

REPORT OF THE PORTFOLIO COMMITTEE ON HEALTH AND SOCIAL DEVELOPMENT ON SOCIAL ASSISTANCE AMENDMENT BILL [B 8B-2018]

1. INTRODUCTION

The Speaker referred the **Social Assistance Amendment Bill [B8B-2018]** to the Portfolio Committee on Health and Social Development (the Committee) as per Rule 201 (1) of the Rules and Orders of the Mpumalanga Legislature for consideration and conferral of mandates; and to report back to the House in accordance with the Rules and Orders of the Mpumalanga Provincial Legislature.

In terms of Section 114 of the Constitution of the Republic of South Africa, 1996, (the Constitution) the Legislature is mandated to consider, pass, amend or reject any legislation or subordinate legislation in a form of either regulations or norms and standards referred to it. In considering this Bill, the Legislature is also mandated to facilitate public involvement in the legislative and other processes of the Legislature as per Section 118(1) of the Constitution. It is against this background that the Committee conducted public hearings to solicit inputs and views from members of the public on the above mentioned Bill.

2. OBJECTIVES OF THE BILL

The Purpose of the amendment of the bill is:

- To empower the Minister, with the concurrence of the Minister of Finance, to make additional amounts available to social grants;
- Implement the extended Child Support Grant (CSG) policy which was approved by Cabinet in December 2016;
- Regularise the practice of paying additional amounts on the Older Persons Grant (OPG) for those above 75 years old;
- Removal of the reconsideration provision in the Act;
- Facilitate the establishment of an Inspectorate for Social Assistance.

3. METHOD OF WORK

The Social Assistance Amendment Bill [B8B-2018] and its memorandum were referred to the Portfolio Committee on Health and Social Development by the office of the Speaker for consideration on 11 June 2020. The Committee met with the the NCOP Select Committee on Health and Social Services on 25 August 2020 for a briefing on the Social Assistance Amendment Bill. The public hearing was conducted after publishing an invitation on print media (Mpumalanga News, 013 News Mpumalanga, Mpumalanga Press, Provincial Media Khanyisa, and Newshorne News) in order to solicit inputs/comments from interested stakeholders and members of the public. The Bill was duly translated into languages most spoken in the province by the Hansard Section. The virtual public hearing was conducted on Friday, 11 September 2020, from 10h00 – 13h00. All relevant stakeholders were invited including the three (3) districts municipalities, namely, Ehlanzeni, Gert Sibande and Nkangala District Municipalities. The public hearing was also broadcasted live on the Mpumalanga Provincial Legislature Facebook and YouTube.

4. INTERACTION BY THE COMMITTEE WITH THE NATIONAL COUNCIL OF PROVINCES (NCOP): SELECT COMMITTEE ON HEALTH AND SOCIAL SERVICES

4.1. Briefing by the Departments of Health, Social Development and Women, Youth and Persons with Disabilities

The Department made a presentation on the Social Assistance Amendment Bill to the NCOP: Select Committee on Health and Social Services, where all Legislatures were invited to connect for the briefing. Due to movement restrictions as per the Lockdown regulations, it was workable and in the interest of time for the NCOP to have all relevant stakeholders briefed all at once by the department as opposed to it being done by the NCOP delegates in all nine provinces.

4.1.1. Introduction

The Bill was introduced to the National Assembly on the 13 April 2018. On 07 May 2019, the Bill lapsed in terms of Rule 333(2) of the National Assembly. It was revived by the National Assembly again on the 29 October 2019 for further engagements.

The Bill was subsequently considered by the Portfolio on Social Development and briefing on the same was held on 13 November 2019. The Summary of written submissions received on the Bill was presented before the Committee on the 19 February 2020 and public hearings were convened on 26 February 2020. The public comments received were fully supportive of the amendments proposed in the Bill.

The Committee approved the Bill on 11 March 2020, which was subsequently passed by the National Assembly and transmitted to the NCOP for concurrence on the 09 June 2020.

4.1.2. The key Policy Intervention

Legislative formulation of the extended Child Support Grant (CSG) policy

The key Policy Intervention is to increase the value of Child Support Grant (CSG) for orphans and children in child-headed households. The amendments to the Social Assistance Act is to empower the Minister of Social Development, with concurrence of the Minister of Finance to:

- a) Determine additional amounts payable on the existing grants.
- b) Make regulations for the qualifying criteria for these additional amounts.

