

PORTFOLIO COMMITTEE ON HEALTH AND SOCIAL DEVELOPMENT



NORTH WEST PROVINCIAL LEGISLATURE

REPORT ON THE SOCIAL ASSISTANCE AMENDMENT BILL [B8B - 2018]

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Acronyms

APP –	Annual Performance Plan
MTSF-	Medium-Term Strategic Framework
MTEF-	Medium Term Expenditure Framework
ECD –	Early Childhood Development
NPO –	Non Profitable Organisation
DSD-	Department of Social Development
OOP-	Office of the Premier
SASSA-	South African Social Security Agency
COVID-19	Corona Virus 2019

1. INTRODUCTION

The Portfolio Committee on Health and Social Development exercises oversight over the Department of Social Development. *The Constitution of the Republic of South Africa 1996* and the *PFMA 1999* creates a basis on which oversight by Legislatures should be accomplished.

2. PROCESS FOLLOWED

The Social Assistance Amendment Bill was formally referred by the Speaker, Honourable S.R. Dantjie to the Portfolio Committee on Health and Social Development for consideration and reporting.

The Portfolio Committee received a presentation from the Department of Health on the Social Assistance Amendment Bill, [B8B-2018] at a meeting held on the 16 September 2020. Following the briefing by the National Council of Provinces, the Committee embarked on a Virtual Public Hearing on media and social media networks due to Lockdown restrictions and regulations on the 23rd September 2020 held as follows;

3. OBJECTIVE OF THE SOCIAL ASSISTANCE AMENDMENT BILL [B8B-2018]

The objects of the bill include to facilitate the establishment of an Inspectorate for Social Assistance; to amend the Social Assistance Act 2004; so as to insert new definitions; to provide for additional payments to social grants; to provide for payment of benefits to a child-headed household; to provide for social relief of distress in the event of a disaster; to repeal the internal reconsideration process; to provide for an Independent Tribunal to consider appeals against decisions of the South African Social Security Agency; to provide for the establishment of the Inspectorate as a government component; to provide for matters connected therewith.

4. PRESENTATION BY DEPARTMENT OF SOCIAL DEPARTMENT

- 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 on the 29 October 2019.
- The Bill was subsequently considered by the Portfolio on Social Development and briefing on the same was held on 13 November 2019. 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.

Objects of the Bill:

- 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.

Extended CSG Policy:

- South Africa is faced with an increasing number of orphans.
- The vast majority of these orphans are raised in safe and secure environments, usually with grandparents or other family members.
- However, due to high levels of poverty in the country, the Foster Child Grant (FCG) has become the default grant (over the CSG).
- Some families taking care of orphans have managed to navigate the foster care system. However, the vast majority have not been able to access the foster care system due to overwhelming numbers.
- The FCG and foster care system was originally only designed for children in need of “care and protection” and cannot handle the huge influx as a result of the high number of orphans in the country.
- The implication is that the FCG, which was meant to be a temporary “child protection” measure, has become a permanent “poverty relief” benefit.

- As a result, it has clogged up the system of processing foster child benefit for social workers and for the justice system, resulting in administrative challenges and court interventions over the last decade.
- This has compromised access, as more vulnerable children may not be able to access the foster care system.
- The key policy intervention is to increase the value of CSG for orphans and children in child-headed households.
- 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).
- This would require neither a court process nor the associated social work process for placement
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Legislative Formulation of the Extended CSG Policy

- An amendment to the Social Assistance Act to empower the Minister of Social Development, with concurrence of the Minister of Finance to:
 - a) Determine additional amounts payable on the existing grants.
 Make regulations for the qualifying criteria for these additional amounts.

Removal of the Reconsideration Provision

- The current reconsideration mechanism within SASSA allows for an administrative review of the process of decision making within SASSA.

