



**THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA**

Department's Logo

**SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
REVISED (2020): FINAL IMPACT ASSESSMENT TEMPLATE –PHASE 2
NAME OF THE PROPOSAL: BASIC EDUCATION LAWS AMENDMENT BILL**

1. Please DO NOT ALTER the template and questionnaire
2. Date must be clearly indicated
3. Draft SEIAS report should have a watermark word DRAFT indicating the version and should be accompanied by the supporting documents (draft proposal, M&E plan and pieces of research work)
4. FINAL report will be in PDF format and will be inclusive of the sign-off
5. FINAL report will have the approval stamp of the Presidency on the front cover and will include the signoff
6. Sign off forms are only valid for a period of six months.
7. Bills and Regulations that introduce permitting, licensing and registration system must be accompanied by a streamlined process map and indicate the proposed turnaround time for processing of such.

PART ONE: ANALYSIS FOR FINAL SEIAS REPORT

Please keep your answers as short as possible. Do not copy directly from any other document.

1. Conceptual Framework, Problem Statement, Aims and Theory of Change

1.1. What socio-economic problem does the proposal aim to resolve?

In April 2013, the Minister of Basic Education, having identified the review of all basic education legislation as a strategic priority for the Department of Basic Education (DBE), appointed the Basic Education Laws Review Task Team to review the basic education legislation. The Task Team consisted of DBE officials and legal representatives of four of the provincial education departments (PEDs) (the Western Cape, Gauteng, the Free State, and KwaZulu-Natal). The terms of reference (attached) for the Task Team was to look into the existing provision of the SASA and the EEA and review the two Act in line with developments in the education landscape

One of the developments in the education landscape came about in 2009, when the then Department of Education was split into two new departments – those of Basic Education and of Higher Education and Training. (Proclamation No. 44 of 2009, signed by the President on 20 June 2009 and published in *Government Gazette* No. 32367 on 1 July 2009.)

The BELA Bill intends to ensure that systems of learning and excellence in education are put in place in a manner which respects, protects, promotes and fulfils the right to basic education enshrined in section 29(1) of the Constitution of the Republic of South Africa, 1996. The BELA Bill seeks to amend the SASA and the EEA so as to make certain technical and substantive adjustments, to clarify certain existing provisions and to insert certain provisions to cover matters which are not provided for in the existing legislation.

The socio-economic problems that led to the proposed amendments are as follows:

- Challenges in regard to learners' school performance and access to quality basic education.

The Bill seeks to amend section 3(1) of the SASA to provide that school attendance is compulsory from grade R and no longer only from grade 1; and to increase the penalty provision in section 3(6) of the SASA from six months to 12 months in the case where the parent of a learner, without just cause, fails to ensure that a learner who is subject to compulsory school attendance attends school, or where any other person, without just cause, prevents such a learner from attending school. The clause also creates an offence in the case where any person unlawfully and intentionally interrupts, disturbs or hinders any

school activity, or hinders or obstructs any school in the performance of the school's activities, and a penalty clause is provided for. Cabinet has taken a decision to make Grade R compulsory. The intention to increase the penalty provision from six months to 12 months was to ensure that the penalty provision should serve as a deterrent for any person who interrupts school activity. The amendment is necessitated by incidents, in several provinces, in which communities, or portions of communities, prevented learners from attending school in an attempt at making a political or other point. Service delivery protest in Limpopo (Vuwani) has impacted on the provision of basic education because some of the school infrastructure such as building were put on fire.

- Challenges in regard to learners' access to quality basic education, as some schools deny admission to some learners.

The amendments made provides that the SGB must submit the language and admission policies of a public school, and any amendment thereof, to the HoD for approval. The HoD may approve the policies, or any amendment thereof, or he or she may return it to the SGB with recommendations, together with reasons for such recommendations. The Ermelo judgement serve as a classical example for the proposed amendment.

These amendments have become necessary as a result of confusion created by sections 5(5) and 5(7) in regard to where the locus of authority lies in respect of admission to public schools, and as to who has the final say on admissions. When exercising the authority to admit learners, the HoD is not rigidly bound by a school's admission policy. The general position is that admission policies must be applied in a flexible manner and that the right of a learner to be admitted to a school takes precedence over the right of a school to enforce the criteria set out in its admission policy.

Furthermore, the admission policy of the DBE provides that the admission policy of a school must be consistent with the DBE's policy. Therefore, the HoD must have an opportunity to study the admission policy of a school to ensure that it is in fact consistent with the national policy.

- Challenges pertaining to procurement of Learning and Teaching Support Material

Amendment of section 21 of the SASA to empower the HoD to centrally procure identified learning support material for public schools, in consultation with the SGB and on the basis of efficient, effective and economic utilisation of public funds or uniform norms and standards.

- Uncertainty pertaining to home education legislation and monitoring of this sector of education

The amendment (read with the amendments to section 3 of the SASA) makes it clear that learners may be educated at home only if they are registered for such education. A parent must, at the end of each of the three school phases,

notify the HoD if he or she intends to continue educating the learner at home. The criteria that the HoD must consider when deciding whether or not to approve an application are also set out. The amendment provides that the HoD may, when considering an application, require a delegated official to conduct a pre-registration site visit and consultation with the parents and learner to verify the information supplied in the application documentation and to provide support, where necessary, with the application process. It also sets out the main responsibilities of a parent who wishes to educate his or her child at home. The amendment proposes steps to protect parents who want to educate their children at home in the Further Education and Training Phase (grades 10 – 12) and will ensure that the final qualification obtained will give the learner opportunities for further study at institutions of higher education.

