line with section 94(3) of the Act).</li> <li>- Record-keeping is introduced as a new heading. This is currently covered in Regulation 18 but for clarity and transparency it is more appropriately situated in the norms and standards.</li> </ul> <p><b>3. Streamlining and amending the proposed headings in new Section 103B.</b> This will create a simpler and clearer set of norms and standards, and eliminate the legislative over-reach in the current headings.</p> <p>DSD’s central role/duty is in relation to the care and stimulation of children. At the moment, the norms and standards proposed in Section 103B focus solely on health and safety, which is a municipal responsibility (in the National Health Act). So while it is useful to cover basic health and safety standards here, the principle should be that the more extensive health, safety and infrastructure are dealt with in and through the mandated part of the government system – i.e. municipal by-laws. It is neither logical nor desirable for ECD centres to have to comply with separate and parallel sets of health, safety and infrastructure standards in the Children’s Act, the National Health Act and local by-laws.</p> <ul style="list-style-type: none"> <li>- Headings in 103(B) (d), (f), (g), (h) and (j) can all be covered under new (h).</li> <li>- Heading 103(B)(k) is covered under (i).</li> <li>- Heading 103(B)(i) is combined with (j).</li> </ul> <p><b>4. Properly cross-referencing DBE’s statutory curriculum frameworks.</b></p> <p>When the Children’s Act was originally drafted the National Early Learning and Development Standards and the Birth to Four National Curriculum Framework did not exist. These documents now provide the statutory framework for the content of all ECD programmes and as such need to be properly cross-referenced on the face of the Act. These documents also mean that there is no longer a need for the current level of detail in the Norms and Standards for ECD Programmes – particularly headings 94(2)(a),(b),(d),(e) and (f).</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
		<p>Such detail is undesirable because it creates a third tier of regulation for precisely the same areas of oversight. This causes an unnecessary bureaucratic burden, as well as confusion.</p> <p>Instead, the Act and its regulations should provide clarity on the relationship between registration requirements and curriculum requirements prescribed by the Department of Basic Education.</p>
Section 94 – New subsection	<p><b>94(2B)(a) The norms and standards contemplated in subsection (2) must harmonise and provide the authoritative list of requirements for registration of early childhood development programmes.</b></p> <p><b>(b) The development of the national norms and standards contemplated in subsection (2) must account for the inclusion of early childhood development programmes that serve poor communities.</b></p>	<p>It is important to make clear that the requirements for registration should not be added to at provincial or municipal levels as this creates both inconsistencies and barriers to registration. Proposed new sub-section 94(2B)(a) achieves this by providing that the norms and standards are the authoritative list of requirements for registration.</p> <p>(2B)(b) emphasises the need for the norms and standards to be realistic and context appropriate in order to pull as many ECD programmes as possible into the regulatory net.</p>
Section 95 (ECD programme to be registered)	<p><del>(1) A person or organisation providing an early childhood development programme must</del> <b>Any person, Department, provincial head of social development or organisation may establish or operate an early childhood development programme provided that an early childhood development programme that is attended by more than six children:</b></p>	<p>1. The proposed amendment to the first part of Section 95(1) reflects the government’s proposed wording in new Section 103C(1).</p> <p>2. The reference to ‘attended by more than six children’ is inserted because while minimum programme size is not relevant to the definition of ECD programme, it is relevant to the requirement to register. In line with the current regulatory framework, it is therefore proposed that only ECD programmes with more than six children <i>must</i> register.</p> <p>3. In order to tackle the problem of regulatory over-reach and to ensure that resources and capacity can be focused where they will bring most benefit to children, it is also proposed that the regulations would set out the following exemptions from compulsory registration:</p> <p><i>‘xx. The following types of early childhood development programme are exempt from compulsory registration in terms of section 95 of the Act:</i></p> <p><i>(1) where no child attends the programme for more than two hours per day and more than four hours total per week;</i></p> <p><i>(2) where children attend the programme for four hours or less per day and more than half the children attending have their parent or caregiver present in the same area as them at the same time;</i></p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
