

BELA BILL

COLOUR CODED CLAUSES

5 November 2023

This summary of the Bela Bill clauses is intended for informational purposes only. Please conduct your own research to understand the full impact the Bela Bill will have on our educational sector.



★ **54** ★
CLAUSES

Two clauses were cut from the previous version of the BELA Bill. (There used to be 56!)

WHAT NEXT?

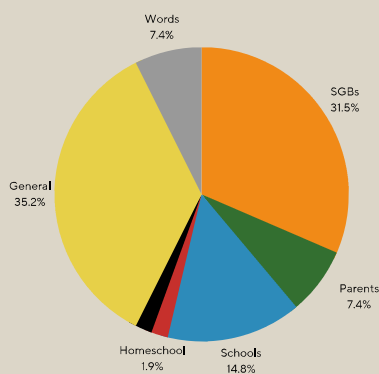
The BELA Bill is currently at the (NCOP) National Council of Provinces. Soon we will have an opportunity to make written submissions. Please consider doing so (even if this takes place during the December holidays).



The Bill proposes to amend (change) the South African Schools Act (SASA) of 1996 as well as the Employment of Educators Act (EEA) of 1998.

ABOUT THE BILL

Until very recently most parents knew very little, to nothing about the BELA Bill. Many parents thought that the Bill focused on homeschooling. Ironically only 1 of the 54 clauses in the BELA Bill pertains to home education. 17 clauses focus on SGBs, 4 on parents, 8 on schools, 1 on learners, 19 on word changes or additions, and 4 have been placed in the 'general' category. (See the last page of this document for more information on the colour coding of clauses.)



- Parents 7%
- Schools 15%
- Homeschool 2%
- SGBs 32%
- Learners 2%
- General 35%
- Words changes 7%

PUBLIC SCHOOLS

In 2022, the total number of schools in South Africa amounted to roughly 24 900.

Source: statista.com

24 900
PUBLIC SCHOOLS

UNDER 19
YEARS OF AGE
22.12 MILLION





CONCERNED CITIZEN

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BELA BILL CLAUSES

Which of these will be affecting you, your children or the school you love? See colour chart...

CLAUSE 1

This clause provides a list of definitions mentioned throughout the BELA Bill. Some of these words include the following: competent assessor, corporal punishment, Department of Basic Education, home education, parent, grade R, drug, liquor and more.

★ CLAUSE 5

This clause seeks to ensure that South African Sign Language has the status of an official language for the purpose of learning at a public school. The clause also provides that the SGB must submit the language policy of a public school, and any amendment thereof, to the HoD for approval.

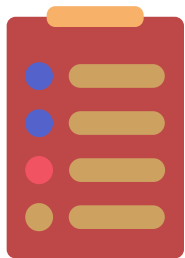
CLAUSE 2 ★

Gr R will be compulsory (and no longer Gr 1). Parents who keep their children out of school (without a good reason) could face a fine or imprisonment. Currently, the recommended sentence is six-months. If this Bill is pushed through, a parent could be facing a 12 month prison sentence.



CLAUSE 6 ★

The Minister may appoint a person, organisation or group of persons to advise the Minister on matters relating to a national curriculum statement and a national process and procedures for the assessment of learner achievement.



★ CLAUSE 3

Educators, principals and school governing bodies (SGB) are always responsible for learners but this clause specifically focuses on the monitoring and attendance of learners.



CLAUSE 7

The SGB of a public school must adopt a code of conduct for the learners subject to the Constitution, the SASA and any applicable provincial law.

CLAUSE 4 ★

The SGB of a public school must submit the admission policy of the school, and any amendments thereof, to the HoD for approval.



CLAUSE 8

Clause 8 focuses on the possession of liquor by a learner. This clause also makes it clear that a school has the right to search an individual learner and not only a group of learners.





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★ CLAUSE 9



Clause 9 proposes the insertion of a detailed definition of serious misconduct (bullying/theft) by a learner in order to provide greater clarity in this regard.

★ CLAUSE 13



Clause 13 focuses on mergers. In instances where two or more schools are merged, a new public school will be established.

CLAUSE 10 ★



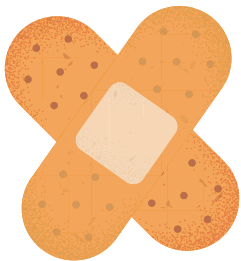
Prohibition of corporal punishment being administered to learners will include "during a school activity or in a hostel accommodating learners of a school".

CLAUSE 14



Clause 14 seeks to empower the HoD to centrally procure identified learning and teaching support material for public schools, in consultation with the SGB and on the basis of efficient, effective and economic utilisation of public funds.

CLAUSE 11



Initiation practices to include "during a school activity" or "in a hostel accommodating learners of a school".

★ CLAUSE 15

This clause clearly indicates the processes that need to be followed when the HoD withdraws the functions of the SGBs.