1.2. What are the main root causes of the problem identified above?

What socio-economic problem does the proposal aim to resolve	What are the main roots or causes of the problem
1.2.1 Deteriorating learner school performance	<p>1. Parents preventing learners from attending school without just cause</p> <p>Learners are prevented from attending school and from learning, in most instances by their parents in cases where the parent of a learner, without just cause, fails to ensure that a learner who is subject to compulsory school attendance attends school, or where any other person, (communities, or portions of communities, who wants to make a political or other point) without just cause, prevents such a learner from attending school.</p> <p>Service delivery protest in Limpopo (Vuwani case) has impacted on the provision of basic education because some of the school infrastructure such as building were put on fire and this interrupted schooling.</p> <p>2. Legislative environment: current penalties are too lenient</p> <p>This is as a result of the lenient current penalty for preventing a learner from attending school.</p>

	<p>The existing penalty provision imposes an imprisonment period of six months which does not serve as a deterrent to persons interrupting the schooling of a learner.</p> <p>3. Schools takes harsh disciplinary action against learners for petty offences such as hairstyles and dress codes resulting in learner drops and/or learner emotional/mental distress</p> <p>Schools take disciplinary action against learners who do not adhere to the schools' codes of conduct in regard to, for instance, hairstyles and dress. Learners suffer mental anguish, stay away from school and even drop out of school.</p> <p>The codes of conduct of public schools do not take into account the diverse cultural beliefs and religious observances of learners. Ermelo judgement is a classic example. The schools are not sufficiently aware of, or ignore, constitutional guarantees and the needs of diverse cultures.</p> <p>4. Class disruptions due to learner intoxication</p> <p>Learners have increasingly been found in possession of, or abusing, liquor and performance-enhancing substances inside school premises and in some instances, have led to disruption of classes. The existing section 8A of the SASA does not address ill-discipline amongst learners</p> <p>The Act does not prohibit liquor and prohibited substances on school premises.</p> <p>In some cases, learners or other persons are injured or incur damages because schools do not comply with the provisions of the Act, and state</p>
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	<p>funds are wasted as a result. Section 60 of the South African Schools Act, 1996, The law is not clear enough in regard to the liability of the State for any delictual or contractual damages caused as a result of any school activity conducted by a public school for which the public school would have been liable.</p> <p>5. Institutional capacities/ systems/mechanisms: schools do not have or do not effectively implement protocols or mechanisms during school activities</p> <p>Schools' administration and governance are disrupted when two or more schools are merged. There are no sufficient administrative and transitional arrangements for such mergers.</p> <p>When a school has no learners, or has too few learners to continue being viable, communities suffer uncertainty – amongst others, about how their children will be transported to the alternate school that has been identified for those learners.</p> <p>The procedure for the closing of schools that have no learners or that have too few learners to continue being viable is onerous, and not enough provision is made for giving feedback to the communities involved. The existing section 12A of the SASA does not provide for a smooth and clear provision for the process to merge schools.</p> <p>6. Curriculum and Assessment</p> <p>There are challenges in regard to formulating the national curriculum statement and the procedures for the assessment of learner achievement. The Act does not empower the</p>
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	<p>Minister to appoint a group of experts of persons to advise her on matters pertaining to curriculum and assessment.</p> <p>7. District Staffing</p> <p>The law does not empower the Minister to make regulations on norms and standards for district staffing.</p> <p>The current section 61 of the SASA does not empower the Minister to make regulation on district staffing.</p> <p>8. Procurement of LTSM</p> <p>Learners do not receive sufficient amounts of the correct quality of learner support material, and money is wasted by the current procurement processes. Some schools purchase some of their learner support material in inefficient ways that waste money. Governing bodies are not better positioned to procure LTSM.</p> <p>9. Regulations</p> <p>The absence of regulations that are enforceable in a court of law, and of offences in regard to certain actions that schools take, leads to discrimination against learners on a variety of grounds. Sections 61 of the SASA does not empower the Minister does not have the power to make regulations on –</p> <ul style="list-style-type: none">○ the management of learner pregnancy;○ minimum norms and standards for provincial educator development institutes and district educator development centres; and○ a national education information system.
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<p>1.2.2 Challenges in regard to learners' access to quality basic education, as some schools deny learners admission</p>	<p>1. The Admission policy of public schools</p> <p>The criteria set out in a schools admission policies must be flexible to allow for admission of learners with different backgrounds and races. No admission policy must favour a certain race or group of learners.</p> <p>2. The Language policy of public schools</p> <p>Schools need to adopt more than one language of instruction in their language policies where it is practicable to do so in order to cater for the language needs, in general, of the broader community in the education district in which the public school is located.</p> <p>The absence of checks and balances by the Head of Department in respect to admission and language policy determined by the governing body allows for a situation where these policies are contrary to the constitution and other education legislation</p> <p>The current section 5 and 6 of the SASA does not provide clear guidance on the role of the HOD in respect to admission and language policies.</p> <p>The absence of regulations that are enforceable in a court of law, and of offences in regard to certain actions that schools take, leads to discrimination against learners on a variety of grounds. The Minister does not have the power to make regulations on the admission of learners to public schools</p>
<p>1.2.3 Uncertainty pertaining to Home Education legislation</p>	<p>1. Home education</p> <p>The current provision on the registration of home education learners is subject to different interpretation. The proposed provision</p>

