

**DEPARTMENT OF SOCIAL DEVELOPMENT'S RESPONSE TO PROPOSED AMENDMENTS TO THE PREVENTION
OF AND TREATMENT FOR SUBSTANCE ABUSE BILL [B 9B – 2008]
09 SEPTEMBER 2008**

CHAPTERS IN BILL	PROPOSED AMENDMENTS	RESPONSE
General	NC: Long title: Insert name of the old Act	Not supported: This is adequately covered in Clause 66 of the Bill
CHAPTER 1: DEFINITIONS AND OBJECTS OF ACT	"accredited training" to be defined	Not supported – The Bill clearly indicates that the accreditation referred to in Clause 6(3) is in terms of the SAQA (1995) (Act No 58 of 1995). This, in the view of the Department, should be adequate.
CHAPTER 1: DEFINITIONS AND OBJECTS OF ACT	<p>KZN: "detoxification" Insert...national Health Act and Prevention of and Treatment for Substance Abuse Act</p> <p>"early intervention" to be defined</p> <p>"harm reduction" to be defined</p> <p>"harm prevention" to be defined</p>	<p>Not supported – Treatment centres that provide detoxification must comply with the provisions of the National Health Act. The Bill does not regulate health related services and therefore, the Bill does not and should not deal with this matter.</p> <p>Not supported – clause 10 (4) sets out clearly what constitutes early intervention.</p> <p>Not supported – "harm reduction" is described under 3(1)(b)</p> <p>Not supported – The term harm reduction is used internationally and refers specifically on reducing the impact of substance abuse amongst</p>

	<p>“out-patient service or community based services” to be defined and highlight differences</p> <p>“substances” insert inhalants</p>	<p>people who are already using substances and also includes treatment</p> <p>Not supported – “out-patient service” and “community based services” are defined. Both services are provided for in the community, but out-patient services are managed from a treatment centre.</p> <p>Not supported – the definition of “substances” is broad enough to make provision for all the types of substances including “inhalants”. Inclusion of this term would require inclusion of other methods of drug taking such as intravenous drug use and specific drug types</p>
	<p>KZN: Add community based services as object of Act</p>	<p>Not supported – is covered under objects in Clause 2(b) of the Bill.</p>
	<p>Northern Cape/ Mpumalanga: Define the word “drug”. “Drug (s) is the more commonly used word in the language of the people.</p>	<p>Not supported – the word “substance” is used in the Bill which is a more inclusive word that includes different types of substances. The term “drug” is also part of the definition of substances.</p>
	<p>Mpumalanga: Sections 2(b) and (g) can be combined (Committee: Supported)</p>	<p>Not supported – 2(b) and (g) do not have the same meaning. 2 (b) is about programmes and services and 2 (g) is about facilities.</p>
<p>CHAPTER 2: COMBATING OF</p>	<p>KZN: Clause 3 (1) (c) Insert “supply reduction of harm caused by drugs,...”</p>	<p>Not supported – the phrase suggested is confusing.</p>

SUBSTANCE ABUSE		
CHAPTER 3: STRATEGIES AND PRINCIPLES FOR DEMAND AND HARM REDUCTION	KZN: Clause 4(b) insert "ensures and promotes"	Supported – the word "promote" will be added.
	Mpumalanga: Section 4 (c) – substitute [promote] for ensures; Section 4 (c) may have serious cost implications for public and private service centres.	Not supported – difficult to "ensure" that persons will not be exploited
	KZN: Clause 4 (e) amend by substituting "prevents stigmatization [not against] of service users"	Supported
	KZN: Clause 4 (g) insert "recognises the [special needs of] for people with disabilities [;] and those with special needs"	Not supported – the clause refers specifically to the special needs of people with disabilities. All other categories of people are covered in the Bill.
	KZN/ Mpumalanga: Clause 5 (1) list of partners is incomplete, the clause must refer to clause 53 (2) as per Drug Master Plan	Not supported – Not all the stakeholders as listed in clause 53 (2) are involved in activities related to demand and harm reduction.
	Mpumalanga/ KZN: Clause 5 (2)(c)(ii) insert "psycho-social programmes that address the relationships, emotions, feelings, attitudes..."	Supported
	Mpumalanga/ KZN: Clause 5 (2)(d)(ii) substitute [tools] by skills	Supported
	Mpumalanga/ KZN: Clause 5 (2)(d)(iii) insert "the establishment and <u>utilisation</u> of mutual support groups..."	Not supported – the clause reads "the establishment of mutual support groups to enhance their self reliance and optimal social function" Utilisation is implied in this clause.
KZN: Clause 6 (1) minimum norms and standards are also required for drug testing, especially of children. This is covered in the National Schools Act	Not supported – it is not the intention of the Bill to regulate drug testing. However, the Bill provides for the	