CLAUSE 12

A public school may apply or the HoD may recommend to the MEC that a public school be designated with a specialised focus on talent.



CLAUSE 16 ★

SGB representatives may select members within and outside their community, to help them.



After identifying some of the clauses that will be affecting you, your children or the school you love, please download a copy of the latest version of the BELA Bill (B2B-2022).





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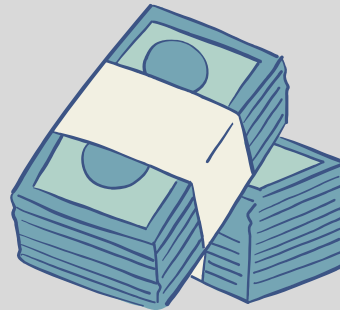
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CLAUSE 17

Replace "Member of the Executive Council" with "Minister" and the "Provincial Gazette" with "Gazette" in regard to arrangements for the election of members of an SGB of a public school for learners with special education needs. Currently, each province deals with these matters in its own preferred way, and this amendment will bring about uniformity across the provinces.

★ CLAUSE 21



Provides that SGB members are not paid for the performance of their duties.

CLAUSE 18

Insertion to ensure uniformity in the establishment of the governance structures for public schools with a specialised focus on talent.



CLAUSE 22



Substituting "Member of the Executive Council" with "Minister" and "Provincial Gazette" with "Gazette" in regard to arrangements for the election of members of a SGB of a public school and by deleting the reference to "any applicable provincial law."

★ CLAUSE 19

The proposed amendment creates clarity regarding the powers of the HoD to dissolve a SGB and clearly indicates the processes that needs to be followed when a SGB is dissolved.



CLAUSE 23

Where reasonably practicable, only a parent member of a SGB, who is not employed at the school, may serve as the chairperson of the finance committee of that public school.

CLAUSE 20 ★

Clause 20 provides for the declaration of a direct or indirect personal and financial interest that an SGB member, or any of his or her family members, close friends or business partners has and where such a personal interest exists, a SGB member must withdraw from a meeting of the SGB for the duration of the discussion and decision-making on an issue in which such member has a personal interest.

CLAUSE 24

Clause 24 focuses on the rules regarding a younger person who is a SGB member.

The minimum age for an individual to become a SGB member will change from 21 to 18 years.



If you have already downloaded a copy of the BELA Bill, make sure it is the latest version! It should have the following on its cover: B2B-2022.





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★ CLAUSE 25

The MEC may close a public school after following a prescribed consultation process if, in the case of a primary school, 135 or less are registered at that school and in the case of a secondary school, 200 or less learners are registered at the school.



CLAUSE 29

SGBs must provide full details of the nature and extent of the remuneration or benefit granted to a state employee.

CLAUSE 26 ★

Clause 26 seeks to amend section 36 of the SASA to provide that the SGB must also seek the approval of the MEC to enter into lease agreements, for any purpose.



CLAUSE 30 ★

When a parent applies for exemption from the payment of school fees, such a parent may submit additional documentary evidence in the form of an affidavit in the instance where information cannot be obtained from the other parent of the learner.



CLAUSE 27

“Directions” to be replaced with the word “directives”.

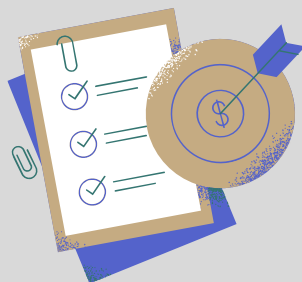


★ CLAUSE 31

The SGB of a public school must keep detailed records on prescribed aspects of its financial affairs; draw up annual financial statements within a specified time and in a specified manner; and present the financial records and statements to a general meeting of parents.

CLAUSE 28 ★

A document explaining the budget of a school, together with the budget itself, must be made available to parents before the budget is presented to a general meeting of parents for consideration.



CLAUSE 32 ★

Clause 32 seeks to empower the HoD, if he or she deems it necessary, on just cause shown, to authorise an investigation into the financial affairs of a public school.



Go to page 33 of the latest draft of the BELA Bill. Read through the clause-by-clause analysis.





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★ CLAUSE 33

Clause 33 seeks to increase the penalty provision from six to 12 months in the case where a person establishes or maintains an independent school that is not registered by the HoD.

Cottage school owners want to register but cannot as they do not meet the requirements of the DBE.

★ CLAUSE 37

To provide for dispute resolution mechanisms in the event of any dispute between a SGB and the HoD, or any dispute between a SGB and a MEC.

CLAUSE 34 ★

A subsidy granted to an independent school can be made subject to conditions determined by the MEC. The amendment also provides that an independent school must submit quarterly reports to the HoD on all income and expenditure relating to the subsidy.



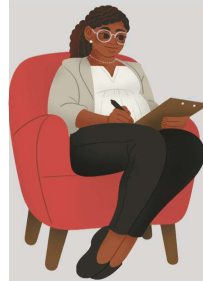
CLAUSE 38

The State is not liable for any damage or loss caused as a result of any school activity conducted by a public school for which the public school would have been liable.