	<p>wish to strengthen this gap. Parents must now register their children for home education and have tutors provide assessment reports to the department on a quarterly basis.</p> <p>Section 51 does not make provision for competent assessors and provision of learner assessment reports.</p>
<p>1.2.4 Challenges in regard to organisational efficiency and school governance</p>	<p>1. Governance in schools</p> <p>In some cases, SGBs do not perform all their functions properly, which hampers the provision of education to learners.</p> <p>Corruption among SGB members in regard to the procurement of goods and services wastes money and hampers the provision of education to learners.</p> <p>In some cases, governing body members are remunerated for the performance of their duties, which means that money that should have been spent on education is lost.</p> <p>In some cases, there is a conflict of interest in that the chairperson of the governing body's finance committee is also an employee of the school. This leads to poor governance, which hampers the provision of education to learners.</p> <p>Unwise spending by governing bodies – amongst others, by entering into exorbitant lease agreements – wastes a lot of money that should have been put to good use in the education system.</p> <p>In some cases, the governing body deviates substantially from the budget approved by the parents. Such a deviation may lead to poor and unfair governance, which ultimately hampers the provision of education to learners. The law does not currently make it compulsory for the governing body to</p>

	<p>submit a substantial deviation from the budget to the parents for consideration.</p> <p>In some cases, schools' finances are not properly managed and audited. This leads to the loss of money that should have been used for education.</p> <p>It is not clear whether the subsidies provided to independent schools are properly managed and audited. If they are not, it has a negative impact on the provision of education to learners. It also leads to a lack of transparent accounting.</p> <p>The law does not stipulate that governing bodies are responsible for submitting quarterly reports on all income and expenditure of the school. Also, currently, the law does not give the HoD enough options for having the financial matters of a school investigated after, for example, receiving allegations of corruption, fraud or other improper use of school money.</p> <p>2. Dispute resolution (new insertion)</p> <p>Disputes between governing bodies and HoDs lead to the spending of money on court cases instead of on education, and this impacts negatively on the provision of education to learners. The law does not make provision for dispute resolution mechanisms.</p> <p>The Rivonia matter is a classic example where the court provided clarity on the role of the governing body and that of the HOD in relation to admission of learners in schools</p>
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1.3. Summarise the **aims** of the proposal and **how** it will address the problem in no more than five sentences.

The Basic Education Laws Amendment Bill seek to enhance the organisational efficiency to improve school governance, leadership and accountability,

transforming education services and protecting vulnerable groups to ensure learner well-being and access to learning.

1.4. How is this proposal contributing to the following national priorities?

National Priority	Impact
1. Economic transformation and job creation	Additional employment opportunities for Grade R educators which also impacts on their condition of service. It further creates employment opportunities for competent assessors for home education learners.
2. Education, skills and health	It further allows more Grade R learners in the public education system
3. Consolidating the social wage through reliable and quality basic services	None
4. Spatial integration, human settlements and local government	None
5. Social cohesion and safe communities	Admission of disadvantage learners in privileged schools
6. Building a capable, ethical and developmental state	None
7. A better Africa and world.	None

1.5. Please describe how the problem identified could be addressed if this proposal is not adopted. At least one of the options should involve no legal or policy changes, but rather rely on changes in existing programmes or resource allocation.

Option 1.	<p>None, The status quo remains and this will be the consequences-</p> <ul style="list-style-type: none"> • Infringement of learners' Constitutional right to quality basic education, negatively impacting on learner performance. • Challenges in regard to organisational efficiency and school governance
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	<ul style="list-style-type: none">• Uncertainty pertaining to Home Education• Challenges in regard to learners' access to quality basic education, as some schools deny learners admission• Deteriorating learner school performance
Option 2.	

PART TWO: IMPACT ASSESSMENT

2. Policy/Legislative alignment with other departments, behaviours, consultations with stakeholders, social/economic groups affected, assessment of costs and benefits and monitoring and evaluation.

2.1. Are other government laws or regulations linked to this proposal? If so, who are the custodian departments? Add more rows if required.

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of contradiction and how will the contradictions be resolved
Public Finance Management Act 1999	National Treasury	The PFMA regulates financial management in the national, provincial governments and other public entities or organizations performing a public function. It ensures that all revenue, expenditure, assets and liabilities of those governments and public entities are managed efficiently and effectively	None
Policy on Home Education	Department of Basic Education	Registration of a learner to receive Home Education	None
Promotion of Administrative Justice Act. 2000	Department of Justice and Constitutional development	Promotion of Administrative Justice. This principle is infused in most	None

		of the provision of the BELA Bill	
Public Administration Management Act, 2014	Department of Public Service and Administration	Conducting business with the State	None
Children's Act, 2005	Department of Social Development	The BELA Bill is aligned to the Children's Act to ensure that learners 18 years and older are not a party to litigation by virtue of their membership of the SGB.	None
State Liability Act, 1957	Department of Justice and Constitutional Development	Liability of the State for contracts and delict	None

2.2. Proposals inevitably seek to change behaviour in order to achieve a desired outcome. Describe (a) the behaviour that must be changed, and (b) the main mechanisms to bring about those changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.

