The Director General

Private Bag X895

Pretoria

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XXth November 2017

Attention: Adv. TD Rudman

Dear Adv. Rudman,

**Draft BASIC EDUCATION LAWS AMENDMENT BILL – Comment on the Bill.**

**Summary**

[STATE IF YOU SUPPORT OR REJECT THE BILL]

[STATE YOUR MAIN REASONS FOR THE ABOVE STATEMENT. I REJECT THE BILL BECAUSE…, I SUPPORT THE BILL BECAUSE][KEEP THIS BRIEF]

[STATE THAT YOU WELCOME THE OPPORTUNITY TO COMMENT]

**Introduction and Background**

[GIVE A BRIEF BACKGROUND, EXPLAIN WHO YOU ARE, STATE HOW LONG YOU HAVE BEEN HOMESCHOOLING FOR AND WHY YOU HOMESCHOOL]

**Procedural fairness**

[THE BILL IS VERY COMPLEX AND YOU DO NOT UNDERSTAND IT. YOU WOULD LIKE TIME TO STUDY IT IN DETAIL AND DETERMINE HOW IT WILL IMPACT YOU, YOUR CHILDREN AND YOUR FAMILY. BECAUSE OF THE COMPLEXITY OF THE BILL YOU WILL NOT BE ABLE TO DO THIS iIN DETAIL BEFORE 10TH NOVEMBER 2017]

[YOUR CHILDREN ARE WRITING EXAMS AND THIS IS A VERY BUSY PERIOD FOR YOU. GIVE DETAILS OF THE PERIOD]

[THIS IS SUCH AN IMPORTANT MATTER YOU ARE HOWEVER GOING TO SUBMIT COMMENTS.]

**Substantive Comments**

[YOU CAN USE THE HEADINGS AND THE SECTIONS NOT IN SQUARE BRACKETS EXACTLY AS THEY ARE. DO HOWEVER RESTATE THE SECTIONS IN THE SQUARE BRACKETS THAT APPLY TO YOUR FAMILY IN YOUR OWN WORDS]

s(51)(1) &( 2) Registration

Principle: Parents are primarily responsible for the education of their children and have to act in the best interests of the child

[IT IS NOT REASONABLE THAT PARENTS, WHO ARE PRIMARILY RESPONSIBLE FOR THE EDUCATION OF THEIR CHILDREN, REQUIRE PERMISSION FROM THE STATE TO CHOOSE HOME EDUCATION. PARENTS MUST ACT IN THE BEST INTEREST OF THEIR CHILDREN. THE STATE SHOULD NOT MAKE THAT MORE DIFFICULT FOR YOU TO DO. STATE THIS PRINCIPLE IN YOUR OWN WORDS]

Legal support: Section 28(2) of the South African Constitution. “A child’s best interests are of paramount importance in every matter concerning the child.”

Practical impact: It is not in the best interests of the child to wait for permission to homeschool.

[PARENTS WILL HAVE TO WAIT UNTIL PERMISSION IS GRANTED. CHILDREN WILL THEN HAVE TO STAY IN SCHOOL WAITING FOR PERMISSION, FOR MONTHS OR IN THE CASE OF DISPUTES FOR YEARS. PARENTS WILL NOT BE ABLE TO PLAN FOR THEIR CHILDREN’S EDUCATION AS THEY WILL NOT KNOW IF AND WHEN PERMISSION WILL BE GRANTED. GIVEN THE FACT THAT 95% OF HOME EDUCATED LEARNERS ARE NOT REGISTERED THE DEPARTMENT WOULD BE FLOODED WITH ADMINISTRATIVE WORK. THIS WOULD DELAY THE PROCESSSING OF APPLICATIONS, INITIALLY FOR YEARS. HOW WILL THIS IMPACT YOUR FAMILY? BE SPECIFIC. SCHOOLS IN MY AREA ARE FULL. MY CHILDREN ARE CURRENTLY HOMESCHOOLED AND I CANNOT PUT THEM INTO SCHOOL AND THEN APPLY TO HOME SCHOOL.]

51(2)(d)(iii)& (iv) Annual Assesments

Principle: Annual Assessments serve no practical educational purpose and are too expensive.

