



■ SOCIAL WELFARE

Last-minute changes to adoptions bill disturbing

Proposals include making it illegal for anyone working in the sector to charge a service fee



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THE Department of Social Development (DSD) has drafted last-minute changes to the proposed draft amendments that are aimed at excluding all private professionals from the adoption process in South Africa. The proposals include making it illegal for anyone working in the adoption sector to charge a fee for their services.

These specific amendments dealing with professional fees and adoptions were made by the DSD and hastily pushed through after the initial consultation processes with the NGO sector had already been completed in July and August 2018. These changes were not part of the drafts that were consulted with the adoption sector and role-players before, and which the National Adoption Coalition of South Africa (Nacsa) participated in at both national and provincial levels.

The timing of the proposed amendments to section 249 and section 259 is hugely problematic. These were only included in the gazetted third amendment of October 29 last year. The first dialogue around these changes took place during the National Child Protection Forum from November 21-22, providing the sector with just one week to make written submissions – very little time for a co-ordinated response from the adoption sector.

One can only conclude that it is DSD's hope that these amendments can be pushed through without a co-ordinated challenge.

Despite the radical change of direction that the proposed fees amendment introduces, DSD did not consult or make an effort to meaningfully engage with the broader adoption community as to what the massive implications would be of such changes and the impact on adoptions and adoptable children as a whole.

The proposed changes include:

Section 249: No consideration in respect of adoptions

The bill proposes to make it illegal for anyone to receive fees for professional services rendered or expenses incurred in respect of an adoption.

This means accredited child protection organisations and adoption social workers, lawyers, psychologists and all other professionals will no longer be able to charge for any expert or specialist service rendered to adoptable children and or adoptive families, not even for reimbursement of travelling expenses, medical care and so on.

There is a wide range of different types of adoptions and in certain instances there is the need for specialist adoption social worker service providers and allied professionals, which may include lawyers, psychologists and medical practitioners.

This proposed amendment will prohibit those service providers from charging their fees, and in doing so it will not serve the interest of the children. It is, in fact, highly impractical as there will be a restriction on accessing these services which the



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court may need in making a decision.

This proposed amendment will not ensure that adoption services are more accessible to all, which has been provided as the rationale behind the proposed amendment. It is Nacsa's position that it will be more restrictive and less accessible since the majority of adoption service providers will be dispositioned and cut off from rendering these services due to potential financial sustainability challenges.

In a radio interview on January 7, the deputy director general of the DSD stated that adoption service providers should apply for accreditation to receive a subsidy from the department – easier said than done.

Affected adoption service providers are already accredited and have been trying to access the government subsidies with little success. The deputy director general also failed to mention the DSD would not accept any new applications for accreditation as of July 2018.

This proposed amendment will dramatically limit the number of children that will find permanency through legal adoption placements and the competency, vast expertise and capacity that providers bring will also be lost.

Section 259: Accreditation to provide inter-country adoption services

These are provided for by a limited number of designated child protection officers. These DCPOs have working agreements that are supported and approved of by the South African Central Authority (Saca). These services are highly specialised and labour-intensive and to date the regulated and capped fees charged have allowed DCPOs to continue to provide the service.

The proposed changes, if implemented, mean DCPO's will not be able to continue to render these services in absence of an income which currently is provided for by the professional regulated fees that are charged.

Inter-country adoptions will potentially shut down as a result of this amendment.

The reality is that adoption services are an area of speciality as provided for by the Social Service Professions Act, 1978.

The Children's Act also requires that adoption social workers have a registered speciality with the SA Council for Social Service Professions. Due to these provisions, adoption services have historically been rendered by social workers in the employ of Designated Child Protection organisations, accredited to render adoption services and by accredited adoption social workers in private practice.

They, therefore, currently possess the bulk of the expertise and experience in this highly specialised area of service delivery.

Adoption accredited Child Protection Organisations charge nominal professional prescribed fees for adoption services. The income derived from these fees enables DCPOs to employ experienced social workers, since not all protection officers receive govern-

ment subsidies for the rendering of child protection and adoption services. They often only receive partial and limited financial support. Where subsidies are received, these subsidies only cover about 50% of the social work posts and programmes.

DCPOs do not make any profit through fees charged since fees mostly just cover expenses incurred.

The majority of organisations also make use of an income-based sliding scale and often render services free of charge when applicants cannot afford to pay a fee for professional services. The scale of fees is further strictly regulated by the Gazetted tariff (Regulation 107) and organisations are monitored by the DSD. They are also obligated to disclose all fees received in writing to the Children's Court in terms of Section 249 for each adoption thus ensuring transparency.

Other professionals such as psychologists, lawyers, medical practitioners and many others also render support services in relation to adoptions for which professional fees may be charged. These services are very important and vital, especially in legally and or ethically complex cases.

Another very important factor is that adoption numbers show a consistent decline. During the 2010/11 financial year there were 2 436 adoptions registered in South Africa, compared to the number of 1 186 registered during the 2017/18 financial year.

According to the Register on Adoptable Children and Adoptive Parents, there is a serious disconnect between the numbers of children in need of adoptive parents and the number of children that are legally adoptable.

Adoption services is an area of speciality and adoption specialists and social workers should be able to practice their profession. The proposed amendments devalue this area of speciality. It further constitutes a limitation on the right of adoption social workers to practice in their field of specialisation.

If the department really has a position that no professional fees may be charged within adoption because it is part of child protection, then surely this will also apply to other areas of child protection where private professionals render services in relation to child protection such as lawyers, psychologists, therapists, medical personal and so on?

There is simply no substantial evidence-based proof in South Africa supporting the claims that adoption services are not accessible due to the charging of regulated fees.

The real intention with these drastic proposed amendments and rationale behind it needs proper consultation and the potential far-reaching implications for adoptions in South Africa needs to be very carefully considered.

The late introduction of these amendments is lacking in transparency and it negates the spirit of partnership and trust needed between the government and civil society.

The real intention of these drastic proposed amendments needs proper consultation

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