

## **SUBMISSION ON THE DRAFT POLICY FOR THE REGISTRATION OF LEARNERS FOR HOME EDUCATION**

SUBMITTED TO THE DEPARTMENT OF BASIC EDUCATION

Submitted by:

**The Public Service Accountability Monitor (PSAM)**

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### **INTRODUCTION**

This submission was prepared by The Public Service Accountability Monitor (PSAM); a civil society organisation that was established in 1999 and is situated at Rhodes University within the School of Journalism and Media Studies, Grahamstown in the Eastern Cape. The PSAM values the opportunity afforded it to submit written comment and proposals for revision on the draft amended policy document. In recognition of the importance of promoting equal access to quality education for all – the PSAM’s objectives are to contribute to the formulation of a just and equitable policy environment that is not only supportive of learners and their parents but that also takes cognisance of the Department of Basic Education’s constitutional obligations in this regard. The rights to education are enshrined in section 29 of the Constitution of the Republic of South Africa.<sup>1</sup> Section 29(1) of the Constitution provides that everyone has the right;

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<sup>1</sup> Constitution of South Africa, 1996 (Act No. 108 of 1996), section 29

- a) To a basic education, including adult basic education; and
- b) To further education, which the state, through reasonable measures, must make progressively available and accessible.

The right to education imposes an obligation on the parents to ensure that children's right to education is ensured. Further – Section 28 of the Constitution guarantees the right of every child. Section 196 of the Children's Act 38 of 2005 provides for the rights of children to existing government children's home, place of safety, secure care facility, school industry and reform school. For example, in Section 196 (2), the Act stipulates that "the provincial department of education must provide education to the children".<sup>2</sup> The Children's Act provides for certain rights of children as enshrined in the Constitution and to clarify principles relating to the care and protection of children. As such, the state has the responsibility of ensuring that the rights of children are realised. Similarly, parents have the obligation to ensure that children are growing up in a safe environment. For example, Section 7 (c) of this Act stipulates as follows: "the capacity of the parents, or any specific parent, or of any other caregiver or person, to provide for the needs of the child, including emotional and intellectual needs".<sup>3</sup>

This submission focuses primarily on the *Policy for the Registration of Learners for Home Education, promulgated as Government Notice No 1411 in Government Gazette No 20659 of 23 November 1999*. The amendment of the Policy for the Registration of Learners for Home Education is done in terms of the National Education Policy Act and the South African Schools Act. Among other things, the draft policy seeks to:

- Protect, promote and ensure the rights of learners to basic education;
- Recognize parents' right to choose the kind of education for their children;
- Repeal the policy for the registration of learners for home education;
- Provide uniform and manageable procedures for home education in provinces.

The draft policy gives parents who want to educate their children at home more responsibilities to fulfil. Such parents are required to apply to the Department of Basic Education (DBE) for the registration of a child/pupil and, should comply with the conditions set by the DBE. In addition to this, parents are required to keep a record of attendance and a timetable for the pupil. The intention of the draft policy is to amend the Policy for the Registration of Learners for Home Education. This draft policy gives government more oversight of parents as teachers. This is happening at the same time as parents have no trust in the state to provide quality education. According to the draft policy, "the parent may not "outsource" her or his role to provide education to the learner to another person or institution. It also states that the home learner should receive the home education primarily at their home".<sup>4</sup> Parents who choose home education for their children, have a huge responsibility of taking their child's education into their own hands. These parents need to prepare and be willing to make time for their kids. Moreover, such parents "may not have access to the same resources that schools do. For instance,

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<sup>2</sup> <http://www.justice.gov.za/legislation/acts/2005-038%20childrensact.pdf> Accessed 08/12/2017

<sup>3</sup> *Ibid*

<sup>4</sup> <https://www.timeslive.co.za/news/south-africa/2017-11-22-new-roles-and-responsibilities-for-homeschooling-parents/> Accessed on 02 December 2017

practically demonstrating a chemistry experiment may require a lot more effort and money than it would in a traditional school with a fully-equipped science lab".<sup>5</sup>