- a) What and whose behaviour does the proposal seek to change? How does the behaviour contribute to the socio-economic problem addressed?

School:

They do not apply the legislation diligently enough and in some cases act contrary to the legislation. Most of the schools use their admission, language policies and code of conduct to discriminate certain sections of learners'. Classical example is the wearing of dreadlocks which in some cases learners wear them on cultural or religious grounds. The consequences of this behaviour lead to challenges in regard to learners' access to quality basic education, as some schools deny learners admission. To change the behaviour all admission, language policies developed by governing bodies has to be approved by the HOD

Unions involved in education:

In some cases, unions unnecessarily and unlawfully disrupt the functioning of provincial education departments and/or school activities to draw attention to their grievances. current penalties are too lenient

for persons interrupting access to basic education. Increasing the penalty provision would serve as a deterrent to such behaviour.

Labour activities must respect the learners right to education. Compliance with law is encouraged and instilled.

Parents:

In some instances, learners who are educated at home instead of at a school face challenges especially when they reach grades 10, 11 and 12. Parents who educate learners at home chooses not to register their learners for home education. The law is not clear on this relatively new form of education in South Africa and on the responsibilities of parents who choose to educate their children at home. Registration for learners to receive education at home should be approved by the HOD to address this behaviour. Home educators are encouraged to provide education that is not inferior to education provided by the state.

SGBs:

They do not apply the legislation diligently enough and in some cases act contrary to the legislation. Learners do not receive sufficient amounts of the correct quality of learner support material, and money is wasted by the current procurement processes. Procurement of LTSM by governing bodies must comply with Constitution and the PFMA. To address this behaviour the HOD will procure LTSM for schools in consultation with governing bodies. Compliance with the law is instilled on governing bodies.

Communities:

Communities have to be educated about their responsibilities. Service delivery protest in some of the provinces interfere with school activities and access to basic education is as a result denied. To address the behaviour the Bill creates a new penalty provision and a harsher sanction for anyone who prevents learners from attending school.

b) How does the proposal aim to bring about the desired behavioural change?

Deteriorating learner school performance and prevention of access to quality basic education:

The desired change is to improve the learner performance and access to quality basic education.

The Bill seeks to amend section 3(1) of the SASA to provide that school attendance is compulsory from grade R and no longer only from grade 1; and to increase the penalty provision in section 3(6) of the SASA from six months to 12 months in the case where the parent of a

learner, without just cause, fails to ensure that a learner who is subject to compulsory school attendance attends school, or where any other person, without just cause, prevents such a learner from attending school. The clause also creates an offence in the case where any person unlawfully and intentionally interrupts, disturbs or hinders any school activity, or hinders or obstructs any school in the performance of the school's activities, and a penalty clause is provided for.

Challenges in regard to organisational efficiency and school governance:

The desired change is to bring about economies of scale. Amendment of section 21 of the SASA to empower the HoD in consultation with the governing body to centrally procure identified learning support material for public schools, in consultation with the SGB and on the basis of efficient, effective and economic utilisation of public funds or uniform norms and standards

Challenges in regard to learners' access to quality basic education, as some schools deny learners admission:

The desired change is to remedy discrimination against learners on a variety of grounds. The amendments made provides that the SGB must submit the language and admission policies of a public school, and any amendment thereof, to the HoD for approval. The HoD may approve the policies, or any amendment thereof, or he or she may return it to the SGB with recommendations, together with reasons for such recommendations

The general position is that admission and language policies must be applied in a flexible manner and that the right of a learner to be admitted to a school takes precedence over the right of a school to enforce the criteria set out in its admission and language policies.

Uncertainty pertaining to Home education:

The desired change is to provide clarity in regard to home education. The amendment (read with the amendments to section 3 of the SASA) makes it clear that learners may be educated at home only if they are registered for such education. The three phases for which learners must be registered are set out, which clarifies that a learner needs to be registered only once, and not every year and to notify the HoD as per the three phases. The criteria that the HoD must consider when deciding whether or not to approve an application are also set out.

Provincial Education Department:

They will have to improve their performance – amongst others, by diligently and timeously scrutinising schools’ language and admission policies; and by improving their processes in regard to the appointment of educators.

School:

They will have to adhere to the new aspects of the legislation.

Unions involved in education:

The Bill creates a new offence and institutes a harsher sanction in the case of anyone who prevents learners from attending school.

Parents:

Educating parents about their responsibilities

SGBs:

They will have to adhere to the new aspects of the legislation

2.3. Consultations

- a) Who has been consulted inside of government and outside of it? Please identify major functional groups (e.g. business; labour; specific government departments or provinces; etc.); you can provide a list of individual entities and individuals as an annexure if you want.