[THERE IS NO EVIDENCE THAT ANNUAL ASSESSMENTS BY EXTERNAL ASSESSORS SERVE ANY EDUCATIONAL PURPOSE. THEY WILL BE COSTLY TO HOMESCHOOLING PARENTS. MANY PARENTS CHOOSE HOME EDUCATION BECAUSE IT IS AN AFFORDABLE MEANS TO PROVIDE THEIR CHILDREN WITH AN EDUCATION. SOME SACRIFICE A SECOND INCOME IN ORDER TO HOME SCHOOL THEIR CHILDREN. A MARKET RELATED PRICE OF AN ASSESSMENT IS ABOUT R600 PER ASSESSMENT PER SUBJECT PER CHILD. USING AN AVERAGE OF 7 SUBJECTS PER CHILD, THE ASSESSMENT COSTS OF A FAMILY WITH 7 CHILDREN COULD BE R600 X 7 X 7 = R30 000 PER ANNUM. THIS COULD MAKE HOME EDUCATION UNAFFORDABLE FOR SOME FAMILIES. APPLY THIS TO YOUR FAMILY. STATE WHAT YOU WOULD USE THIS AMOUNT OF MONEY TO BENEFIT YOUR CHILD’S EDUCATION/STATE WHAT YOU COULD NO LONGER BUY TO SUPPORT YOUR CHILD’S EDUCATION IF YOU HAD TO PAY FOR ASSESSMENTS. BOOKS, TUITION, EQUIPMENT, FIELD TRIPS ETC.]

Legal Support: This does not meet the criteria of the limitations clause (section 36) in the Bill of Rights.

s51(2)(c) National Curriculum

Any proposed home education programme must cover contents and skills comparable to the National Curriculum. This limits the parents’ right to choose the curriculum or educational approach that is in the best interest of the child.

The content prescribed in the curriculum currently determined by the Minister (CAPS) contains content that is in conflict with the belief systems of many parents. Prescribing that parents must provide an education programme that is in conflict with their convictions is an infringement of the child’s and parent’s rights to freedom of conscience, religion, thought, belief and opinion and on the religious rights of parents. It is furthermore an unreasonabe restriction of the ‘freedom to receive or impart information or ideas’

Legal support: In violation of Sections 15(1) “Freedom of religion, belief and opinion”

and 16(1)(b) “Freedom of expression”of the South African Constitution.

Practical impact: [EXPLAIN HOW THIS WOULD IMPACT YOUR FAMILY. WHAT ASPECTS OF THE NATIONAL CURRICULUM DO YOU OBJECT TO. IT IS BEST HERE TO FOCUS ON CONTENT. WHICH SUBJECTS DO YOU OBJECT TO. WOULD FOLLOWING THE CONTENT OF THE NATIONAL CURRCULUM LIMIT THE TIME YOUR CHILD WOULD HAVE TO EXERCISE THESE FREEDOMS]

s51(6) School leaving qualifications

On the basis of the current wording it appears that this provision would prohibit

home educated learners studying for alternative matric qualifications.

Legal support: A prima facie reading of the clause implies home educated children would have to write the National Senior Certificate while non-homeschooled children would be free to write any school leaving qualification. As this has no reasonable ground this would violate the general principle of equality before the law.

Practical impact: [EXPLAIN THE PRACTICAL IMPACT THIS WOULD HAVE ON YOUR FAMILY. ADDITIONAL COSTS. QUANTIFY IF YOU CAN. MENTION CHILDREN ALREADY FOLLOWING AN ALTERNATIVE SCHOOL LEAVING QUALIFICATION. OPPORTUNITIES TO STUDY OVERSEAS.]

**Conclusion**

[THE PROCESS OF PUBLIC CONSULTATION LEADING UP TO THE PUBLIC COMMENT PHASE HAS BEEN FLAWED]

[THE PROVISIONS OF THE BILL ARE IMPRACTICAL]

[THE PROVISIONS OF THE BILL VIOLATE YOUR CHILD’S FUNDAMENTAL RIGHTS]

[THE HOME EDucaTION PROVISION IN THE BILL SHOULD BE REMOVED AND AN INCLUSIVE CONSULTATION PROCESS NEEDS TO BE STARTED]

[YOU RESERVE YOUR RIGHT TO MAKE FURTHER SUBMISSIONS]

[YOUR NAME]

[E-MAIL ADDRESS]

[TEL. NO.]

[POSTAL ADDRESS]