This is not a new grant, but rather an approach that builds on the success of the existing CSG. The proposed increase (+50%), must be determined by the Minister of Social Development in concurrence with the Minister of Finance. The provision would be administered in the same manner as the current CSG, (normal application procedure as contemplated in the Social Assistance Act and Regulations).

4.1.3. Summary of provisions of the Bill

- **Clause 1** of the Bill seeks to insert certain definitions, and to substitute a definition, in section 1 of the principal Act (**Disaster, Disaster Management Act, Independent Tribunal, Person and Social Assistance**).
- **Clause 2** of the Bill seeks to amend section 4 of the principal Act, so as to make provision for **social relief of distress** i.e. over and above the provision of social grants.
- **Clause 3** of the Bill seeks to substitute section 6 of the principal Act, so as to provide for the payment of a social grant to a **child responsible** for a child-headed household.
- **Clause 4** of the Bill seeks to insert a new section 12A into the principal Act to empower the Minister, with the concurrence of the Minister of Finance, to prescribe an **additional payment linked to a social grant**. The Minister is further empowered, in prescribing an additional payment, to differentiate on the basis of need between beneficiaries of social grants.
- **Clause 5** of the Bill seeks to substitute section 13 of the principal Act. The proposed section 13 seeks to provide for persons to be eligible for social relief of distress if the person qualifies as prescribed. In addition, the section seeks to allow a **person to qualify for social relief of distress** if his or her household has been affected by a disaster. The section further provides for the Agency to disburse the social relief of distress as prescribed.
- **Clause 6** of the Bill seeks to amend section 14 of the principal Act in order to do away with a requirement for the Agency to reconsider its own decision. This is in view of the improved provisions relating to the internal appeals to the Independent Tribunal.
- **NB. Previously beneficiaries first had to exhaust the reconsideration mechanism within SASSA (for which a period of 90 days is allowed) before having access to the right to appeal to the Independent Tribunal (for which a further period of 90 days is allowed).**

- **Clause 7** of the Bill seeks to substitute section 18 of the principal Act, so as to provide anew for **appeals against decisions** of the Agency. The proposed section provides for the Minister to appoint members of the Independent Tribunal to hear appeals. The section further provides for the process of lodging of appeals and the consideration of appeals by the Independent Tribunal.
- **Clause 8** of the Bill seeks to amend section 24 of the principal Act in order to provide for the Inspectorate to be constituted as a **national Government component** in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994).
- NB. Section 24 (1) also incorrectly classifies the Inspectorate as a **government department versus government component**.
- **Clause 9** of the Bill seeks to amend section 29 of the principal Act in order to make further provision with regard to the powers of the Executive Director of the Inspectorate.
- **Clause 10** of the Bill seeks to amend section 32 of the principal Act, so as to make provision for the Minister to issue regulations in respect of certain matters to assist the implementation of the principal Act.
- **Clause 11** of the Bill seeks to make provision for transitional arrangements with regard to pending matters, once the Bill is promulgated as an Act of Parliament and it commences its operation, relating to decisions of the Agency and appeals to the Independent Tribunal.
NB. The Minister must, after consultation with Parliament, appoint an Independent Tribunal comprised of **appropriately qualified persons**.
- **Clause 12** of the Bill provides for the short title and commencement of the Act.
NB. **Social Assistance Amendment Act, 2020** and takes effect on a date fixed by the President by proclamation in the *Gazette*.

5. INPUTS BY STAKEHOLDERS

The following stakeholders were invited by the Committee to attend the public hearing held on 11 September 2020:

1. Kgoshi L Mokoena – Congress of Traditional Leaders of South Africa (CONTRALESA)
2. Ms BT Shongwe - MEC, HOD and relevant stakeholders from the Department of Social Development
3. Ms S Manzini - MEC, HOD Department of Health
4. Inkosi SG Ngomane - Chairperson of House of Traditional Leaders (HTL) and representatives from local houses
5. Legal Resources Centre (LRC) – Ms Sharita Samuel
6. South African Local Government Association (SALGA)
7. Commissioner of Public Service Commission (PSC) – Ms Salome Meso
8. Public Protector - Botromia Sithole
9. Commission for Gender Equality (CGE) Ms Molta Mavuso
10. South African Human Rights Commission (SAHRC) - Mr Eric Mokonyama
11. Disabled People of South Africa (DPSA)
12. Executive Mayors of the Districts, Speaker, Municipal Managers and Ward Councillors (Gert Sibande; Enhlanzeni, Nkangala Municipality)
13. Office of the Auditor General (AGSA)
14. Congress of South African Trade Unions (COSATU) Mr Thabo Mokoena
15. South African National Civic Organisation (SANCO)- Mr Thabo Motau
16. South African Women Lawyers Association (SAWLA) – Ms Xolile Ngwenya
17. National Democratic Lawyers Association (NADEL) – Ms Thenjiwe Nkosi
18. Black Lawyers Association – Ms Sunita Townsend
19. National Bar Council of South Africa – (NBCSA) – Adv SI Nkosi
20. Land and Accountability Research Centre (LARC)
21. Association For Rural Advancement (AFRA)
22. South African Women in Dialogue (SAWID)
23. Department of Justice – Ms Theresa Ross