Consulted Government Departments, Agencies and Other Organs of State

Department’s name	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
All the nine provincial education departments	<u>Benefits</u> Streamlining the education legislation. Creating effective management of	In general, they support it	Some technical amendments were proposed.	Yes, The proposal were infused in section 5, 6 and 51

	<p>the education sector.</p> <p><u>Costs</u> Appointment of additional Grade R Teachers (which are both qualified educators REQV 13 above level 6 and practitioners REQV 10-12 below level 6 and adjusting their salary scales (Annexure A attached)</p> <p><u>Risks</u> Reluctance on the part of key education stakeholders to accept the proposed amendments</p>			
All National Government Departments	None	In general, they support it	Only technical amendments	Yes, comments were effected in section 8A, 12A and 59A
The Heads of Education Departments Committee	<p><u>Benefits</u> Streamlining the education legislation. Creating effective management of the education sector.</p> <p><u>Costs</u> Appointment of additional Grade R Teachers (which are both</p>	In general, they support it	Some technical amendments were proposed.	Yes, The proposal were infused in section 5, 6, 51, 28, and 59

	<p>qualified educators REQV 13 above level 6 and practitioners REQV 10-12 below level 6 and adjusting their salary scales</p> <p>(Annexure A attached</p> <p><u>Risks</u></p> <p>Reluctance on the part of key education stakeholders to accept the proposed amendments</p>			
The Council of Education Ministers	None indicated	They support it.	None	None

Consulted stakeholders outside government

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support or oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
South African Democratic Teachers Union (SADTU)	They are worried mainly about the clauses in terms of which some of the functions	In general, they do support it.	They are against the transfer of SGB function to the HOD.	The Bill has been amended in section 20 of SASA and section 6 of

	of SGBs are transferred to the MEC or the HoD			the EEA to retain the status quo as per their proposal. The Minister invited all the union in the sector to inform them about non incorporating the clauses.
SA Onderwysersunie (SAOU)	They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the MEC or the HoD	In general, they do support it	They are against the transfer of SGB function to the HOD	The Bill has been amended in section 20 of SASA and section 6 of the EEA to retain the status quo as per their proposal. The Minister invited all the union in the sector to inform them about non incorporating the clauses.
National Professional Teachers' Organisation of South Africa (NAPTOSA)	They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the MEC or the HoD	In general, they do support it	They are worried about the powers to appoint Principals and Deputy Principal	The Bill has been amended in section 20 of SASA and section 6 of the EEA to retain the status quo as per their proposal. The Minister invited all the union in the sector to inform them about non incorporating the clauses

<p>Federation of Association of Governing Bodies (FEDSAS).</p>	<p>They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the MEC or the HoD</p>	<p>In general, they do support it</p>	<p>They are worried about the powers to appoint Principals and Deputy Principal</p>	<p>The Bill has been amended in section 20 of SASA and section 6 of the EEA to retain the status quo as per their proposal. The Minister invited all the union in the sector to inform them about non incorporating the clauses</p>
<p>Governance Alliance (GA)</p>	<p>They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the MEC or the HoD</p>	<p>In general, they do support it</p>	<p>They are worried about the powers to appoint Principals and Deputy Principal</p>	<p>The Bill has been amended in section 20 of SASA and section 6 of the EEA to retain the status quo as per their proposal. The Minister invited all the union in the sector to inform them about non incorporating the clauses</p>
<p>National Association of School Governing Bodies (NASGB).</p>	<p>They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the MEC or the HoD</p>	<p>In general, they do support it</p>	<p>They are worried about the powers to appoint Principals and Deputy Principal</p>	<p>The Bill has been amended in section 20 of SASA and section 6 of the EEA to retain the status quo as per their proposal. The Minister invited all the union in the</p>

				sector to inform them about non incorporating the clauses
Governing Body Foundation	<p>GBF is worried about the time frame of 30 days for the governing body to submit the language policy as provided for in 6(9) is too short. A reasonable time frame would be 60 days.</p> <p>Section 6(13) provides for the "Head of Department" to direct a public school to adopt more than one language of instruction, where it is practicable to do so. How will the decision about what is practicable be determined.</p> <p>The HOD will have to exercise a discretion after looking into all factors associated with the school. The HOD will look into the following-</p> <p><u>(a) the best interests of the child, with emphasis on</u></p>	In general, they do support it	GBF proposes a period of 60 days	The proposal was not supported. The Minister has convened a meeting with governing body association in order to communicate such proposed amendments .

	<p><u>equality as provided for in section 9 of the Constitution and equity;</u> <i>(b)</i> <u>the changing number of learners who speak the language of learning and teaching at the public school;</u></p> <p><i>(c)</i> <u>the need for effective use of classroom space and resources of the public school;</u> and</p> <p><i>(d)</i> <u>the language needs, in general, of the broader community in the education district in which the public school is situated.</u></p>			
NEDLAC	NEDLAC Business constituency is not supporting clause 5, 6 and clause 22 while Labour is opposed to clause 13 on amendments to section 12A(10).	The are areas of agreement and disagreement	NEDLAC Business constituency proposes setting out the criteria in clause 5, 6 and 22 and not subject Admission and Language policies to the approval of the HoD. Labour	The proposed amendment are not incorporated. No. A NEDLAC report has been developed to indicate areas of agreement and disagreement