	for Children at schools but not for those out of school. Drug testing should also be included as part of all early intervention, treatment and aftercare programmes	prevention of and treatment for substance abuse.
	KZN/ Mpumalanga: Clause 6 (3) define "accredited training" and the qualification needs to be relevant to the field of substance abuse.	Not supported – The qualifications required will be determined by the South African Qualification Authority Act, 1995 (Act No. 58 of 1995) as mentioned under 6(4) of the Bill.
CHAPTER 4: PREVENTION AND EARLY INTERVENTION SERVICES	KZN: Clause 8 (1) include "Central Drug Authority"	Not supported – the Central Drug Authority is an advisory body to the Minister and not an implementing structure.
	KZN: Clause 8 (2)(b) include "youth" as specific target group	Supported – children and youth are in their formative years.
	Mpumalanga: Section 9(2)(g) Include related illnesses such as cirrhoses of the liver and other pathologies such as family violence and sexual abuse (Committee: The Bill cannot list all the illnesses. The words: "other health conditions" is sufficient. However, the Committee supports the inclusion of family violence and sexual abuses after "HIV and AIDS", to read as follows: "...HIV and AIDS, family violence, sexual abuse and other health conditions,")	Not supported – as mentioned by the Committee, the Bill can not list all the illnesses. Not supported – crime referred to in Clause 9 (2) (g) includes domestic violence and sexual abuse.
	KZN: Clause 10 (j): Consider financial implications of economic empowerment	The Bill was costed thus the financial implications were taken into account.
CHAPTER 5: COMMUNITY-BASED SERVICES	Gauteng: Section 12 (3) and (4) the word "may" after the MEC may, should be "must"	Supported – 12 (3) will be amended by the deletion of relevant and by the insertion of "listed in sub section 4" after departments.

	<p>Mpumalanga/ Northern Cape: Clause 16 (1) The heading to this clause may be altered to "Practitioners providing community based services" in order for it not to be confused with clause 14 (2), which makes reference to "any person".</p>	<p>Supported with amendments – "registration of mental health practitioners providing community based services". Change table of content (Page 3 line 20).</p>
--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------

CHAPTER 6: CENTRE BASED AND OUT-PATIENT SERVICES	KZN: Amend the heading by substituting [centre-based] <u>in-patient</u> and out-patient services. There is no definition for "centre-based services"	Supported
	Gauteng: Section 17 (2). "may" be replaced with 'must'	Not supported – the intention is not to make the disestablishment of treatment centres compulsory. The suggested formulation will make it compulsory for the Minister to disestablish a treatment centre notwithstanding the circumstances. The Minister has to retain discretionary powers in this matter.
	Northern Cape: Clause 19 – It is not clear whether registration should be in respect of public or private treatment centres	Both public and private treatment centres are implied
	KZN: Clause 19(2) applications to register. The committee recommends that this function be decentralised through the delegation of powers	Not supported – clause 64 (4) and (5) allow for delegation of powers exercised by the Director-General.
	KZN: Regulations must provide for a directory of all registered facilities which must be kept by the Department of Social Development and stipulating whether such register/s is/are to be a provincial or national responsibility.	Regulations will make provision for the management and maintenance of a directory at an appropriate level
	Gauteng: Section 25. There is no "prescribed manner" in which appeals should be processed (Committee wants to see that this issues be dealt with under the Regulations to the Act).	Regulations will make provision for the manner in which appeals should be processed
	KZN: Clause 27 is not clear whether a manager of an out-patient treatment centre may also establish a community based service	Clause 14 (2) – any person may apply to the HOD for registration of community based services.

	KZN: Proposed clause as to the respective roles of the departments of Social Development and Health in the registration, monitoring and assessment process of in-and out-patient treatment centres and halfway houses. This omission is one of the more serious gaps in the Bill.	Not supported – Clause 6 read together with Clause 23 provide for the Minister after consulting with relevant Ministers to prescribe the minimum norms and standards for the treatment centre. The minimum norms and standards will set out the roles of different departments
CHAPTER 10: CENTRAL DRUG AUTHORITY AND SUPPORTING STRUCTURES	Gauteng: Section 53 (2) What constitutes a “fit and proper person”	“Fit and proper person”, <u>as the Minister may prescribe</u> , and who...
	Gauteng: Section 56 (k) “Recommended” should be “recommend”	Supported
	KZN: Clause 57 (2) be amend by substituting the following: ‘A Provincial Substance Abuse Forum [may] <u>must</u> consist of representatives from- (a) all relevant provincial departments	Supported
CHAPTER 11: GENERAL PROVISIONS	Gauteng: Section 65 (1), the word “may” be replaced by “should/ would/ must”	Not supported – should not remove the Minister’s discretion.
	Mpumalanga: Clause 66 (1) the citation for the Prevention and Treatment of Drug Dependency Act is incorrect and should be – The Prevention and Treatment of Drug Dependency Act, 1992 (Act No. [59] <u>20</u> of 1992) – Act No. 59 is the Social Assistance Act.	Supported