During the public hearing, a presentation on the Social Assistance Amendment Bill was made by the committee. After the presentation, stakeholders who were present in the meeting were given an opportunity to make inputs on the Bill for consideration by the Committee as well as the National Council of Provinces when dealing with it. Live interviews on the Social Assistance Amendment Bill were conducted on radio stations around the province. The closing date for written submissions on the Bill was the 16th. September 2020.

The stakeholders who were part of the public hearing raised the following:

a) Mpumalanga Department of Health

The Mpumalanga Department of Health supported the promulgation of the Social Assistance Amendment Bill into law in order to address the gaps identified in the principal Act and also proposed addition to Section 7 of the amendment bill, which tends to amend Section 18 of the principal Act and reads as follows:

7. The following section is substituted for section 18 of the principal Act

“Appeal against decision of Agency” 18. (1)

(7) By addition in last sentence of: If it is satisfied that good cause exists for the Delay.

The proposed addition is to promote compliance in lodging appeals within the timeframe as prescribed in the principal Act.

b) Mpumalanga Office Public Service Commission (PSC)

The PSC submitted that it was in support of the Bill as proposed and that it was commendable that the Bill strives to reduce the burden somewhat placed on social workers and allow them to perform essential services of identifying children in need of support and care.

The PSC also appreciated that the Minister, in consultation with Parliament will appoint an independent Tribunal in a transparent, fair and unbiased manner and that the Inspectorate personnel must have appropriate capacity particularly legally and medically (forensic expects) to ensure that appeals are handled professionally.

c) Provincial Treasury

The Provincial Treasury appreciated the contents of the Bill and the fact that National Treasury has already considered the financial implications and have committed to funding, that is, an allocation was already provided over the 2019 MTEF period, growing to R1 billion in 2021/22 financial year. The Bill was therefore duly accepted.

d) SANCO Mpumalanga

Representing the civil society, the South African National Civic Organization (SANCO) appreciated that the Legislature took its time to consult the people on the Bill and supported the Bill as presented.

e) Disabled People of South Africa (DPSA)

The DPSA appreciated that the Bill was going to assist in fast-tracking the application time by approximately 90 days (three months) thereby ensuring that grants are being paid to deserving beneficiary faster than before. The Bill was duly accepted as presented.

6. OBSERVATIONS AND FINDINGS BY THE COMMITTEE

The Committee noted that the inputs made by stakeholders during the public hearing were generally positive and in favour of the Bill as proposed.

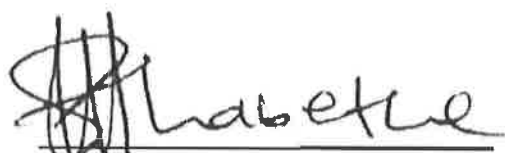
The simplified appeal process whereby applicants and beneficiaries will no longer have to exhaust the reconsideration mechanism within SASSA before having access to the right to appeal to the Independent Tribunal was applauded by the committee.

7. RECOMMENDATIONS

The Portfolio Committee on Health and Social Development supports the Social Assistance Bill [B 8B-2018], and confers on the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces a mandate to vote in favor of the Bill, without any proposed amendments.

8. CONCLUSION

The Chairperson wishes to thank the Honorable Members, all members of the public for their worthwhile participation in the public hearing and for the inputs or comments, all stakeholders for their efforts in ensuring that the committee meets its obligation and the support staff who contributed to the success of the public hearing and the production of this report.



HON JL THABETHE (MPL)
CHAIRPERSON: PORTFOLIO COMMITTEE
ON HEALTH AND SOCIAL DEVELOPMENT

06/10/2020
DATE

REF: 13/7/5/5/1/5