			request the deletion of the word rationalisation in 12A(10)	t between government and NEDLAC constituency. NEDLAC is in possession of the said report.
Home Educators	Home educator are opposed to the definition of parent, the registration process for home education, the provision of competent assessors, the cost of employing competent assessors and the privacy of both learners and families of home educators, submission of assessment report etc.	The Home Education parents are dissatisfied about the home education changes and they not support the Bill and in particular section 51	<p>Recommended that the definition of Parent should be removed and the more inclusive definition of “family member” in the Children’s Act should be used.</p> <p>If the term “parent” is retained, then “family member” should be added where parent is used.</p> <p>That home education should not be subjected to a registration process or that registration should only be once and not as per the phases</p>	Not all the proposals from Home education sector have been incorporated. For example the current definition of a parent includes also a family member. The Minister convened a meeting with delegates from the Pestalozzi Trust (organisation representing home educators) and other home educators to provide reasons for not incorporating the proposed amendments

- b) Summarise and evaluate the main disagreements about the proposal arising out of discussions with stakeholders and experts inside and outside of government. Do not give details on each input, but rather group them into key points, indicating the main areas of contestation and the strength of support or opposition for each position

Schools and their governing bodies are dissatisfied about the curtailing of their powers. They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the HoD

Home educators and Home Education Organisations are dissatisfied about the education department having greater oversight on what home education learners are taught. There are also concerns over home visits by education officials prior to home education status being approved.

- 2.4. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. Note: NO law or regulation will benefit everyone equally so do not claim that it will. Rather indicate which groups will be expected to bear some cost as well as which will benefit. Please be as precise as possible in identifying who will win and who will lose from your proposal. Think of the vulnerable groups (disabled, youth women, SMME), but not limited to other groups.

List of beneficiaries (groups that will benefit)	How will they benefit?
Learners currently facing challenges in regard to receiving education	By the removal of obstacles in regard to admission to a school
Schools	By the improvement of organisational efficiency of the education sector
SGBs	By the improvement and clarification of processes in terms of which the education sector performs its functions and carries out its responsibilities
Government and, ultimately, the people of South Africa	By the elimination of opportunities for corruption and wasteful expenditure in the education sector. Procurement of LTSM by Governing bodies which in some cases result in financial mismanagement

List of cost bearers (groups that will bear the cost)	How will they incur / bear the cost
Provincial Education Departments	Provision of infrastructure and appointment of educator or other temporary personnel
Home educating parents	Procurement of competent Assessors, production of assessment reports and registration cost for those who are based in rural areas because of lack of connectivity

2.5. Describe the costs and benefits of implementing the proposal to each of the groups identified above, using the following chart. Please do not leave out any of the groups mentioned, but you may add more groups if desirable. Quantify the costs and benefits as far as possible and appropriate. Add more lines to the chart if required.

Note: "Implementation costs" refer to the burden of setting up new systems or other actions to comply with new legal requirements, for instance new registration or reporting requirements or by initiating changed behaviour. "Compliance costs" refers to on-going costs that may arise thereafter, for instance providing annual reports or other administrative actions. The costs and benefits from achieving the desired outcomes relate to whether the particular group is expected to gain or lose from the solution of the problem.

For instance, when the UIF was extended to domestic workers:

- The implementation costs were that employers and the UIF had to set up new systems to register domestic workers.*
- The compliance costs were that employers had to pay regularly through the defined systems, and the UIF had to register the payments.*
- To understand the inherent costs requires understanding the problem being resolved. In the case of UIF for domestic workers, the main problem is that retrenchment by employers imposes costs on domestic workers and their families and on the state. The costs and benefits from the desired outcome are therefore: (a) domestic workers benefit from payments if they are retrenched, but pay part of the cost through levies; (b) employers pay for levies but benefit from greater social cohesion and reduced resistance to retrenchment since workers have a cushion; and (c) the state benefits because it does not have to pay itself for a safety net for retrenched workers and their families.*

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
Provincial Education Departments	Annexure A and B attached	Annexure A and B attached	Annexure A and B attached	None

Home Educators	Annexure C attached	Annexure C attached	Annexure C attached	<p>Current provisioning for Home education and determining the cost resulting from the BELA Bill provisions is hindered by the following-</p> <ul style="list-style-type: none"> • Non-registration of home education by most of home educators; and • Reluctant by home educators to allow PED's officials to monitor the home education sites. <p>The state has the responsibility to promote, protect and fulfil the Rights in the in the Bill of Rights.</p>
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				It is important that home education sites are visited in order to make accurate determination on home education
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2.6 Cost to government: Describe changes that the proposal will require and identify where the affected agencies will need additional resources

- a) Budgets, has it been included in the relevant Medium Term Expenditure Framework (MTEF) and

Annexure A and B attached

- b) Staffing and organisation in the government agencies that have to implement it (including the courts and police, where relevant). Has it been included in the relevant Human Resource Plan (HRP)

Annexure A and B attached

Note: You MUST provide some estimate of the immediate fiscal and personnel implications of the proposal, although you can note where it might be offset by reduced costs in other areas or absorbed by existing budgets. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

2.7 Describe how the proposal minimises implementation and compliance costs for the affected groups both inside and outside of government.

