

## #ECDinParly - MAKE YOUR VOICE HEARD!

### SUBMISSION TEMPLATE<sup>1</sup>

1) What is the purpose of this document?

This document sets out a template for submissions on the ECD-related aspects of the Basic Education Laws Amendment Bill [B2-2022] available [here](#).

The aim is for the template to **serve as a guide for potential submissions**, but you do not have to use this document in order to make a submission nor do you have to submit this document exactly as it is.

The aim is to help you lend YOUR voice to the call for REAL ECD REFORM.

2) How do I use this document?

You can download the document in word format. The document can be edited by you as you consider necessary.

We have included a draft cover letter where you should fill in details about yourself and the reasons why you are making a submission.

3) What do I do in order to submit this to Parliament?

Once you are happy with the submission, you can send it to Parliament by emailing:

[belabill02@parliament.gov.za](mailto:belabill02@parliament.gov.za) or by completing [this google form](#) or via WhatsApp +27 60 550 9848 **by no later than 15 June 2022 at 16:00.**

*In addition to written submissions, kindly indicate if you would like to make oral submissions.*

We would love to know if you made a submission and found the document helpful. Please do let us know by BCCing the ECD Real Reform campaign in your email to Parliament:

[tshupo@equalitycollective.org.za](mailto:tshupo@equalitycollective.org.za)

**[EXAMPLE COVER LETTER**

This submission is made on behalf of **[INSERT NAME/ORGANISATION NAME]**.

I/WE **[INSERT DESCRIPTION OF ORGANISATION OR OF YOURSELF]** and I/we **[EXPLAIN HOW YOU/YOUR ORGANISATION IS INVOLVED IN ECD]**.

**[INSERT IF RELEVANT: The following additional people/ organisations also support our submission...]**.

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 200 organisations. Our objective is to ensure an enabling legal, policy and regulatory environment for ECD so that all children can thrive. For more information visit [www.ecdreform.org.za](http://www.ecdreform.org.za)

I am supporting this campaign because **[INSERT PERSONAL REASONS FOR SUPPORTING THE CAMPAIGN]**

[Note: If you would like to have the opportunity to present your recommendations to the Portfolio Committee, please make this clear in your letter]

Yours sincerely,

**[INSERT NAME AND SIGNATURE]**

We can be contacted on **[INSERT CONTACT DETAILS]**, if you require any more information.

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<sup>1</sup> *This submission template has been developed with contributions from Tess Peacock, Nurina Ally and Kayin Scholtz with input from the ECD Discussion WhatsApp Group and other Real Reform for ECD Steering Committee members. This resource does not reflect the views of any particular individual or organisation.*

## **SUBMISSION ON THE BASIC EDUCATION AMENDMENT BILL, 2022 AS IT RELATES TO EARLY CHILDHOOD DEVELOPMENT**

### **1. Introduction**

- 1.1. The introduction of compulsory Grade R through the Basic Education Amendment Bill is generally welcomed by the ECD sector. Supporting young children in their early years is crucial to reducing poverty and inequality, but also a “fundamental and universal human right”.
- 1.2. However, the proposed provision for compulsory age of entry into Grade R is unclear and needs to be amended to ensure clarity of the position that the Bill seeks to introduce. Transitional provisions are also required to phase-in the requirement of compulsory Grade R attendance.
- 1.3. Moreover, it is essential that compulsory Grade R is accompanied by measurable improvement in quality provisioning. This requires appropriate resourcing and learning support and qualified teachers who can implement play-based learning programmes. Specifically, we recommend that the norms and standards be amended to include reference to age-appropriate play material and equipment.
- 1.4. Further, while the sector supports compulsory Grade R provisioning for five year olds turning six, we are not in support of criminalising parents for non-compliance. The causes underlying a parent’s failure to comply may often be complex. A holistic approach that engages a social service professional investigation and permits various recommendations to assist the child is the preferred approach.
- 1.4. Finally, we note the omission of clearly defined public sector obligations to expand access to Grade RR. While we agree that the BELA Bill should not introduce compulsory Grade RR at this stage, we urge the Department of Basic Education to develop clear plans and a timeline for the resourcing and phasing in of Grade RR provisioning in community-based facilities, including engagement on the introduction of public provisioning and support of Grade RR through future legislative measures.
- 1.5. It must be emphasised that this submission seeks to identify key overarching issues impacting on the ECD sector. To this end, we do not deal with each and every proposed amendment made by the Bill. A failure to deal with any specific clause in the Bill should not be read to suggest that we necessarily accept or endorse those proposed amendments.

