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Date: 07 November 2017 at 10:44:04 SAST

To: rudman.d@dbe.gov.za

Subject: Response to the draft Basic Education Laws Amendment Bill

The Gauteng Association for Homeschooling

Contact via e-mail: jaco.lemmer@gmail.com

Attention: The Minister of Basic Education

Care of: Adv. TD Rudman

rudman.d@dbe.gov.za

06 November 2017

Dear Minister,

RE: Response to the draft Basic Education Laws Amendment Bill

The Gauteng Association for Homeschooling took notice of the draft Basic Education Laws Amendment Bill, published on 13 October 2017.

The executive of the association noticed the severely limited time allowed to submit comments to the department on this draft bill. Given the highly technical and far-reaching implications of the proposed amendments, as well as the fact that our members are currently immersed in end of year tests and exams and its associated burdens, we are compelled to object to a situation that is not just and equitable. The association has simply been unable to consult with our members sufficiently to compile a comprehensive and representative response.

We therefore request that the department extends the deadline for comment for a period no less than six (6) months in order to allow the association the opportunity to consult our members thoroughly and fairly.

Despite the limited time, we were able to compile a few initial comments, but we do stress that this must not be construed as our full and final submission – we submit this under duress, so to speak:

The Best Interest of the Child:

It is the belief of the Gauteng Association for Homeschooling that there are numerous flaws and shortcomings in the draft Bill, such as section 25(6) of said amendments – amongst others, which seeks to prevent homeschoolers from using any school-leaving qualification other than the South African National Senior Certificate. This amendment may well prove to be unconstitutional as it is in contravention of the principle that the parent(s) of a child has the right and obligation to choose what education is in the best interest of the child. Many parents believe, not without merit, an International qualification such as Cambridge or GED/SAT to be in the best interest of their children. For this reason, section 25(6) may be unconstitutional as it attempts to usurp the constitutional rights and obligations of the parent – refer Section 28(2) of the Constitution, the best interests of the child are always foremost.

Note, it is the obligation of the parent to decide what is in the best interest of the child, not the Department of Basic Education. Any attempt by the Department to subvert this principle is as such unconstitutional. Furthermore, not only is this action in contravention of our Constitution, it also finds itself at odds with the United Nations Convention on the Rights of the Child (UNCRC), Article 29.1(a and b); 28.3; etc.

Contradictions:

Given the fact that schooling is not obligatory after the end of the year in which a child turns 15, the proposed bill is rife with contradiction.

While the Bill makes it legal for parents to abandon their children's education after grade 9, if they so wish, homeschooling parents that choose not to abandon the education of their children - acting in the best interests of their children - and to be responsible parents by ensuring that their children continue to receive what the parent(s) regards as in the best interest of the child in terms of an education, are by default becoming law-breakers by choosing an International matric, such as GED/SAT or Cambridge. This is absurd.

Further, the Association also took note of the fact that the draft bill seeks to make the DBE school leaving exam obligatory to homeschoolers. This amendment attempts to place the state's responsibility above the rights of the child, which we regard, again, as unconstitutional.

This suggests a profound confusion of the State's responsibilities with the rights of the country's citizens - requiring homeschooling families who opt for home education in grades 10 to 12 - to use only the State's matric. We can find no basis for the Bill to prevent a child who passed grade 9 from choosing, to enroll with an International qualification such as GED/SAT and/or Cambridge International as a private candidate in order to broaden his/her options for tertiary study and choice of a profession. What would be the lawful basis for the Bill to prevent a child from accessing any information and ideas which will enable him/her to succeed in his/her Internationally alternative studies? We submit that this would only be possible through gross infringement of the child's rights, as enshrined in the Bill of Rights, by the State!

Another clear absurdity contained in the draft Bill is the fact that, while children in public schools are assessed without charge to parents, homeschooling parents are unjustly discriminated against by demanding of them to complete annual assessments at their own expense. Despite the fact that Homeschooling families are reducing significant State expenditure on the education of their children, without any commensurate tax relief, the Department now aims to add additional tax burdens on homeschooling parents. This is flagrant discrimination which is a Constitutional violation.

A final and very serious concern that stems from the draft Bill is the fact that parents who behave reasonably, justly and equitably, in obedience to the law and the Constitution obligating parents to act in the best interest of the child, may now be criminalised. By default, the sincere love of the parent for the child, which should always result in the parent acting in the best interest of the child, is criminalised and the proposal is to punish such loving parents severely. I am referring to a proposed 12 times heavier possible punishment in terms of jail time, should the parent violate the law in terms of registering a child for home education.

We wish to point out that the matter of registration has been a longstanding discussion between representatives of the majority of homeschoolers and the DBE, to date unresolved for the simple fact that the regulations that govern the registration for homeschooling are unlawful. It is unreasonable and unjust to demand from parents to comply with regulations that are unlawful and which have a seriously detrimental effect on the best interests of the child.

Our concern is that, instead of addressing the actual problem, which is the unlawfulness of the regulations for registration, the DBE proposes the introduction of draconian punitive measures against law-abiding parents merely acting in the best interests of their children, as the constitution demands of them.

Homeschooling bodies and organisations have long, during formal meetings and by other means, implored the DBE to draft regulations for registration that are lawful, which the Department is obliged to do. We suggest that doing this will remove the current impasse and thus void the necessity for more severe punishment. Given the unwillingness of the DBE in the past to make requirements for registration lawful and the current proposed severe penalties, we have no option but to object to such

harsh scare tactics and fearmongering, which are completely unnecessary. The proposed measures are simply not just and equitable, a violation of the basis of our Constitution.

In conclusion. Should we have been granted reasonable time to comment, after due consultation with our members, the Gauteng Association for Homeschooling would have been able to comment more comprehensively. Unfortunately, we have not been afforded that opportunity and reiterate our request for postponement of the deadline for comment.

Yours truly,

J. vR. Lemmer

Chairman