

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE AMENDMENTS
TO
AGED PERSONS AMENDMENT
BILL**

[B 127—98]

(As agreed to by the Select Committee on Social Services (National Council of Provinces))

[B 127A—98]

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REPUBLIEK VAN SUID-AFRIKA

**GEKOSE KOMITEE-AMENDEMENTE
OP
WYSIGINGSWETSONTWERP
OP BEJAARDE PERSONE**

[W 127—98]

(Soos goedgekeur deur die Gekose Komitee oor Maatskaplike Dienste (Nasionale Raad van Provinsies))

[W 127A—98]

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AMENDMENTS AGREED TO

AGED PERSONS AMENDMENT BILL [B 127-98]

CLAUSE 1

1. On page 2, from line 11, to omit the definition of “abuse” and to substitute:

“ ‘abuse’ means the maltreatment of an aged person or any other infliction of physical, mental or financial power on an aged person which adversely affects that person;”;

2. On page 2, from line 17, to omit the definition of “designated body” and to substitute:

“ ‘designated body’ means—
(a) a person versed in law; or
(b) a statutory body referred to in section 181 (1) of the Constitu-
tion,
designated by the national Minister, by notice in the *Gazette*, for the
purposes of sections 3A, 5A and 6;”; and

CLAUSE 2

1. On page 4, from line 5, to omit subsection (1) and to substitute:

(1) When a subsidy is paid in terms of section 2, the national Minister shall, by regulation in terms of section 20A, prescribe the conditions of use of that subsidy, including conditions regarding the accounting for the subsidy so paid.

2. On page 4, in lines 1 I and 12, to omit “determined in terms of” and to substitute “referred to in”.
3. On page 4, from line 13, to omit subsection (3) and to substitute:

(3) If any condition referred to in subsection (I) is not complied with, the national Minister may, in consultation with the relevant competent authority referred to in the definition of ‘Minister’ in section 1 and after one month’s notice of the intention to do so, withdraw the subsidy in question.

4. On page 4, in line 19, to omit “determined in terms of” and to substitute “referred to in”.

CLAUSE 3

1. On page 4, from line 24, to omit subsection (1) and to substitute:

(1) If there is reason to believe that any of the conditions referred to in section 3(3) have not been complied with, the national Minister shall, in consultation with the relevant competent authority referred

to in the definition of ‘Minister’ in section 1, appoint a designated body—
 (a) to monitor compliance with those conditions; and
 (b) to order specific measures to be adopted to facilitate compliance with those conditions.

2. On page 4, in line 39, after “Minister” to insert:

and the competent authority referred to in subsection (I)

3. On page 4, in lines 40 and 41, to omit paragraph (b) and to substitute:

(b) furnish the national Minister and the competent authority referred to in subsection (1) with a full report on the steps taken regarding the future accommodation of the aged persons in question as contemplated in section 3(7); and

4. On page 4, in line 43, after “Minister” to insert:

and the competent authority referred to in subsection (I)

5. In the English text, on page 4, in line 45, to omit the second “of” and to substitute **“for”**.

6. On page 4, from line 51, to omit paragraph (a) and to substitute:

(a) the composition of every management committee to be established under subsection (1), which shall include representation of the residents and staff of the relevant home for the aged and the public in general;

7. On page 6, in line 2, after “committee” to insert:

and the tilling of vacancies on that committee

8. On page 6, in line 4, after the first “of” to insert “, and the procedure at,”.

9. On page 6, from line 5, to omit subsection (3) and to substitute:

(3) A management committee established under subsection (1) shall ensure that the manager of the home for the aged in question—
 (a) facilitates interaction between the residents of the home and their families, the public in general and that committee;
 (b) provides quality service to the home;
 (c) provides opportunities for the training of the staff of the home;
 (d) applies principles of sound financial management and submits quarterly financial reports to the residents and staff of the home;
 (e) monitors activities at the home in order to deal speedily with any incidents of abuse of the residents of the home and takes steps to report such incidents to the appropriate authority;
 (f) consults the management committee in the appointment of the staff of the home;
 (g) establishes complaints procedures for the residents and staff of the home and persons who wish to lodge a complaint on behalf on any such resident; and
 (h) does everything necessary or expedient for the effective functioning of the home.