### **2. Amendment of section 3: Compulsory Grade R**

- 2.4. We generally support the amendment of Section 3 of the South African Schools Act that will require compulsory grade R attendance for children.
- 2.5. However, the final sentence of the proposed section 3(a) is unclear. The final sentence currently reads “provided that a learner who will turn six after 30 June must start attending grade R the following year” (Our emphasis). For convenience, we refer to this part of the proposed section 3(a) as “the proviso”.

2.6. On its face, the proviso appears to mean that a child turning 6 years of age after 30 June in a given year *may only* attend Grade R the following year. This conflicts with the Bill's proposed section 4 which makes it possible for a child aged 4 turning 5 before 30 June to be admitted to Grade R. In order to eliminate any ambiguity and potential for internal conflict within the Act, the proviso has to be amended.

2.7. As it stands, the purpose or intention animating the proviso is unclear. We accordingly consider two options for how section 3(a) may be formulated.

### **2.8. Option 1:**

2.8.1. The first option is to only make it compulsory for children turning 6 before 30 June to attend Grade R. This approach could be motivated by a concern over compelling young children who may not be school-ready to attend formal schooling.

2.8.2. If this is the objective sought to be achieved, then the proviso should be amended for clarity as follows:

“...provided that a learner who will turn six after 30 June may ~~[must]~~ start attending grade R the following year” (Our emphasis)

2.8.3. We note that a significant consequence of this approach would be that a child may be admitted to Grade R who is due to turn 7 in the year of admission. This, in turn, creates the possibility of a child turning 8 in Grade 1. This is a departure from the current scheme under SASA which sets the compulsory school-going age for Grade 1 at a minimum of 7 years (regardless of when the child turns 7 years old).

### **2.9. Option 2:**

2.9.1. The second option is to make it compulsory for any child turning 6 in the year of admission to attend Grade R (regardless of when the child turns 6 years old). This would align with the existing approach adopted in SASA in respect of Grade 1 compulsory attendance.

2.9.2. If this approach is adopted, then the proviso should be deleted as follows:

~~“...[provided that a learner who will turn six after 30 June must start attending grade R the following year.]”~~

2.10. In our view, either of these options is viable. But it must be ensured that a consistent and well-motivated approach is followed.

### 3. Amendment to section 5A: Supporting quality early learning

- 3.4. Good quality Grade R is important for child development and valuable preparation for Grade 1. Currently an estimated 70% of children enroll in grade R.<sup>2</sup> However, a 2013 evaluation found that Grade R had virtually no effect on the outcomes of children in the poorest quintiles.<sup>3</sup> The evaluation found that children in grade R received a third of the resources that children of an ordinary public-school learner in the basic education system.<sup>4</sup>
- 3.5. Our support for compulsory Grade R is therefore on condition that: Grade R is appropriately resourced; emphasises play-based learning; and that there is adequate training and wages for practitioners in the Grade R sector.
- 3.6. An important component of quality early childhood development is play-based learning. As the UN Committee on the Rights of the Child ('UN Committee') has cautioned, there is a risk of overemphasising "formal learning" and academic achievement for young children "at the expense of participation in play".<sup>5</sup>
- 3.7. Significantly, Article 31 of the UN Convention on the Rights of the Child, which South Africa has ratified, protects children's rights to play and recreation. In its General Comment No 17,<sup>6</sup> the UN Committee has emphasised the link between children's right to play and their educational development, particularly in their early years, as follows:
- "[I]nclusive education and inclusive play are mutually reinforcing and should be facilitated during the course of every day throughout early childhood education and care (preschool) as well as primary and secondary school. While relevant and necessary for children of all ages, **play is particularly significant in the early years of schooling**. Research has shown that **play is an important means through which children learn**." (Our emphasis).
- 3.8. School (including pre-school) therefore plays a significant role in facilitating children's right to play. As such, the UN Committee indicates that state parties should aim to ensure, amongst others, adequate indoor and outdoor space, as well as safe equipment to facilitate play, including for children with disabilities.