		<p><i>(3) where the programme is offered on an ad hoc basis and children attend for four hours or less per day for the convenience of parents and caregivers who intend to remain on the premises or within their immediate locality;</i></p> <p><i>(4) where children of up to two sets of parents are cared for completely or mainly in one or both sets of parents' homes.'</i></p> <p>Subsection (1) would cover drop-in programmes such as library story-time sessions as well as settings such as Sunday Schools.</p> <p>Subsection (2) would cover programmes attended by parents and caregivers. These types of programme were previously excluded from the regulatory net by the definition of partial care in section 76.</p> <p>Subsection (3) is envisaged to cover creches provided at shopping centres, sport centres, conferences, etc. – i.e. where there is no longer-term commitment on the part of either the provider or the client.</p> <p>Subsection (4) would cover nanny and au pair arrangements.</p>
Section 95 – New sub-section	<p><b><i>(2A) A person or organisation providing an early childhood development programme which is exempt from the requirement to register, may voluntarily register the programme with the provincial head of social development, provided that it complies with the requirements in sub-section (1).</i></b></p>	<p>It is important that ECD programmes with six or fewer children or that are exempt from registration under subsection (2) are not excluded from the regulatory and funding frameworks and can register voluntarily. Proposed new sub-section 95(2A) introduces voluntary registration for programmes that are exempt from compulsory registration. Programmes may choose to register voluntarily in order to provide reassurance to parents that they meet minimum standards and/or to access ECD programme funding. Voluntary registration is used for certain categories of ECD programme in other countries, including the UK and New Zealand, and widens the scope of regulation and access to funding, but using an enabling rather than a compulsory approach in order to prevent regulatory over-reach.</p> <p>It should be noted that programmes that are exempt from compulsory registration as ECD programmes will still have to comply with other aspects of the Children's Act – in particular, the provisions of chapter 7 relating to child protection.</p>
Section 97(1)(a)	<p>(1) The provincial head of social development must-</p> <p>(a) within <del>six</del> <b>three</b> months of receiving the application consider an application for registration or for the renewal of registration, and either reject the application or, having regard to subsection (2), grant the</p>	<p>The current time-frame for the determination of applications is too long and leaves many ECD programmes in an uncertain legal position. The long time-frame also places children at greater risk. The time-frame should therefore be reduced.</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
	registration or renewal with or without conditions;	
Clause 50 (to Section 98)	98. 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 <b>[conditions]</b> — (a) conditions specifying the type of early childhood development programme that may or must be provided in terms of the registration; <b>(aA) measures required to achieve compliance with prescribed requirements;</b> (b) <b>[stating the period for which the conditional registration will remain valid]</b> the period for compliance; and (c) <b>[providing for]</b> any other matters that may be prescribed.	The reference to ‘the period for compliance’ in (b) does not make sense without the insertion of (aA) which first makes clear that conditional registration can be used to draw non-compliant ECD programmes into the regulatory framework in a managed way.  Conditional registration is currently being used in this way on the ground and, in 2019, the Department of Social Development issued a framework to provinces to standardise approaches. The framework sets out a ‘Bronze, Silver, Gold’ system which envisages progressive compliance with prescribed requirements.  It is essential that Section 98 provides a clear legal footing for this approach, in order to address substantial variations between provinces in how they understand and apply conditional registration. Without this legal basis to enable and encourage inclusive approaches, government efforts towards massification of registration are likely to continue to be frustrated.
Clause 55 (New Section 103A - Provision of ECD centres)	[Delete proposed new Section 103A]	Under a one-step registration process, proposed new Section 103A is no longer required as all of its provisions are repeated and therefore covered in Section 93.
Clause 55 (New Section 103B)	[Delete proposed new Section 103B – and move applicable norms in subsection (2) to Section 94]	Under a one-step registration process, there will be a single integrated set of Norms and Standards for ECD Programmes, which include norms relating to infrastructure and health and safety. These are captured in the proposed amendments to Section 94(2) – see commentary above.
Clause 55 (New Section 103C)	[Delete proposed new Section 103C]	Under a one-step registration process, proposed new Section 103C is no longer required as the duty to register is set out in Section 95.
