



Igniting potential through play

To: Parliament Portfolio Committee

By email: childrens-amendment-bill@parliament.gov.za

27 November 2020

Dear Portfolio committee members

Amendments required to the Children's Amendment Bill

This submission is made on behalf of Cotlands, and is supported by the Toy Library Association of South Africa.

Cotlands is a registered non-profit early childhood development organisation with a rich heritage (84 years) in serving young, vulnerable children. Cotlands vision is to see children thrive in their pre-school years by increasing their access to play-based early learning opportunities. Cotlands provides scalable and cost-effective toy library and play-based early learning playgroup programmes targeted at children younger than five.

In 2019, Cotlands developed an e-learning platform called CotlandsIGNITE™ to build skilled capacity in the ECD sector by offering accredited online ECD courses to learners; a major step towards universal access to quality pre-school education by 2030. The organisation also focuses on enabling parents to practice play-based learning in the home environment by promoting playful interaction at home.

Cotlands is a member of the Toy Library Association of South Africa that is supportive of our submission to introduce a one-step registration process for Toy Libraries against a set of suitable norms and standards required to operate quality toy library programmes as outlined by the association and supported by its members.

This submission is inspired by a broader campaign calling for Real Reform of the ECD sector supported, as at the date of this submission, by over 100 organisations and with almost 800 people signing a petition in support of the campaign (www.change.org/realecdreform). The legislative amendments that have been proposed by the Children's Amendment Bill are a missed opportunity to improve the lives of millions of children. This campaign has been launched to urgently ensure that **real reform** of the legal framework for ECD is taken seriously. For more information visit www.ecdreform.org.za

Cotlands pioneered our non-centre based toy library and play-based early learning playgroup model in 2012. Two external evaluations, the ELOM and ELPO confirmed that our programmes have the potential to increase children's school readiness. In some provinces there is no recognition of non-centre based programmes which resulted in large scale closure

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of playgroups that served thousands of children due to the programmes not being registered and not being funded by the Department of Social Development.

As advocates for children, we demand reform in the ECD sector and government's commitment to invest in children's early education. Today's preschoolers will be our future workforce. ECD lays the foundations for all future education. Our children have the right to access quality early learning programmes delivered by qualified ECD practitioners that have specialist knowledge about implementing early learning playgroups and toy library programmes. This will require government to re-direct funds to these essential programmes as there is currently insufficient investment made in the sector to reach all the children in our underprivileged communities.

Cotlands wish to make the following recommendations to Parliament:

1. Non-centre based programmes such as early learning playgroups and toy libraries should be able to access programmatic funding through a one-step registration process against a set of suitable norms and standards that promote best practice and ensure quality service provisioning of sessional programmes such as playgroups and toy libraries.
2. Government needs to prioritise funding for non-centre based early childhood development programmes (e.g. playgroups and toy libraries) that can reach and impact the lives of hundreds of thousands of children in remote and marginalised communities. These non-centre based programmes are easily implemented. These programmes offer secure, safe and accessible play and recreation spaces that are inclusive especially in underserved rural and informal communities. In cities and towns, we propose that government provides underutilized municipal infrastructure to set up similar programmes that can be easily accessible. As a strong advocate for play-based early learning opportunities, we would recommend more non-centre based programmes that can ensure more children have access to quality early learning programmes immediately.
3. It is the mandate of the Department of Sport, Arts, Culture and Recreation to provide book libraries and toy libraries. It is the provinces responsibility to provide these services and ensure that there are sufficient play-based opportunities for young children to access. Many municipal libraries have failed to fulfil their mandate and the discretionary funding that was supposed to be made available at the municipal level has not been invested in setting up toy libraries. A wealth of skills and knowledge reside in Cotlands which should be leveraged to scale up toy libraries throughout South Africa.
4. There are many ECD practitioners in South Africa that are unqualified or underqualified. Several studies have shown that poorer children are more likely to receive poorer quality programmes due to gaps in teaching skills. We urgently need to build skilled capacity in the ECD sector if we want to achieve our goal by 2030 and provide universal access to a good quality pre-school education. Currently, many practitioners do not have any formal qualifications. We want the Bill to introduce and set minimum criteria, that all practitioners providing ECD services must have an ECD Level 4 qualification. The qualification should have core competencies required by all practitioners, but should also equip practitioners with the required skills and knowledge to not only provide ECD centre based programmes but also non-centre based programmes such as toy libraries and early learning playgroups.