★ CLAUSE 35

Home educators must apply to the HoD to register for home education. Even if the registration process was initially successful, the HoD may de-register a child if home education is no longer considered to be in the best interest of the learner. (A parent may challenge this decision.) Learners must also be assessed by a competent assessor at the end of every phase: Foundation, Intermediate and Senior phase.



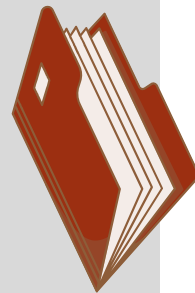
★ CLAUSE 39

This clause seeks to extend the powers of the Minister to make regulations regarding a range of matters of which the management of learner pregnancy is one.

To fully understand this clause, this section of the Bill should be read in conjunction with the DBE's document which focuses on the Management of Learner Pregnancy.

CLAUSE 36 ★

Clause 36 provides that where a parent, or any other person, applies for the admission of a learner to a public school, or applies for exemption from the payment of school fees, and submits false or misleading information, such a person is guilty of an offence.



CLAUSE 40

Clause 40 provides for the insertion of a phrase into the Preamble of the SASA to facilitate the education of children through the promotion and protection of the right to basic education.



Consider the potential impact these clauses will have on your own life and your kids lives. Make notes!

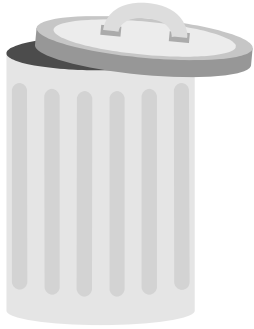




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CLAUSE 41

This clause proposes deleting the references to “adult basic education centre” and “further education and training institution”.

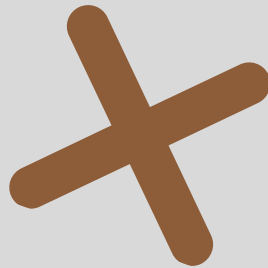


CLAUSE 45

Clause 45 seeks to amend section 9 of the EEA to provide for the secondment of educators to another department.

CLAUSE 42

The clause deletes the references to “further education and training institution”, “adult basic education centre”, “institution” and “centre”.



CLAUSE 46

Clause 46 proposes the deletion of obsolete references to “institutions” and “centres”.



CLAUSE 43

Clause 43 seeks to amend section 7 of the EEA to extend the application thereof to promotions on any educator establishment and to bring it in line with the provisions of the Citation of Constitutional Laws Act, 2005.

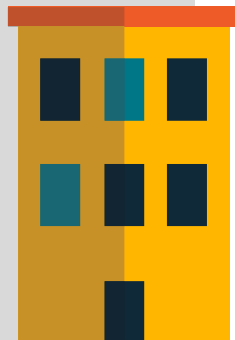


CLAUSE 47

Inserting a phrase that expands the list of acts of serious misconduct. The new phrase is worded in a manner which will ensure that any acts of misconduct that may be identified in future legislation will be covered.

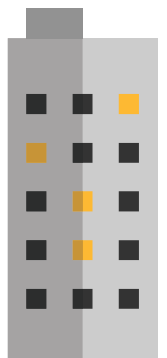
CLAUSE 44

Clause 44 proposes the deletion of the obsolete references to “council” and “adult education and training centre”.



CLAUSE 48

Clause 48 proposes the deletion of the obsolete references to “adult learning centre” and includes a provincial department of education within the ambit of the section.



Think about possible alternatives to the issues the BELA Bill is attempting to address. Write some of your thoughts down.





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★ CLAUSE 49

Clause 49 prohibits educators from conducting business with the State or from being a director of a public or private company conducting business with the State and provides that a contravention of the aforementioned provision is an offence.



CLAUSE 52

Clause 52 proposes the deletion of the obsolete references to “public further education and training institution or public adult learning centre”

CLAUSE 50

Clause 50 seeks to extend the powers of the Minister to make regulations on norms and standards for district staffing.

CLAUSE 53

Clause 53 seeks to amend Schedule 2 to the EEA by proposing the deletion of the obsolete references to “public further education and training institution or public adult learning centre”. It also provides for a timeframe within which an appeal contemplated in Schedule 2 must be considered.

CLAUSE 51

Clause 51 seeks to repeal section 38 of the EEA which has become obsolete.



★ CLAUSE 54

Provides that the envisaged Act comes into operation on a date fixed by the President by proclamation in the Gazette.



COLOURS



Many clauses could technically have been placed in more than one category. We have grouped clauses according to relevance. If a clause mentioned a word change (and could be placed under the grey "words section") but such a change would have an impact on SGB-members, then such a clause would be placed in the category that SGBs would be focusing on. (We hope this makes sense.)

Stacey van der Walt and team

