

Tuesday, 29 October 2024]

No 38 - 2024] FIRST SESSION, SEVENTH PARLIAMENT

PARLIAMENT OF THE PROVINCE OF THE WESTERN CAPE

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 29 OCTOBER 2024

COMMITTEE REPORT

(Negotiating mandate stage) Report of the Standing Committee on Social Development on the Older Persons Amendment Bill [B 11B–2022] (NCOP), dated 24 October 2024, as follows:

The Standing Committee on Social Development, having considered the subject of the Older Persons Amendment Bill [B 11B–2022] (NCOP) referred to the Committee in accordance with Standing Rule 217, confers on the Western Cape’s delegation in the NCOP the authority to support the Bill with the following amendments:

1. Amendment of section 1 of Act 13 of 2006

Section 1 of the Older Persons Act, 2006 (Act 13 of 2006), hereinafter referred to as the principal Act, the proposal for amendment is as follows:

Recommendation:

(c) an insertion of the definition of “ageism” with the following definition “discriminatory practices that refer to the stereotypes and prejudice directed towards others based on age in ways that may lead to harm, disadvantage and injustice”

(II) the insertion of the definition of the “Older Persons Forum”, which refers to a structure established in terms of the South African Older Persons Policy, 2005, to coordinate and advocate for matters relating to older persons.

2. Amendment of section 2 of Act 13 of 2006

Section 2 of the principal Act is hereby amended:

Recommendation:

Proposal for the amendment of section 2 to include:

Paragraph (c) “prevent and combat the practice of ageism against older persons”.

3. Amendment of section 3 of Act 13 of 2006

Section 3 of the principal Act:

Recommendation:

Section 3 of the principal Act should relate to “a licensed and/or accredited stakeholder in terms of the Older Persons Act and its regulations”

(d) by the addition of the following subsections after subsections (3): “(4) To achieve the implementation of this Act in the manner contemplated in subsections (1), (2) and (3), all public service facilities and service points providing services, including the private sector, must prioritise older persons.”

4. Amendment of section 4 of Act 13 of 2006

Section 4 of the principal Act:

Recommendation:

Section 4 should be amended in subsection (2) with the following subsection: “(2) all organs of state and stakeholders, including the private sector, must respect, protect and promote the rights of older persons contained in this Act.”

5. Insertion of sections 7A and 7B in Act 13 of 2006

An insertion in 7B:

Recommendation:

Protection of rights against abuse, of property, inheritance and bodily integrity of older persons and ageism practices against older persons 7B.

An older person has the right to protection against –

- (a) any form of abuse, violence, and discrimination based on gender.
- (b) abuse related to property and land rights; and
- (c) abuse related to the right to inheritance; abuse related to ageism.

6. Amendment of section 30 of Act 13 of 2003

Section 30 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

Recommendation:

(3) For subsection (2); sexual abuse, [psychological] emotional, verbal or psychological, harassment, spiritual abuse, economic abuse, discrimination based on ageism and–

(g) ageism means discriminatory practices that refer to the stereotypes and prejudice directed towards others based on age in ways that may lead to harm, disadvantage and injustice.

7. Clause 6

The Western Cape proposes that clause 6. 7A. (a), (b) and (c) be deleted.

Motivation:

Clause 6. 7A is not implementable and is therefore superfluous.

8. Clause 9

Prescribed training of caregivers for any person providing home-based care and frail care.

Recommendation:

To ensure compliance

- Costing of the training programme
 - Additional resources: human and financial for the roll-out of the training programme
- Support for NPOs.

9. Clause 10

Monitoring and evaluation of community-based care and support services (s22: residential facilities: visit and monitor).

Recommendation:

- Better guidance on frequency for uniformity.
- Provision of additional capacity and resources.

10. Clause 12

Registration of assisted-living facilities or similar facilities by the Department (additional responsibility).

Recommendation:

Provision of additional capacity and resources.

11. Clause 13

Closing of a residential or community-based facility service (unregistered or illegal community-based care or residential facility service).

Recommendation:

- Better guidance on roles and responsibilities of all organs of state responsible for executing this function.
- Spelt processes to be followed in the execution of this function.

12. Clause 15

Older person in need of care and protection and needs immediate emergency protection:

- Removal of an older person to temporary safe care

Recommendation:

Resourcing:

- Securing temporary safe care / emergency placements
- Temporary safe care / emergency placement fees.

13. Clause 15

Older persons with disabilities and chronic illnesses:

- Provision of older persons with family care or special care as and when appropriate.
- To obtain a court order within 48 hours for the placement of an older person in temporary safe care.

Recommendation:

- Reasonable accommodations: Ensure that older persons with disabilities receive reasonable accommodation, supported by appropriate staffing ratios, to meet their needs effectively.
- Clarification of care roles: Clearly define the roles and responsibilities in family-care and specialised-care settings to minimise ambiguity and to enhance collaboration between families and the state.
- Strengthening social work capacity: Invest in and enhance the capacity of social work services to support older persons better.
- Memorandum of understanding: Establish a memorandum of understanding (MOU) between the national Department of Social Development (DSD) and the Department of Justice to improve coordination and resources for the care and protection of older persons.

14. Section 25

The insertion of section 25(A) deals with the removal of an older person to temporary safe care without a court order in case an older person needs care and protection and needs immediate emergency protection with six-month time frame in temporary care and protecting those acting in good faith.

Recommendation:

- There should be clear guidance on the steps an older person can take after six months in a supportive environment. If abuse occurs at home, it is essential to consider how they can safely return to an environment where the abuse took place.
- This legislation must guarantee that abusers are removed from the home if they pose a threat to the older person. This protection is vital for ensuring the safety and well-being of vulnerable individuals.

15. Health matters

The Bill does not address health issues concerning older persons.

16. Tax benefits for seniors

Recommendation:

All pension income received by older persons should be tax-free. Throughout their working lives, pensioners contributed to the tax system (SARS), and they view the current taxation of their pensions as a form of double taxation on funds that have already been taxed. This taxation is perceived as a form of economic abuse that has an unfair impact on older individuals.

The proposed legislation should safeguard pensioners from this type of financial exploitation by ensuring they receive the full benefits of their hard-earned savings without additional tax burdens.

17. Funeral cover benefit for older persons

Pensioners who are members of the Government Employees Pension Fund (GEPF) are automatically entitled to a funeral benefit of R15 000 per member. However, many do not qualify for government old-age grants due to means testing. This is perceived by older persons as economic abuse, as it denies them the financial resources they rightfully deserve, and this is potentially due to discrimination.

To address this issue, recipients of the old-age grant should also have access to a complimentary funeral benefit, which could be set at R7 000 per recipient. This would help alleviate financial burdens during difficult times and ensure that all older persons receive the support they need.

In addition to this submission, the Standing Committee supports the submission made by the Western Cape Government to the NCOP Select Committee on Social Development on 16 October 2024 on the Older Persons Amendment Bill [B 11B–2022] (NCOP). (The submission is attached for reference.)