Home educators are mainly concerned with the rights of their children and protecting them (children) from unreasonable and unjust interference from the state.<sup>6</sup> Principle 10 of the of The Rio Principles on the Right to Home Education, declared in Rio de Janeiro March 2016, states that "the right to home education is the fundamental right of families, children and parents clearly derived from all the above-mentioned rights and implied by them, especially by the freedom of thought, conscience and religion, cultural rights and parental rights".<sup>7</sup> Across the world, "there is solid evidence that homeschooling has made notable gains in absolute numbers and percent of the school-age population in nations as diverse as Australia, Brazil, Canada, England, Japan, Mexico, South Africa, South Korea, Scotland, and Russia".<sup>8</sup> In South Africa, home schooling was deemed illegal during the apartheid; it is therefore a relatively new practice. In 2016, reporting on the attendance at an education institution by type of educational institution and Province among persons aged 5-24 years, the Community Survey (In Brief) of the Stats SA noted that Gauteng had the highest number (4810) of those attending home-based education, followed by the Western Cape (3 504); Kwazulu-Natal (2 767); Eastern Cape (1 718); North West (1 292); Mpumalanga (1 129) and Limpopo at 1 092..<sup>9</sup> The Provinces with the lowest numbers were the Northern Cape (478) and the Free State (594) respectively. In the 2017/18 academic year, a total number of 1 870 are registered for home education in South Africa, with Mpumalanga having the highest number (824), followed by Gauteng at 820.<sup>10</sup>

There are various reasons parents choose home education for their children. Parents "are either not happy with the state of government education or are not able to have their children placed at a "decent" school".<sup>11</sup> Other parents who choose that their children attend home education, may have children with difficulties, "fitting in" or sexual orientation.<sup>12</sup> While some parents choose home schooling for their children, this poses a lot of imperfections of the education future of children. It is important to note that "parents are not well-trained educator so they are unable to express well what they want to give to their children".<sup>13</sup> This means that even though some parents opt for home education, there are disadvantages of homeschooling. Such parents are facing challenges of ensuring that their children are able to read for meaning. For example, these parents are choosing home education in the context where the 2016 results of the Progress in International Reading Literacy Studies (PIRLS) global assessment, released on 05 December 2017, reported that 8 out of 10 children in South Africa cannot read and, that 78% of

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<sup>5</sup> <https://www.news24.com/You/Archive/all-you-need-to-know-about-home-schooling-20170728-2>

<sup>6</sup> <https://startinghomeschooling.co.za/shirleys-comments-on-the-draft-policy-on-home-education/> Accessed on 12 January 2018

<sup>7</sup> <http://theriopinciples.org/> Accessed 12 January 2018

<sup>8</sup> <http://www.scielo.br/pdf/pp/v28n2/0103-7307-pp-28-2-0085.pdf> Accessed on 12 January 2018, at page 86.

<sup>9</sup> [http://cs2016.statssa.gov.za/wp-content/uploads/2017/07/CS-in-brief-14-07-2017-with-cover\\_1.pdf](http://cs2016.statssa.gov.za/wp-content/uploads/2017/07/CS-in-brief-14-07-2017-with-cover_1.pdf)

<sup>10</sup> Department of Basic Education, 2017

<sup>11</sup> <http://www.parent24.com/Learn/Primary-school/Why-parents-choose-to-homeschool-20150603> Accessed 06/12/2017

<sup>12</sup> <https://www.businesslive.co.za/fm/features/2017-01-26-why-sa-parents-are-turning-to-home-schooling/> Accessed 06/12/2017

<sup>13</sup> <https://www.ukessays.com/essays/education/the-disadvantages-of-homeschooling-education-essay.php> Accessed 06/12/2017

SA Grade 4 students cannot read for meaning in any language.<sup>14</sup> In order to improve the reading capabilities of their children, parents will need to invest more of their time to ensuring that children are learning to read and reading to learn for meaning. The decision of parents for home education is influenced by different factors including, *inter alia*, because the child is not well or has specific learning difficulties. Other parents make a choice for home education because of not being satisfied with the standard education offered by conventional schools. In some instances, this decision may be supported by religious reasons.