5. The first five years of a child's life is essential for their cognitive growth and development. The bill does not provide sufficient information on the importance of play-based activities at home where children predominantly spend their time. Parents need to take on the responsibility to engage in facilitated play for at least two hours a day. This will support children's holistic development. Parents can make use of the toy library service at their municipal library by taking out age appropriate toys to stimulate their children's development.

More specifically, we wish to draw your attention to the table below that specifies sections in the Bill as it relates to non-centre based programmes, ECD practitioner requirements and parental responsibilities.

1. Prioritise and re-allocate funding to non-centre based Early Childhood Development programmes

Challenges under the current Act	What the Bill does	How the Bill needs to change
Most applicants in poor communities lack the required funding to set up well-equipped ECD centres and as parents cannot afford to pay the standard monthly fees for ECD services.	Under 103B (2) of the Bill under the norms and standards there is no mention of quality play-based resources that aid in development. Many of these ECD centres are under-resourced and the Bill should include this as a requirement.	Government needs to commit and invest funding into ECD centres in poor and marginalised communities to ensure children receive quality play-based early learning opportunities.
<p>See following provisions:</p> <p>(3) The provider of an early childhood development programme only qualifies for funding contemplated in subsection (1) if such provider complies with the prescribed national norms and standards contemplated in section 94 and such other requirements as may be prescribed.</p> <p>Section 78.4 (4) The funding of partial care facilities must be prioritised— (a) in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children; and (b) to make facilities accessible to children with disabilities. [S. 78 inserted by s. 4 of Act No. 41 of 2007.]</p> <p>“The applicant has the necessary funds and resources available to provide the partial care services of the type applied for”</p>		

2. Provide mandatory toy library services in municipal libraries

Challenges under the current Act	What the Bill does	How the Bill needs to change
The Act omits the Department of Sport, Arts, Culture and Recreation from the national norms and standards for early	The Bill has no mention of Toy Library services. We are proposing that the Department of Sport, Arts, Culture and Recreation	The Minister of Department of Social Development needs to consult with the

Challenges under the current Act	What the Bill does	How the Bill needs to change
childhood development programmes	introduces a national registration system for toy libraries with accompanying norms and standards	minister of Sport, Arts, Culture and Recreation on the integration of the norms and standards for the provision of toy library services
<p>See following provisions: Chapter 2 General principles Section 6.2e recognises a child's need for development and to engage in play and other recreational activities appropriate to the child's age; (add in where the parent can find play-based resources)</p> <p>Section 94 National norms and standards for early childhood development programmes, (1) The Minister must determine national norms and standards for early childhood development programmes by regulation after consultation with interested persons and the Ministers of Education, Finance, Health, Provincial and Local Government and Transport. The provision of appropriate developmental opportunities.</p>		

3. Build skilled capacity in the ECD sector to enable qualified ECD practitioners to teach in poorer communities

Challenges under the current Act	What the Bill does	How the Bill needs to change
The Act does not place emphasis on the quality of person that is providing the ECD service to the community. There is no mention of minimum qualification set by the Department of Education, the Act only mentions that the applicant of the ECD programme is a fit and proper person to provide an ECD programme. Section 97c mentions the prescribed skills of the owner and not necessarily the skills of the teachers that are employed at the ECD centre	No mention of quality of ECD services provided	ECD centres run in poor and marginalised communities that employ qualified practitioners, will be granted funding from government for their ECD centres
<p>See following provisions:</p>		

Challenges under the current Act	What the Bill does	How the Bill needs to change
<p>Section 91.2: Early childhood development services means services— (a) intended to promote early childhood development; and (b) provided by a person, other than a child’s parent or caregiver, on a regular basis to children up to school-going age. (3) An early childhood development programme means a programme structured within an early childhood development service to provide learning and support appropriate to the child’s developmental age and stage</p> <p>Section 97c: the applicant has the prescribed skills, training, funds and resources available to provide the early childhood development programme as applied for;</p> <p>Section 97.3: A person unsuitable to work with children is not a fit and proper person to provide or assist in the provision of early childhood development programmes.</p>		

4. Parental rights and responsibilities to engage in facilitated play with children

Challenges under the current Act	What the Bill does	How the Bill needs to change
The Act fails to describe what the parent’s responsibility is in developing the child holistically	No mention of facilitated play between parent and child	There clause needs to elaborate on the importance of play and the play services e.g. toy libraries that provide resources to parents
<p>See following provisions:</p> <p>1. (2) The parental responsibilities and rights that a person may have in respect of a child, include the responsibility and the right— (a) to care for the child; (b) to maintain contact with the child; (c) to act as guardian of the child; and (d) to contribute to the maintenance of the child.</p>		

We also wish to requests amendments to the Bill as it relates to general aspects within early childhood development in South Africa.

a. A simpler, one-step registration process for ECD providers

Challenges under the current Act	What the Bill does	How the Bill needs to change
- Under the current legislation, an ECD programme provided out of a partial care facility needs to register twice .	- The Bill makes no effort to streamline registration . ECD programme providers still have to register multiple times, which is onerous and unnecessary.	- A simplified one-step registration process is required . Drafters of the Bill must implement holistic reforms to achieve this.