Clause 55 (New Sections 103D, 103E, 103F, 103G, 103H & 103I)	[Delete proposed new Sections 103D – 103I]	These sections all relate to the registration system and processes. Under a one-step registration process they become redundant because these provisions are repeated almost word-for-word in existing Sections 96 to 101.
Clause 55 (New Section 103J)	[Delete proposed new Section 103J – and move relevant provisions to Section 92]	See commentary against Section 92 above.
Clause 55 (New Section 103K)	[Delete proposed new Section 103K]	This proposed new section is no longer required because its provisions are repeated and therefore covered in Section 102.

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
Clause 55 (New Section 103L)	[Substitute all references to 'ECD centre' with 'ECD programme']	This is an important new section and should remain, but brought into the conceptual framework proposed in the foregoing by amending the terminology.
Clause 55 (Section 103M)	[Delete proposed new Section 103M]	Under a one-step registration process, there will be a single, integrated set of regulations for ECD programmes. The list proposed in new Section 103M are all captured through the government's proposed amendments to Section 103.



## Proposal 2 – Retaining two Parts in Chapter 6 (a dual registration system)

Amendments in the table are shown as follows:

**Bold brackets – [Children’s Amendment Bill]** – shows proposed Government amendment, deleting text.

Underlined – Children’s Amendment Bill – shows proposed Government amendment, adding new text.

~~Crossed out – Children’s Amendment Bill~~ – shows our proposed amendment, deleting text.

**Bold italics – *Children’s Amendment Bill*** – shows our proposed amendment, adding new text.

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
Clause 1(j) (to Section 1)	(j) 'early childhood development centre' means a centre that provides an early childhood development programme as contemplated in section 91(3) for more than six children from birth to school going age <b><i>to six years old, for more than 12 hours per week;</i></b>	<p>1. It is not clear why only ECD centre is defined, and not other ECD modalities – such as playgroups and childminders. Tens of thousands of children attend these types of programmes, but this approach leaves their legal standing uncertain.</p> <p>2. Because ‘centre’ has an unclear meaning in law, this expansive definition could potentially capture a wide range of ECD programmes – including, for example, playgroups, outreach programmes and toy libraries. If two parts to Chapter 6 are retained, then non-centre based ECD programmes should only have to register under Part I. Requiring these types of programmes to register twice would be regressive and result in significant new burdens on them.</p> <p>If it is the government’s intention that non-centre based ECD programmes will only have to register under Part I of Chapter 6, then this needs to be made explicit. The reference to ‘more than 12 hours per week’ would ensure that sessional programmes (which the majority of non-centre based programmes are) are not captured under Part II.</p> <p>3. ‘School going age’ does not have a clear meaning in law (see commentary against Clause 45(a) above). It is suggested that the proposed formulation is clearer.</p> <p>4. The expansive definition of ECD centre proposed means that <i>any facility that provides an ECD programme is by definition an ECD centre</i>. This means it would capture within its scope partial care facilities (Chapter 5), child and youth care centres (Chapter 13) and drop-in centres (Chapter 14) which provide an ECD programme. Under the Act as drafted, each of these would then have to register three times. It is therefore proposed below that there are clear exclusions to the definition at the start of Chapter 6 Part II (see new Section 103A below).</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
<p>Clause 48 (to Section 94(2))</p>	<p>(2) The prescribed national norms and standards contemplated in subsection (1) must relate to the following:</p> <p><del>(a) The provision of appropriate developmental opportunities;</del>  <del>(b) programmes aimed at helping children to realise their full potential;</del>  <del>(c) caring for children in a constructive manner and providing protection support and security;</del>  <del>(d) ensuring development of positive social behaviour;</del>  <del>(e) respect for and nurturing of the culture, spirit, dignity, individuality, language and development of each child; <b>[and]</b></del>  <del>(f) meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of children.