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<sup>2</sup> Grade R enrolment compared to grade 2 enrolment: calculations based on <https://www.education.gov.za/Portals/0/Documents/Reports/School%20Realities%202021.pdf?ver=2022-02-07-094832-243>

<sup>3</sup> <https://resep.sun.ac.za/wp-content/uploads/2014/06/Grade-R-Evaluation-1-3-25-Final-Unpublished-Report-13-06-17.pdf>

<sup>4</sup> Own calculation based off the cost per public ordinary school learner (excluding Grade R) in 2011/12 compared to cost for Grade R enrollment. <https://resep.sun.ac.za/wp-content/uploads/2014/06/Grade-R-Evaluation-1-3-25-Final-Unpublished-Report-13-06-17.pdf>

<sup>5</sup> General comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31) at para 41.

<sup>6</sup> Ibid.

3.9. While the Schools Act does currently refer to the determination of norms and standards for “sport and recreational facilities”, we believe that more specific emphasis on **age-appropriate play material and equipment** is needed, particularly with the introduction of compulsory Grade R.

3.10. We accordingly recommend that SASA be amended so as to specifically require that minimum norms and standards (determined by the Minister in respect of learning and teaching support material) include play material and equipment.

3.11. This can be achieved by the insertion of the following underlined subsection under section 5A:

“5A Norms and standards for basic infrastructure and capacity in public schools

...

(c) in respect of provision of learning and teaching support material, the availability of—

...

(vii) age-appropriate play material and equipment.”

#### **4. Amendment of section 3(6): failure to comply with compulsory schooling age, results in an offence**

4.4. The South African Schools Act currently makes it an offence for any parent, without just cause and after written notice, who fails to cause any learner from attending a school once they come of compulsory school going age.

4.5. The BELA Bill introduces an even harsher sentence, increasing the possible duration of imprisonment of a parent for up to 12 months and opens the possibility of being subject to a fine and imprisonment. **This amendment must be rejected.**

4.6. The criminalisation of parents is generally concerning and misguided. The factors underpinning a parent’s failure to ensure compliance with the compulsory school-going requirements of the Act may be complex and deeply embedded in a range of socio-economic circumstances.

4.7. Instead of criminalisation, a holistic social intervention and support approach is required that identifies the causes of the parent’s non-compliance and introduces a series of interventions to help and assist that parent to comply. What is typically required in situations like this is a number of different organisations and professions coming together to support the parent and address the causes of non-compliance holistically.

4.8. We accordingly recommend that an investigation by a social service professional should be required and necessary measures taken to assist the parent and child, including family reconstruction or rehabilitation, problem-solving or referral to another suitably qualified person or organisation.

4.9. This can be achieved by the substitution of subsection (6)(a) and (b) with the following subsections:

“(a) Any parent or caregiver of a child of school-going age who, after a written notice from the Head of Department, fails to comply with subsection (1), must be referred for assessment by a social service professional.

(b) If after assessment the social service professional determines that the child and parent or caregiver in question are in need of prevention and early intervention programmes, as provided for by the Children’s Act, to enable the child to attend school, the social services professional must assist the child and the parent or caregiver to access such programmes.

(c) If after assessment and assistance the social services professional suspects that the child may be a child in need of care and protection, as defined by the Children’s Act, the case should be referred to a designated social worker for a child care and protection inquiry.”