Challenges under the current Act	What the Bill does	How the Bill needs to change
<ul style="list-style-type: none"> - This creates unnecessary duplication and an additional administrative and financial burden. - A streamlined, one-step registration process is needed. 	<ul style="list-style-type: none"> - The overlap between ECD Centres and Partial Care introduced by the Bill means that an ECD programme provider may be required to comply with three separate registration requirements. 	<ul style="list-style-type: none"> - The Bill, in the least, needs to be amended to avoid the potential for triple registration.
<p>See following provisions: Clause 55 of the Bill inserting a new section 103C. [Read together with: Clause 1(j) of the Bill); Sections 76 and 80 of the Children’s Act); and clause 47(e) of the Bill.]</p>		

b. Recognition of different types of ECD providers

Challenges under the current Act	What the Bill does	How the Bill needs to change
<ul style="list-style-type: none"> - The Act does not adequately recognise the need for different types of ECD programme modalities (for example, centre-based and non-centre based which includes playgroups, toy libraries and home-based ECD). 	<ul style="list-style-type: none"> - The introduction of a new part headed “ECD centre” by the Bill seems to focus on centre-based provisioning. The Bill therefore still fails to adequately recognise and regulate different types of ECD modalities. - The Bill just cuts and pastes the same provisions relating to partial care under the part on ECD Centres. This leads to even more duplication and confusion in the regulation of the ECD sector. 	<ul style="list-style-type: none"> - The legislature must reconsider the terminology and definitions utilised in the Bill, in particular the definition “ECD centre”. <p>This reconsideration is necessary as the current Bill insufficiently accommodates different types of ECD provisioning.</p> <ul style="list-style-type: none"> - Legislation should expressly provide for the recognition of different types of providers for ECD programmes and regulations must allow for differentiated norms and standards.
<p>See following provisions: Clause 1(j) inserting a new definition under section 1 of the Children’s Act.</p>		

c. Compliance standards and overlapping roles and responsibilities

Challenges under the current Act	What the Bill does	How the Bill needs to change
<ul style="list-style-type: none"> - The Act does not clearly identify responsible parties to develop and ensure compliance with health and safety standards for ECD providers, creating conditions for overlap and duplication. - Compliance standards are also excessively burdensome and unattainable by the overwhelming majority of ECD providers who serve poor communities. 	<ul style="list-style-type: none"> - The Bill makes no attempt to clarify the roles and responsibilities of the levels of government. - Part II in the Bill dealing with ECD centres simply replicates and duplicates the existing provisions and framework for norms and standards of partial care in relation to ECD centres, creating further confusion and duplication. 	<ul style="list-style-type: none"> - The Bill must clearly define roles and responsibilities of the different levels of government. - Amendments must be accompanied by a complete overhaul and streamlining of all existing registration requirements to reduce excessiveness and to take account of all types ECD provisioning.
<p>See following provisions: Amendment 55 inserting a new section 103B. [Read together with existing sections of the Act dealing with partial care norms and standards].</p>		

d. Assistance to ECD providers servicing poor communities

Challenges under the current Act	What the Bill does	How the Bill needs to change
<ul style="list-style-type: none"> - Powers exist to empower the DSD to support facilities to comply with prescribed requirements. This power is not contingent on conditional registration. - However, there is little evidence of this power being utilised over the last decade. 	<ul style="list-style-type: none"> - The Bill weakens existing pro-poor mechanisms in the Act. - It does so in two ways: <ul style="list-style-type: none"> (i) The Bill now makes it discretionary to prioritise funding to poor communities. (ii) The Bill makes the use of the “power to assist” dependent on the granting of registration with conditions for partial care facilities. 	<ul style="list-style-type: none"> - The obligation to prioritise poor communities must remain mandatory. - The power to assist clauses must not be narrowed. <p>The following amendments should therefore be rejected:</p> <p>Clause 35(c) amending s 78(4). Clause 47(b) amending s 93(4). Clause 38(b) amending s 82(5)</p>