- 1 (). On page 6, from line 22, to omit section 3C and to substitute:

Admission to homes for the aged

3C. (1) When deciding whether or not to admit a person to a home for the aged, no person shall unfairly discriminate directly or indirectly against the first-mentioned person on one or more grounds referred to in section 9(3) of the Constitution.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, notwithstanding section 19, be liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

(3) The need for a home for the aged to reflect broadly the race composition of South Africa shall be considered when determining eligibility for admission to that home.

(4) If a person is refused admission to a home for the aged, the manager of that home shall, on the request of that person, give reasons for such refusal to the person.

CLAUSE 7

1. On page 10, from line 38, to omit sections 6A and 6B and to substitute:

Notification of abuse of aged persons

6A. (1) Every registered dentist, medical practitioner, nurse or social worker or any other person who examines, attends to or deals with an aged person and suspects that that aged person—

(a) has been abused; or

(b) suffers from any injury,

shall immediately notify the Director-General: Welfare or the relevant officer referred to in the definition of 'Director-General' in section 1.

(2) On receipt of a notification in terms of subsection (1), the Director-General or the officer referred to in subsection (1)—

(a) may issue a warrant, in the form and manner prescribed by regulation under section 20A, for the removal of the aged person concerned to a hospital or such other place as that Director-General or officer may determine;

(b) shall arrange that the aged person receive the necessary treatment.

(3) Any dentist, medical practitioner, nurse, social worker or other person shall not be liable in respect of any notification given in good faith in accordance with subsection (1).

(4) Any dentist, medical practitioner, nurse, social worker or other person who fails to comply with subsection (1) shall be guilty of an offence and shall, notwithstanding section 19, be liable on conviction to a fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

Prohibition of abuse of aged persons

6B. Any person who abuses an aged person shall be guilty of an offence and shall, notwithstanding section 19, be liable on conviction to a fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

Keeping of register of abuse of aged persons

6C. The national Minister shall, in the manner prescribed by regulation under section 20A, cause to be kept a register of all notifications in terms of section 6A(1), together with a description of the circumstances regarding each notification.

2. On page 12, in line 2, to omit “**6C.**” and to substitute “6D. (1)”.
3. On page 12, in line 3, after “Minister” to insert:

and the relevant competent authority referred to in the definition of ‘Minister’ in section 1.

4. On page 12, after line 12, to add the following subsection:

(2) When the manager of a home for the aged fails to submit a report in accordance with subsection (1), the national Minister may, in consultation with the competent authority referred to in subsection (1) —

- (a) give notice to that manager that if: such report is not submitted within 90 days after the date of that notice, any subsidy paid in respect of that home in terms of section 2 will be withdrawn; and
- (b) if such report is not submitted within 90 days after the date of the notice given in terms of paragraph (a), withdraw such subsidy after giving one month’s notice of the intention to do so.

CLAUSE 8

1. In the English text, on page 12, in line 18, before “Minister” to insert “national”.

CLAUSE 9

1. In the English text, on page 12, in line 26, to omit “**25A.**” and to substitute “20A. (1)”.
2. On page 12, in line 26, after “may” to insert “, subject to subsection (2),”.
3. On page 12, after line 39, to add:

(g) the conditions of use of subsidies paid in terms of section 2;
(h) the form of, and manner in which, a warrant referred to in section 6A(2)(a) is to be issued;
(i) the keeping of a register of all notifications in terms of section 6A(1).
(2) Any regulation made in terms of subsection (1) shall be made after consultation with every competent authority referred to in the definition of ‘Minister’ in section 1.

LONG TITLE

1. On page 2, in the eighth line, after “**thereon;**” to insert:
to generally regulate the prevention of the abuse of aged persons;