## **5. No legislative amendments for the public provisioning of Grade RR**

5.4. In 2019, President Ramaphosa announced the government's plans for the introduction of compulsory Grade RR - alongside Grade R. Currently, the BELA Bill does not make reference to Grade RR or any state obligations to expand access to Grade RR.

5.5. We agree that it would not be appropriate to introduce compulsory Grade RR through the BELA Bill at this stage.

5.6. The provision of Grade RR must be of high quality in order to contribute meaningfully to children’s development. A 2015 study assessing the introduction of pre-Grade R in South Africa concluded that “the required structures must first be put in place” in order for pre-Grade R to “fulfil its role as an equalising stepping stone to social equality”.<sup>7</sup>

5.7. It follows that the introduction of compulsory Grade RR in the absence of, amongst others, adequate education budgets, teacher training, sufficient staffing and age-appropriate school infrastructure is unlikely to be in the best interests of children.

5.8. While we agree that the BELA Bill should not include compulsory Grade RR, we urge the Department of Basic Education to develop a clear timeline, policy and plans for the resourcing and phasing in of Grade RR provisioning in schools and community-based settings, including through future legislative measures. In this regard, we note that Grade RR may be better regulated through the Department of Basic Education’s plans for a self-standing ECD Act. This will allow a more unitary approach to the provision of ECD programmes for children from birth to four years.

## **6. Amendment of section 5(4): Admission age of Grade**

6.4. We note that in the light of the Department of Basic Education's commitments to rolling out universal access to Grade RR (see section 6), the admission age of 4 turning 5 to Grade R becomes less coherent and could cause confusion for both parents and schools. We support the

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<sup>7</sup> J Kotze, “Can pre-grade R be the stepping stone to social equality in South Africa?” *South African Journal of Childhood Education* 5 (2) 2015.

Department's view and policy that the best place for children aged 4 turning 5 is in Grade RR classes and that every child should have access to such a class. We further believe that these classes should primarily be provided out of ECD programmes, rather than schools, as evidence suggests that ECD programmes provide a more appropriate setting for children of this age. We would therefore support revisiting the admission age to Grade to better reflect the Department's policy on Grade RR.

**[OPTIONAL: INSERT PERSONAL REFLECTIONS OR EXPERIENCES OR VIEWS ON THE INAPPROPRIATENESS OF FOUR YEAR OLDS IN GRADE R, IF APPLICABLE]**

**7. Transitional provisions**

7.4. The BELA Bill does not introduce a transitional arrangement for the introduction of compulsory Grade R. Given the fact that (i) parents may need time to make arrangements for their children's attendance in Grade R; and (ii) the proposed consequences of non-compliance are severe and possibly include a criminal offence, we are of the view that a transitional provision is needed. The Department needs sufficient time to run a popular education campaign around the compulsory nature of Grade R. We estimate that the general population should be given at least a year's advance notice.

7.5. Accordingly we propose the insertion of section 52A:

“(1) A *learner* turning 6 years old either:

(a) in the year in which this Act comes into effect; or

(b) in the year immediately thereafter,

is not required to attend Grade R in terms of section 3(1).

(2) A *learner* who does not attend Grade R in terms of subsection (1) must attend Grade 1 on the first school day of the year in which the *learner* reaches the age of 7.”

**8. Conclusion**

8.4. In summary, we submit that the following is required:

- 8.4.1. The Portfolio Committee must make sure that Grade R emphasizes play-based learning and that teachers are properly trained and supported.
- 8.4.2. Additional norms and standards are required to ensure that Grade R is properly resourced, specifically age-appropriate play material and equipment must be provided.
- 8.4.3. Parents must not be criminalised for non-compliance with the compulsory schooling provision for their children. Rather a holistic approach guided by a social services professional is more suitable.
- 8.4.4. The Department of Basic Education must prepare time-bound plans for the provisioning and support of Grade RR in community-based settings.
- 8.4.5. Transitional provisions must be introduced to allow for the phasing-in of the requirement of compulsory Grade R attendance.

9. We call on all MPs to take our proposals seriously and that our submissions are accepted.