For groups outside of government (add more lines if required)

Group	Nature of cost (from question 2.6)	What has been done to minimise the cost?
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Home educators	Implementation and Compliance Costs	<p>Current provisioning for Home education and determining and minimising the cost resulting from the BELA Bill provisions is hindered by the following-</p> <ul style="list-style-type: none"> • Non-registration of home education by most of home educators; and • Reluctant by home educators to allow PED's officials to monitor the home education sites. <p>The</p>

For government agencies and institutions:

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
Provincial Education Departments	Implementation and Compliance Costs (Annexure A attached)	The existing budget for provisioning of educators will minimise additional cost to implement and comply with the proposal of the Bill.

2.8 Managing Risk and Potential Dispute

- a) Describe the main risks to the achievement of the desired outcomes of the proposal and/or to national aims that could arise from implementation of the proposal. Add more lines if required.

Note: It is inevitable that change will always come with risks. Risks may arise from (a) unanticipated costs; (b) opposition from stakeholders; and/or (c) ineffective implementation co-ordination between state agencies. Please consider each area of risk to identify potential challenges.

- Possible risk may arise for PED to appoint additional staff to peruse the admission, language policies and monitoring home education.
- Reluctance on the part of key education stakeholders to accept some of the proposed amendments.
- Registration and cost implications associated to home schooling.

- b) Describe measures taken to manage the identified risks. Add more rows if necessary.

Mitigation measures means interventions designed to reduce the likelihood that the risk actually takes place.

Identified risk	Mitigation measures
Non-cooperation on the part of home schooling parents and Home School Organisations in relation to registration and appointment of competent assessors for home education	Advocacy campaigns among home schooling parents and home schooling organisations to raise awareness and encourage cooperation
Non-cooperation on the part of SGBs and SGB Associations in relation to approval of both admission and language policy by HOD's	Advocacy campaigns among SGBs to raise awareness and encourage cooperation
Inability of the Provincial Education Departments to properly carry out their tasks	Proper training, motivation and monitoring of staff

Reluctance on the part of key education stakeholders to accept the proposed amendments	Advocacy campaigns among governing bodies and home schooling parents and home schooling organisations to raise awareness and encourage cooperation
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- c) What kinds of dispute might arise in the course of implementing the proposal, whether (a) between government departments and government agencies/parastatals, (b) between government agencies/parastatals and non-state actors, or (c) between non-state actors? Please provide as complete a list as possible. What dispute-resolution mechanisms are expected to resolve the disputes? Please include all of the possible areas of dispute identified above. Add more lines if required.

Note: Disputes arising from regulations and legislation represent a risk to both government and non-state actors in terms of delays, capacity requirements and expenses. It is therefore important to anticipate the nature of disputes and, where possible, identify fast and low-cost mechanisms to address them.

Nature of possible dispute (from sub-section above)	Stakeholders involved	Proposed Dispute-resolution mechanism
Schools and their governing bodies may be dissatisfied about the curtailing of their powers	Schools, SGBs and Education Departments	Mediation
Home schooling parents and organisations are dissatisfied with the requirement that they must register their children for home education and provision of assessment reports by tutors.	Home schooling parents and organisations	Mediation, if all fails then either party may approach the courts

2.9 Monitoring and Evaluation

Note: Sound implementation of policy and legislation is due to seamless monitoring and evaluation integration during the policy development phase. Policies and legislation that are proficiently written yet unable to report on implementation outcomes are often a result of the absence of an M&E framework at the policy and legislative planning phase. It is therefore imperative to state what guides your policy or legislation implementation monitoring.

2.9.1 Develop a detailed Monitoring and Evaluation Plan, in collaboration with your departmental M&E unit which should include among others the following:

2.9.1.1 Provide clear and measurable policy or legislative objectives

2.9.1.2 Provide a Theory of Change clearly describing the following components:

- Impact: the organisational, community, social and systemic changes that result from the policy or legislation;
- Outcomes: the specific changes in participants (i.e. beneficiaries) behaviour, knowledge, skills, status and capacity;
- Outputs: the amount, type of degree of service(s) the policy or legislation provides to its beneficiaries;
- Activities: the identified actions to be implemented
- Input: departmental resources used in order to achieve policy or legislative goals i.e. personnel, time, funds, etc.
- External conditions: the current environment in which there's an aspiration to achieve impact. This includes the factors beyond control of the policy or legislation (economic, political, social, cultural, etc.) that will influence results and outcomes.
- Assumptions: the facts, state of affairs and situations that are assumed and will be necessary considerations in achieving success

2.9.1.3 Provide a comprehensive Logical Framework (LogFrame) aligned to the policy or legislative objectives and the Theory of Change. The LogFrame should contain the following components:

- Results (Impact, Outcomes and Output)
- Activities and Input
- Indicators (A measure designed to assess the performance of an intervention. It is a quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor)
- Baseline (the situation before the policy or legislation is implemented)
- Targets (a specified objective that indicates the number, timing and location of that which is to be realised)

2.9.1.4 Provide an overview of the planned Evaluation, briefly describing the following:

- Timeframe: when it the evaluation be conducted
- Type: What type of evaluation is planned (formative, implementation or summative) – the selection of evaluation type is informed by the policy owners objective (what it is you want to know about your policy or legislation).