</del></p> <p><b><i>(a) nurturing environments that provide protection, support and security;</i></b>  <b><i>(b) appropriate and adequately resourced environments for play and learning;</i></b>  <b><i>(c) group size and ratios;</i></b>  <b><i>(d) support for children with disabilities;</i></b>  <b><i>(e) support and information for parents and caregivers;</i></b>  <b><i>(f) record-keeping;</i></b>  <b><i>(g) qualifications, skills and training; and</i></b>  <b><i>(h) basic health and safety for non-centre based programmes.</i></b></p> <p><b><i>(2A) An early childhood development centre provided in terms of this section must provide structured early learning and development opportunities in line with prescribed requirements published by the Department for Basic Education.</i></b></p>	<p>1. There is significant duplication between these headings, as well as lack of clarity around scope. This is reflected in the content of the Norms and Standards, in which a number of standards are repeated or overlap. The proposed amendments would streamline and focus the headings.</p> <p>2. Because non-centre based programmes should only have to register under Part I, basic health and safety standards in these programmes need to be covered in these norms and standards (health and safety standards for ECD centres are covered in new Section 103(B)(2)). New subsection 94(2)(h) is proposed to achieve this.</p> <p>3. When the Children’s Act was originally drafted the National Early Learning and Development Standards and the Birth to Four National Curriculum Framework did not exist. These documents now provide the statutory framework for the content of all ECD programmes and as such need to be properly cross-referenced on the face of the Act. These documents also mean that there is no longer a need for the current level of detail in the Norms and Standards for ECD Programmes – particularly headings 94(2)(a),(b),(d),(e) and (f). Such detail is undesirable because it creates a third tier of regulation for precisely the same areas of oversight. This causes an unnecessary bureaucratic burden, as well as confusion.</p> <p>Instead, the Act and its regulations should provide clarity on the relationship between registration requirements and curriculum requirements prescribed by the Department of Basic Education.</p> <p>4. Notes on headings/norms:</p> <ul style="list-style-type: none"> <li>- Key standards under current headings 94(2)(a),(b),(d),(e) and (f) can be covered under headings (a),(b) and (e). These areas are also dealt with through new subsections (2A) and (2B).</li> <li>- New 94(2)(b) addresses resources and the learning environment, a crucial area not covered in the current headings.</li> <li>- The rights and needs of children with disabilities are not adequately addressed under the existing N&amp;S and the introduction of new heading 94(2)(d) helps to deal with this (in line with section 94(3) of the Act).</li> </ul>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
	<p><b><i>(2B) Any other early childhood development programme that is not provided from an early childhood development centre must have due regard to the need to provide structured early learning and development opportunities in line with prescribed requirements published by the Department for Basic Education.</i></b></p>	<p>- Record-keeping is introduced as a new heading. This is currently covered in Regulation 18 but for clarity and transparency it is more appropriately situated in the norms and standards.</p>
<p>Section 103A – New section</p>	<p><b><i>Early childhood development centres - exclusions</i></b>  <b><i>(3A) Early childhood development centres do not include-</i></b>  <b><i>(a) care provided in:</i></b>  <b><i>(i) a partial care facility</i></b>  <b><i>(ii) a child and youth care centre;</i></b>  <b><i>(iii) a drop-in centre;</i></b>  <b><i>(iv) a hospital or other medical facility as part of medical treatment provided to the child;</i></b>  <b><i>(v) a homeless shelter;</i></b>  <b><i>(vi) a women’s refuge;</i></b>  <b><i>(b) care provided for a child by a person with parental responsibility for the child.</i></b></p>	<p>New subsection (3A) expands on the exclusions currently in Section 76. The expansive definition of ECD centre proposed means that <i>any facility that provides an ECD programme is by definition an ECD centre</i>. This means it would capture within its scope partial care facilities (Chapter 5), child and youth care centres (Chapter 13) and drop-in centres (Chapter 14) which provide an ECD programme. These types of provision need to be clearly excluded from the definition of ECD centre in order that they are not subject to three separate registration requirements.</p>