Through home education, parents hope that “they can convey the message they want for their children”.<sup>15</sup> While home education is the best option for some parents in urban areas, many of those in rural areas (in single-parent households and employment responsibilities from 08h00 to 17h00) do not have this option. Also, home education has its disadvantages and has become a controversial issue in the recent years. Some of the disadvantages for home education include, *inter alia*, that parents are not able to provide children with education because they are not qualified education.<sup>16</sup> In addition to this, another disadvantage noted with home schooling is that “it does not follow the standard curriculum”.<sup>17</sup> This also limits the freedom of children to enjoy their childhood because, children will not have many friends as they stay at home all the time. In offering home education, either one of the parents is “forced to give up his/her full-time job for homeschooling”.<sup>18</sup> As such, when the DBE and parents choose home education, it is recommended that they examine both the advantages and disadvantages. The proposed amendment must, therefore, take this into consideration. The proposed amendment policy should also consider the challenges related to home education, for example, having to do with the difficulty for university entrance and coping skills.

## **DRAFT POLICY ON HOME EDUCATION**

This draft policy “gives government more oversight of parents as teachers, while the irony is parents can no longer trust the state to provide quality education”.<sup>19</sup> Some parents have their vested interests for what they consider to be the best education for their children. Education in South Africa is a national and provincial competence; in particular, the province has a responsibility of planning, budgeting and delivery of these services.<sup>20</sup> Within the basic education system in South Africa, home education is a growing trend.<sup>21</sup>

Home education is considered as a cheaper alternative for parents who wish to send their children to private schools but cannot afford to. Home education is considered in section 51 of the South African Schools Act, 1996 (No. 84 of 1996). According to this Act, “a parent may apply to the Head of Department for the registration of a learner to receive education at the

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<sup>14</sup> <https://www.news24.com/SouthAfrica/News/why-our-kids-cant-understand-what-they-read-20171209> Accessed 24/01/2018

<sup>15</sup> <https://www.ukessays.com/essays/education/the-disadvantages-of-homeschooling-education-essay.php> Accessed 06/12/2017

<sup>16</sup> <https://www.ukessays.com/essays/education/the-disadvantages-of-homeschooling-education-essay.php> Accessed 08/12/2017

<sup>17</sup> *Ibid*

<sup>18</sup> *Ibid*

<sup>19</sup> <https://www.businesslive.co.za/bd/national/education/2017-11-22-parents-who-homeschool-object-to-new-more-stringent-government-regulations/>

<sup>20</sup> IBP. 2017. A Guide To Local Government Budget Advocacy.

<sup>21</sup> <http://www.homeschooling-curriculum-guide.com/homeschooling-South-Africa.html> Accessed 07/12/2017

learner's home".<sup>22</sup> It follows from this that the learner may be registered for education at home if the provincial Head of Education is satisfied that such registration will be in the best interest of a learner. It appears that children, whose parents wish them to study at home, will not study at home unless the provincial Head of Education is satisfied. The parents who opt for home education and "educate their children at home have strongly opposed the draft policy on home schooling".<sup>23</sup>

## **COMMENTS AND PROPOSALS FOR REVISION**

### **a) INTERPRETATION**

#### **i. Comments**

##### **Section 2 (5)**

In section 2(5) of the Draft Policy on Home Education, one of the objectives of the policy is mentioned as to "provide uniform and manageable procedures for home education in provinces". However, the draft does not clarify what the uniform and manageable procedures for home education in provinces actually are.

##### **Section 3 (3)**

In addition, in section 3(3) the draft explains that "this policy applies uniformly to all Provincial Education Departments (PED) as national norms and standards pertaining to home education", without clarifying what the notional norms and standards pertaining to home education are.

##### **Section 6 (6.2) 2 (c)**

The draft Policy re-asserts Section 3 (6) of the South African Schools Act, that (a) "any parent who, without just cause and after a written notice from the HOD, fails to comply with subsection (1), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months; or (b) any other person who, without just cause, prevents a learner who is subject to compulsory attendance from attending a school, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding a period not exceeding six months". This reassertion seems to bring in an aspect of the criminalization of parents who fail to comply with subsection 1.

##### **Section 10.2 (C)**

In section 10.2(c) the draft Policy mentions that the Provincial Education Department (PED) has the responsibility and role of "monitoring of home education", without explaining how this will be done.