2.9.1.5 Provide a straightforward Communication Plan (Note: a common assumption is that the target group will be aware of, and understand how to comply with a policy or legislation come implementation. However, increases in the complexity and volume of new or amendment policy or legislation render this assumption false. Hence, the need for a communication plan to guide information and awareness campaigns to ensure that all stakeholders (including beneficiaries) are informed.

2.10 Please identify areas where additional research would improve understanding of then costs, benefit and/or of the legislation.

Home Education

PART THREE: SUMMARY AND CONCLUSIONS

1. Briefly summarise the proposal in terms of (a) the problem being addressed and its main causes and (b) the measures proposed to resolve the problem.
 - (a) Challenges in regard to learners' school performance and access to quality basic education.

The Bill seeks to amend section 3(1) of the SASA to provide that school attendance is compulsory from grade R and no longer only from grade 1; and to increase the penalty provision in section 3(6) of the SASA from six months to 12 months in the case where the parent of a learner, without just cause, fails to ensure that a learner who is subject to compulsory school attendance attends school, or where any other person, without just cause, prevents such a learner from attending school.
 - (b) Challenges in regard to learners' access to quality basic education, as some schools deny admission to some learners.

The amendments made provides that the SGB must submit the language and admission policies of a public school, and any amendment thereof, to the HoD for approval. The HoD may approve the policies, or any amendment thereof, or he or she may return it to the SGB with recommendations, together with reasons for such recommendations. The Ermelo judgement serve as a classical example for the proposed amendment.

(c) Challenges pertaining to procurement of Learning and Teaching Support Material

Amendment of section 21 of the SASA to empower the HoD to centrally procure identified learning support material for public schools, in consultation with the SGB and on the basis of efficient, effective and economic utilisation of public funds or uniform norms and standards.

(d) Uncertainty pertaining to home education legislation and monitoring of this sector of education

The amendment (read with the amendments to section 3 of the SASA) makes it clear that learners may be educated at home only if they are registered for such education. A parent must, at the end of each of the three school phases, notify the HoD if he or she intends to continue educating the learner at home.

2. Identify the social groups that would benefit and those that would bear a cost, and describe how they would be affected. Add rows if required.

Groups	How they would be affected
<i>Beneficiaries</i>	
1. Learners currently facing challenges in regard to receiving education	By the removal of obstacles in regard to admission to a school
2. Schools	By the improvement and clarification of processes in terms of which the education sector performs its functions and carries out its responsibilities
3. SGBs	By the improvement and clarification of processes in terms of which the education sector performs its functions and carries out its responsibilities
4. Government and, ultimately, the	By the elimination of opportunities for corruption and wasteful expenditure in the education sector. Procurement of LTSM by Governing bodies which in some cases result in financial mismanagement

people of South Africa	
Cost bearers	
1. Provincial Education Departments	Provision of infrastructure and appointment of educator or other temporary personnel
2. Home educating parents	Procurement of competent Assessors, production of assessment reports and registration cost for those who are based in rural areas because of lack of connectivity

3. What are the main risks from the proposal in terms of (a) undesired costs, (b) opposition by specified social groups, and (b) inadequate coordination between state agencies?

- Possible risk may arise for PED to appoint additional staff to peruse the admission, language policies and monitoring home education.
- Reluctance on the part of key education stakeholders to accept some of the proposed amendments.
- Registration and cost implications associated to home schooling.
- Schools and their governing bodies are dissatisfied about the curtailing of their powers. They are worried mainly about the clauses in terms of which some of the functions of SGBs are transferred to the HoD
- Home educators and Home Education Organisations are dissatisfied about the education department having greater oversight on what home education learners are taught. There are also concerns over home visits by education officials prior to home education status being approved.

4. Summarise the cost to government in terms of (a) budgetary outlays and (b) institutional capacity.

The cost of the part of government will be as a result of providing infrastructure and additional educators for Grade R

5. Given the assessment of the costs, benefits and risks in the proposal, why should it be adopted?

Necessary to achieve the priorities of the state

6. Please provide two other options for resolving the problems identified if this proposal were not adopted.

Option 1.	None
Option 2.	None

7. What measures are proposed to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation?

Advocacy campaigns among home schooling parents and SGB to raise awareness and encourage cooperation. Proper training, motivation and monitoring of staff in Provincial Education Departments.

8. Is the proposal (mark one; answer all questions)

	Yes	No
a. Constitutional?	Yes	
b. Necessary to achieve the priorities of the state?	Yes	
c. As cost-effective as possible?		No
d. Agreed and supported by the affected departments?	Yes	

9. What is the impact of the Proposal to the following National Priorities?

National Priority	Impact
1. Economic transformation and job creation	Additional employment opportunities for Grade R educators which also impacts on their condition of service. It further creates employment opportunities for competent assessors for home education learners
2. Education, skills and health	It further allows more Grade R learners in the public education system
3. Consolidating the social wage through reliable and quality basic services	None

National Priority	Impact
4. Spatial integration, human settlements and local government	None
5. Social cohesion and safe communities	Admission of disadvantage learners in privileged schools
6. Building a capable, ethical and developmental state	None
7. A better Africa and world.	None

For the purpose of building a SEIAS body of knowledge please complete the following:

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