<p>Clause 55 (New Section 103A(1))</p>		<p>It is unclear how or why the power to provide and fund ECD centres here is different to the power to provide and fund ECD programmes in Section 93. These are not treated as different types of expenditure by national or provincial government. This creates a duplication and consequential incoherence.</p>
<p>Clause 55 (New Section 103B(1))</p>	<p><u>103(B)(1) The Minister, after consultation with interested persons and the relevant Ministers must determine national norms and standards for <b><i>different types of early childhood development centres</i></b> by regulation.</u></p>	<p>This amendment is proposed to make clear the presumption that the Minister will provide differentiation within the norms and standards to reflect the different circumstances and purpose of different types of ECD centres – for example, purpose-built, home and community-based, mobile, etc.</p>
<p>Clause 55 (New Section 103B(2))</p>	<p><u>(2) The national norms and standards contemplated in subsection (1) must relate to the following:</u></p>	<p>By streamlining and amending the headings, it will be possible to create a simpler and clearer set of norms and standards, and to eliminate the legislative over-reach in the current headings.</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
	<p><del>(a) minimum health and safety standards a safe environment for children;</del>  <del>(b) proper care for sick children or children that become who are ill;</del>  <del>(c) adequate space and ventilation</del>  <b>separation of age groups;</b>  <del>(d) safe drinking water;</del>  <b>(d) hygienic and adequate toilet and ablution facilities;</b>  <del>(f) safe storage of anything that may be harmful to children;</del>  <del>(g) access to refuse disposal services or other adequate means of disposal of refuse generated at the facility;</del>  <del>(h) a hygienic area for the preparation of food for children;</del>  <del>(i) measures for the separation of children of different age groups;</del>  <del>(j) the drawing up of action plans for emergencies; and</del>  <del>(k) the drawing up of policies and procedures regarding health care at the facility.</del></p>	<p>It is useful to note that DSD’s central role/duty is in relation to the care and stimulation of children. At the moment, the norms and standards focus solely on health and safety, which is a municipal responsibility (in the National Health Act). So while it is useful to cover basic health and safety standards here, the principle should be that the more extensive health, safety and infrastructure are dealt with in and through the mandated part of the government system – i.e. municipal by-laws. It is neither logical nor desirable for ECD centres to have to comply with separate and parallel sets of health, safety and infrastructure standards in the Children’s Act, the National Health Act and local by-laws.</p> <p>Notes on headings/norms:</p> <ul style="list-style-type: none"> <li>- Current headings (d), (f), (g), (h) and (j) can all be covered under (a).</li> <li>- Current heading (k) is covered under (b).</li> <li>- Current heading (i) is combined with (c).</li> </ul>
New Section 103B(2A)	<p><b><i>(2A)(a) The norms and standards contemplated in subsection (2) must harmonise and provide the authoritative list of requirements for registration of early childhood development centres.</i></b></p> <p><b><i>(b) The development of the national norms and standards contemplated in subsection (2) must account for the inclusion of early childhood development centres that serve poor communities.</i></b></p>	<p>It is important to make clear that the requirements for registration should not be added to at provincial or municipal levels as this creates both inconsistencies and barriers to registration. The proposed amendment achieves this by providing that the norms and standards are the authoritative list of requirements for registration.</p> <p>(2A)(b) emphasises the need for the norms and standards to be realistic and context appropriate in order to pull as many ECD centres as possible into the regulatory net.</p>
Clause 55 (New Section 103B(3) & (4))		It is unclear why the duties here are required along with the duty in Section 94(3). This creates a duplication and consequential incoherence.
Clause 55 (New Section 103C(1))	<p><u>(1) Any person, Department, provincial head of social development or organisation may establish or operate an early childhood development centre provided that the <b>an</b> early</u></p>	As discussed above, minimum programme size is not relevant to the definition of ECD centre but is relevant to the requirement to register. In line with the current regulatory framework, it is therefore proposed that only ECD centres with more than six children <i>must</i> register.

