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THE CHILDREN'S AMENDMENT BILL

FAILS THE ECD SECTOR

The Children's Amendment Bill B18-2020 ("the Bill"), was introduced in Parliament on 31 August 2020.

The Portfolio Committee on Social Development invited written comments on the Bill. Written submissions must be emailed to Ms Lindiwe Ntsabo at childrens-amendment-bill@parliament.gov.za by no later than 27 November 2020.

The Bill proposes amendments in relation to a wide range of issues impacting on children, including amendments regarding partial care and ECD.

The Bill does not address the core reforms needed for strengthening the ECD sector and has the potential to create additional burdens and challenges for ECD providers.

In addition, **the Bill is silent on the effect of the proposed migration** of responsibilities in respect of ECD from the Department of Social Development to the Department of Basic Education.

A lack of alignment between amendments and the ECD migration can cause confusion and disruption to the ECD sector.

We set out the below:

- The core aspects of legal reform that are necessary to developing an inclusive and appropriately regulated ECD sector; and
- How the Bill fails to address these core issues and, in some instances, worsens the current position.

WHAT THE ECD SECTOR NEEDS

A simpler, one-step registration process for ECD providers

- Currently, ECD providers have to be registered as partial care facilities and have to register their ECD programme.
- The dual registration requirement is onerous and unnecessary.
- A simplified one-step registration process is required.

Simpler, adequate health, safety and programme standards

- Health, safety and programme standards must be reasonable and appropriate taking into account the modality of ECD provisioning.
- Provincial and local government requirements must be streamlined to avoid duplication.

WHAT THE BILL DOES

Registration remains onerous

- The Bill not only fails to address the challenges of the dual-registration process but also now introduces the possibility of a THIRD registration requirement.
- Under the Bill, an ECD programme provider may be required to comply with **three separate registration requirements** (i.e. registration as a partial care facility, registration as an ECD centre and registration of its ECD programmes).

Health and safety provisions duplicated

- The Bill makes **no attempt to review or streamline norms and standards requirements** for partial care or ECD centres.
- The Bill **duplicates** existing **partial care** in relation to ECD centres.





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A coherent and enabling conditional registration framework

- It must be made clear that you can get conditional registration if an ECD provider is unable to you can't meet all the registration requirements.

Confusion regarding conditional registration

- The Bill introduces **significant confusion around "conditional registration", "registration with conditions" and "conditions relating to registration"** as these concepts are not properly distinguished in the Bill.
- The Bill fails to develop a coherent and enabling conditional registration framework.

Infrastructure needs of the sector must be explicitly supported

- It should be explicit that ECD providers (including those on private land) should be able to receive infrastructure support.

Municipalities must be required to provide for and maintain sufficient and appropriate ECD infrastructure in their regions.

Infrastructure funding support to certain private properties prohibited

- The Bill proposes an **explicit ban** on any infrastructure funding support to partial care facilities run from private homes, business properties or properties not owned by a non-profit organisation.

Strengthening assistance to ECD providers servicing poor communities and to meet registration requirements

- Clear provision should be made for all children in need to be supported by an early learning subsidy.
- Legislation must ensure that provincial departments support ECD providers servicing poor communities to meet registration requirements.
- Provincial departments must be required to report to the Minister on progress achieved.

Support to ECD providers servicing poor communities made discretionary

- The current law requires that the funding of ECD programmes to poor communities **must be prioritised**.
- The Bill turns this obligation into a **discretionary** power by providing that funding of ECD programmes to poor communities **may be prioritised**.
- There are also indications in the Bill that, at least in relation to partial care facilities, certain "power to assist" provisions will be narrowed by making the use of this power contingent on the granting of registration with conditions.

Recognition of different types of ECD programme providers - "One-size-fits-all" approach inappropriate

- Different types of ECD programme providers including playgroups, toy libraries and home-based care must be regulated differently.
- Explicit provisions are needed which reflect that a one-size-fits-all approach is not appropriate.

All types of ECD provisioning subject to the same requirements - "One-size-fits-all" approach entrenched

- The Bill introduces the following definition of "ECD Centres"
"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."
● This definition does not provide for varied approaches to different types of ECD provisioning. **The Bill entrenches a "one-size-fits-all" approach to ECD provisioning.**