Challenges under the current Act	What the Bill does	How the Bill needs to change
	These proposals undermine the realisation of the right to ECD for all children and are regressive .	- The “power to assist” clauses should be strengthened by (a) requiring reporting on the use of the power to assist; and b) requiring that the power to assist be considered in planning processes.
<p>See following provisions: <i>In relation to prioritisation of poor communities:</i> Clause 35(c) amending section 78(4) and Clause 47(b) amends section 93(4)</p> <p><i>In relation to the power to assist clauses:</i> Clause 38(b) amending section 82(5); Clause 35 introducing section 78(3A) and Clause 47 introducing section 93(3A)</p>		

e. The conditional registration framework

Challenges under the current Act	What the Bill does	How the Bill needs to change
<ul style="list-style-type: none"> - The current legislation includes the possibility of “conditional registration”. - However, this term has not been consistently applied as allowing for the registration of providers who have not yet been able to meet all the requirements of registration. - This has limited the effectiveness of conditional registration as a tool for the progressive realisation of norms and standards. 	<ul style="list-style-type: none"> - The proposed amendments create even more confusion around conditional registration. - The Bill uses “conditional registration”; “conditions relating to registration” and “registration with conditions” inconsistently in relation to partial care, ECD programmes and ECD centres. This is entirely confusing. - It is still not clear that DSD is able to grant conditional registration if there is non-compliance with registration requirements as prescribed. 	<ul style="list-style-type: none"> - It should be made clear that conditional registration can be granted to providers who have not yet complied with all registration requirements. - It should be clear that regulations may be issued relating to the procedure for obtaining conditional registration and progressively attaining full registration.
<p>See following provisions: Clause 35(b) inserting new 78(3A); Clause 39 amending section 83; Clause 47 inserting section 93(3A); Clause 50 amending section 98. (Read together with references to “conditional registration” in proposed sections 103D and 103E.)</p>		

f. Provision of infrastructure support

Challenges under the current Act	What the Bill does	How the Bill needs to change
<ul style="list-style-type: none"> - Current legislation fails to give effect to the ECD infrastructure provisions in the National ECD Policy. - This hampers the proper implementation or realisation of those policy objectives. 	<ul style="list-style-type: none"> - The Bill introduces a blanket ban on government funding of infrastructure for partial care facilities on some types of private property. - This is a regressive step and will further marginalise mostly poor children. - The Bill makes no attempt to align with key policy objectives relating to infrastructure. 	<ul style="list-style-type: none"> - The ban on funding private infrastructure introduced by clause 35(e) of the Bill must be deleted in its entirety. - Legislation should clearly outline government duties, particularly duties of municipalities, in respect of providing for and maintaining sufficient and appropriate ECD programme infrastructure.
<p>See following provisions: Clause 35(e) inserting proposed section 78(5). (Read together with Clause 9.5 of the National Integrated ECD Policy)</p>		

Conclusion

In summary, the following is required for real reform of the ECD sector:

- **A one-step registration process for ECD providers.**
- **Different types of ECD programme providers** including playgroups, toy libraries and home-based care **must be regulated differently.** A one-size-fits-all approach is not appropriate.
- **Simpler, adequate health, safety and programme standards** must be in place and must be assessed through one process.
- It must be made clear that you can get **conditional registration if you can't meet all the registration requirements. MECs must support** providers servicing poor communities to meet registration requirements and they must be **required to report** to the Minister on progress achieved.
- The **infrastructure needs of the sector must be supported.** Current providers (including on private land) should be able to receive support and municipalities must be required to provide for and maintain sufficient and appropriate ECD infrastructure in their regions.

The introduction of the Children's Amendment Bill B18-2020 ("**the Bill**") could have been an opportunity to address significant challenges in the ECD sector. However, these core challenges are not substantially addressed by the Bill.

Instead, the Bill simply cuts and pastes provisions relating to Partial Care under a new Part headed "Early Childhood Development Centres". This has the potential to create additional burdens and challenges for the ECD sector.

Moreover, the Bill also fails to respond to the imminent shift of responsibilities in respect of ECD services from the Department of Social Development (“**DSD**”) to the Department of Basic Education (“**DBE**”).

The Bill will create additional burdens and challenges for the ECD sector. We call on all MPs to urgently ensure that real reform of the legal framework for ECD is taken seriously and that our proposed submissions are accepted.

Cotlands would welcome the opportunity to present our submission in person to the portfolio committee.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'M Stach', with a horizontal line underneath.

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