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<sup>22</sup> South African Schools Act, 1996 (No. 84 of 1996)

<sup>23</sup> <https://www.businesslive.co.za/bd/national/education/2017-12-13-home-schooling-parents-say-draft-policy-proposals-impractical-and-prejudicial/>

**i. Proposal for Revision:**

**Section 2 (5)**

In order to provide uniform and manageable procedures for home education in provinces, a subsection should be added to this section 2 (5), and be structured as follows: (5) the objects of the policy is to provide the following uniform and manageable procedures for home education in provinces:

a) .....

**Section 3 (3)**

This section currently reads; “this policy applies uniformly to all Provincial Education Departments (PED) as national norms and standards pertaining to home education”.

It is proposed that it is re-worded as follows: this policy applies uniformly in all provincial departments of education pertaining to the following norms and standards to home education:

a)

**Section 10.2 (C)**

The PSAM proposes that a subsection be added in section 10.2 (C) as follows: the Provincial Education Department (PED) has the responsibility and role of monitoring home education, as follows:

(1) .....

**b) REGISTRATION**

**ii. Comments**

**Section 12(2) (a)**

In this section, the draft Policy mentions the following regarding the application for registration of a learner for home education, that (2) “a parent of a learner who is subject to compulsory attendance who chooses to have her or his child educated at home in terms of section 51 of the Act must: (a) submit a written application and necessary documentation to the HOD”. However, this does not specify the period for such a submission to be made and, this is only mentioned in (b).

**Section 14 (2)**

This section notes that the HOD shall register the learner for home education if satisfied that the conditions for registration will be complied with. This, however, does not make reference to the conditions for registration as stipulated in section 13(2). This also does not clarify what it means for the HOD to be satisfied.

## **ii. Proposal for Revision**

### **Section 12 (2)**

The PSAM proposes that section 12(2) (a) be worded as follows: (2) a parent of a learner who is subject to compulsory attendance who chooses to have her or his child educated at home in terms of section 51 of the Act must: (a) submit a written application and necessary documentation to the HOD by September of the year preceding the year in which home education is to commence for the learner. The HOD may allow a deviation from this if the parent can provide sound reasons for the delay in registering the learner for home education. This means that (a) should be combined with (b) this, making section (12) (2) having the following subsections: (a) (b) and (c).

### **Section 14 (2)**

On section 14(2) the PSAM proposes that this section be worded as follows: the HOD shall register the learner for home education if satisfied that the conditions for registration stipulated in section 13(2) of this draft will be complied with. It should also be clear what it means for the HOD to be 'satisfied' with the conditions.

## **c) IMPLEMENTATION**

### **iii. Comment**

#### **Section 18.4(a)**

This section mentions that (2) "the tutor in providing her or his service (a) may not replace the prime responsibility of the parent". However, this section does not make reference to section 10.1(1) which stipulates the responsibilities and roles of the parent.

#### **Section 18.6 (3)**

On Recording and reporting, this section mentions that "should a not meet the minimum requirements, the HOD may conduct an investigation to determine whether or not to withdraw the registration of a learner". This, however, does not specify the minimum requirements.

#### **Section 20 (1)**

On Monitoring, this section mentions that "the PED shall, as far as it is practicable, monitor the implementation of home education". However, this does not explain how this monitoring will be performed by the PED.

### **iii. Proposal for Revision**

#### **Section 18.4 (a)**

The PSAM proposes that this section be worded as follows: (2) the tutor in providing her or his services (a) may not replace the main responsibilities and roles of the parent as stipulated in section 10.1(1) of this policy.

### **Section 18.6 (3)**

On this section, the PSAM proposes that the draft policy should specify the minimum requirements are.

### **Section 20 (1)**

This section currently reads as follows: the PED shall, as far as it is practicable, monitor the implementation of home education. The PSAM proposes that this should be revised and worded as follows: the PED shall, as far as it is practicable, monitor the implementation of home education in the following ways:

(a) .....

#### **d) TERMINATION**

##### **iv. Comment**

### **Section 24 (1)**

This section currently read as follows: “if a parent wishes to withdraw a learner of compulsory school going age from a home education programme and such learner is admitted or readmitted to a school, the parent must inform the HOD in writing, accompanied by documentary proof of admission of the learner to a school, and request the HOD to terminate a learner’s registration for education at home”. However, this section does not specify what the period is that a parent should take if she/he wishes to withdraw a learner of compulsory school going age from home education.