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
	<p><u>childhood development centre that is attended by more than six children—</u>  <u>(a) is registered with the provincial government of the province where the centre is situated;</u>  <u>(b) is managed and maintained in accordance with any conditions subject to which the centre is registered; and</u>  <u>(c) complies with the prescribed national norms and standards contemplated in section 103B and such other requirements as may be prescribed.</u></p>	
<p>Clause 55 (New Section 103C(4) &amp;(5))</p>		<p>These provisions are necessary but without the amendments proposed above to Sections 76 and 93, they will create a situation where, from the date the Bill takes effect, ECD centres currently registered as partial care do not have to register as ECD centres, whereas ECD centres not currently registered have to register as both ECD centres and partial care.</p>
<p>Clause 55 (New Section 103E(1))</p>	<p><u>(1) The provincial head of social development must- (a) within <del>six</del> <b>three</b> months of receiving the application [...]</u></p>	<p>The current time-frame for the determination of applications is too long and leaves many ECD programmes in an uncertain legal position. The long time-frame also places children at greater risk. The time-frame should therefore be reduced.</p>
<p>Clause 55 (New Section 103G)</p>	<p><u>103F. (1) The registration or renewal of registration of an early childhood development centre may be granted on such conditions as the provincial head of social development may determine, including—</u>  <u>(a) conditions specifying the type of early childhood development services that may or must be provided in terms of the registration;</u>  <u>(aA) <b>measures required to achieve compliance with prescribed requirements;</b></u>  <u>(d) the period for compliance; and</u>  <u>(e) any other matters that may be prescribed.</u></p>	<p>The reference to ‘the period for compliance’ in (b) does not make sense without the insertion of (aA) which first makes clear that conditional registration can be used to draw non-compliant ECD centres into the regulatory framework in a managed way.</p> <p>Conditional registration is currently being used in this way on the ground and, in 2019, the Department of Social Development issued a framework to provinces to standardise approaches. The framework sets out a ‘Bronze, Silver, Gold’ system which envisages progressive compliance with prescribed requirements.</p> <p>It is essential that Section 98 provides a clear legal footing for this approach, in order to address substantial variations between provinces in how they understand and apply conditional registration. Without this legal basis to enable and encourage inclusive approaches, government efforts towards massification of registration are likely to continue to be frustrated.</p>

Clause (Bill) or Section (Act)	PROPOSAL	MOTIVATION
Clause 55 (New Sections 103G, H & I)		<p>These sections cover cancellation, enforcement and appeals – which are all covered in Part I <i>of the same Chapter</i> in Sections 99, 100 and 101. As ECD centres must by definition provide an ECD programme, it is unclear how and why two separate cancellation and enforcement processes are needed, and how they relate to each other. For example, if enforcement action is taken against an ECD centre it is by definition also being taken against the ECD programme provided by that centre. <b>Under the Bill, The ECD centre and the ECD programme are not distinct legal entities, but part of the same legal entity.</b></p> <p>The duplication is unnecessary and creates consequential incoherence and bad law.</p>
Clause 55 (New Section 103J(1)(a))		<p>It is unclear why the provincial DSD should maintain a record of all ECD centres separately to maintaining a record of all ECD programmes (see Section 92 (2)). This duplication is unnecessary and creates consequential incoherence.</p>
Clause 55 (New Section 103J(2))	<p><u>(2) A provincial strategy contemplated in section <del>103A</del> 92(2)(b) must include a strategy for the provision of early childhood development centres in the province, which must include measures-</u></p> <p><u>(a) facilitating the establishment and operation of sufficient early childhood development centres in that province;</u></p> <p><u>(b) prioritising those types of early childhood development centres most urgently required; and</u></p> <p><u>(c) liaising with municipalities on facilitating the identification and provision of suitable premises.</u></p>	<p>There is no reference to a provincial strategy in section 103A. It is presumed this means to cross-reference the provincial strategy in section 92.</p>
Clause 55 (New Section 103K)		<p>This section covers assignment of functions to municipalities – which is covered in Part I <i>of the same Chapter</i> in Section 102. As ECD centres must by definition provide an ECD programme, it is unclear under what circumstances a provincial DSD would assign the registration of ECD centres to a municipality but note the registration of ECD programmes, or vice versa. In practice, this would be likely to create substantial confusion and duplication. If neither scenario is envisaged, then either Section 102 or Section 103K is unnecessary and should be deleted.</p>