### **Section 24 (2)**

In this section, the draft Policy notes that “the HOD must withdraw a learner’s registration for home education if, after enquiry, the HOD is satisfied that:

- a) Any information contained in the application is false;
- b) Any criteria or conditions are not complied with; or
- c) Home education is no longer in the interest of the learner”

However, this section does not provide a timeline before the registration of a learner for home education is withdrawn by the HOD.

##### **iv. Proposal for Revision**

### **Section 24 (1)**

The PSAM proposes that this section be amended to specify the period that a parent should follow if she/he wishes to withdraw a learner from home education.

### **Section 24 (2)**



This section should be amended as follows: the HOD must withdraw the learner's registration if, after 30 days after having made a reasonable effort to obtain or verify relevant information, the HOD is satisfied that:

- a) Any information contained in the application is false;
- b) Any of the following conditions stipulated in Section 13 (2) of this Act have not been complied with; or
- (2) The conditions for the registration of a learner for home education include that:
  - (a) Education at home and registration as such is in the interests of the learner;
  - (b) The parent understands home education and accepts full responsibility for the implementation of home education for the learner;
  - (c) The proposed education programme –
    - (i) Is suitable for the learner's age, grade level and ability;
    - (ii) Covers the acquisition of content and skills at least comparable to the relevant national curriculum outcomes as determined by the Minister; and
    - (iii) Is approved by the HOD.
  - (d) The site should be inspected by the PED and approved as conducive for the implementation of the programme. Should a parent move premises, such new premises should be approved.
  - (e) The parent undertakes to –
    - (i) Make suitable educational resources available to support the learner's learning
    - (ii) Monitor the learner's learning;
    - (iii) Arrange for the learner's educational attainment to be assessed annually by a competent assessor, at the parent's own expense, who will apply a standard that is not inferior to that which is determined in the NCS; and
    - (iv) Provide the HOD with the learner's assessment report signed by the competent assessor as evidence at the end of each phase.
- c) Any of the following criteria set out in section 51 (2) (b) of the Schools Act are no longer complied with.
  - (a) 51 (2) (b) the education likely to be received by the *learner* at home – (i) will meet the minimum requirements of the curriculum at *public schools*; and (ii) will be of a standard not inferior to the standard of education provided at *public schools*

## e) GENERAL PROVISIONS

### v. Comment on Repeal

*No comment* on the fact that the Policy for the Registration of Learners for Home Education, 1999 (Notice No.1411, 23 November 1999) is hereby repealed.

### v. Proposal for Revision

N/A

## RECOMMENDATIONS

The PSAM makes the following recommendations:

- In the spirit of respecting the prescripts of the South African Constitution and the Children's Act and the explicit obligations of the state and guardians to ensure due regard for children's best interests – revisions to the current policy must be made in a manner that seeks to entrench co-governance and trust in the implementation of home based education
- The DBE must actively ensure that support is readily available to parents and learners within the home schooling system including facilitating access to public school recreational and sports facilities and libraries – where feasible and where these may not be accessible to home schooled learners as per section 21(2)
- The DBE should commission research pertaining to homeschooling in South Africa in order to establish clear perimeters for intervention and ensure evidence-based policy making
- There must be a revision of the amended policy to include the proposals that have been made above;
- The DBE together with the parents must ensure that home education is in the best interest of the learners;
- In addition, home education must also comply with the fundamental right of the learner to education.

## **CONCLUSION**

The Draft Policy on Home Education provides guidance for a viable educational alternative to institutionalised education. Among other things, it is important that parents who opt for home education ensure that children are learning to read and reading to learn. It is the mandate of the parents to teach children in home education. The PSAM supports the policy's re-assertion that that all children's right to quality education must be protected and realised regardless of the choice of academic institution. However – there is a need to engage with a range of education stakeholders including parents currently 'home-schooling' their children as well as education experts constructively. There is also a need to ensure that robust public participation and input is facilitated at every stage of the development of this policy to safeguard against some of the above-mentioned shortcomings.

ENDS