- This is over and above SASSA's own quality control processes and causes significant delays to access the right to appeal without any substantial value added.
- The amendments seeks to remove the reconsideration mechanism within SASSA and allow for direct access to an appeal to the Tribunal regarding a grant application or review by SASSA.
- The proposed amendments will ensure more stringent time frames for the finalisation of appeals by the Tribunal and reduce the time period in which an appeal must be finalized from 180 to 90 days.

The current internal reconsideration process provided for in s14 and s18 of the Social Assistance Act provides for an administrative review of the decision within SASSA relating to grant applications and reviews.

It determines that applicants and beneficiaries first have 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).

This is causing unnecessary delays for applicants and beneficiaries in accessing their right to appeal, and results in delayed access to administrative justice in that it has served only to add time to the process, without adding any real value.

Inspectorate for Social Assistance

- Section 24 of the Social Assistance Act provides for the establishment of the Inspectorate for Social Assistance.
- This section has however never been promulgated because the department was not ready to implement the function.
- Section 24 (1) also incorrectly classifies the Inspectorate as a government department.
- The department has finalised the business case for the Inspectorate (as a government component) and has obtained the necessary funding to establish it.
- The amendment seeks to change Section 24 (1) which designates the Inspectorate as a government department, to that of a government component.

Proposed Amendment of the Social Assistance Amendment Bill

- The B version [B 8B-2018] of the Bill was considered by the National Assembly and transmitted to the NCOP on 09 June 2020 for concurrence.
- The referral to the NCOP is attributed to the SAA Bill being classified as a S. 76 Bill.

- The PC on Social Development proposed the following amendment to the Bill: 18(1) The Minister must, after consultation with Parliament, appoint an Independent Tribunal comprised of appropriately qualified persons, as may be prescribed, to serve as members of the Independent tribunal, to consider appeals against decisions of the Agency contemplated in subsection (2), in the prescribed manner.

5. CONCERNS/INPUTS OF THE PORTFOLIO COMMITTEE

The Committee raised the following concerns/input after the presentation of the Social Assistance Amendment Bill, [B8B-2018]:

5.1 The committee raised a concern that the home affairs is not accessible to certain communities so they do not have documents.

5.2 Another concern the Committee raised is the shortage of social services practitioners and the department can recruit child protection organisations (NPOs) and employ their staff.

5.3 There is a backlog of foster care grants and placements. The department and SASSA could be supported with law, forensic auditing, and risk management.

5.4 The Committee also raised a concern of the spending and the risk of having no limit to the fund for the foster care grant.

5.5 The Committee also encouraged the use of civil society engagement and implementation.

5.6 The Committee also sought further clarity on the operations of the inspectorate. The memorandum of the bill does not speak to the financial implications but only of coordinating with the Minister of Finance.

5.7 The Committee called for intervention by the Minister with regard to child headed households.

5.8 The Committee notes that the establishment of the tribunal will alleviate the backlog and reconsideration process for appeal.

6. RECOMMENDATIONS OF THE PORTFOLIO COMMITTEE

The Committee recommends that;

6.1 The Department and SASSA must establish a unit that ensures that beneficiaries of foster care grants are assisted with career pathing and have programmes in place that enable them to plough back in community by utilizing skills that are needed in such communities.

6.2 SASSA must pay attention to the specialization of medical personnel that evaluates applicants for disability grants and the criteria that they use to discontinue the grant. The Department must have programmes in place to assist beneficiaries that have been discontinued from the grant.

7. PUBLIC INPUTS/CONCERNS

After the presentation by the Portfolio Committee, the public raised the following concerns:

Most comments that were sent forward by the public were regarding the fact they have not received their Social Security Grant.

8. ADOPTION OF THE BILL

The North West Province votes in favour of the bill and national department must ensure that the bill is not used for exploitative measures.

9. ACKNOWLEDGEMENTS

The Chairperson of Committee thanked all the present Members of the Legislature for their commitment to the oversight process of the Social Assistance Amendment Bill.

The Chairperson of Committee would also like to thank the support staff for contributing in compiling this report.

10. ADOPTION OF THE REPORT

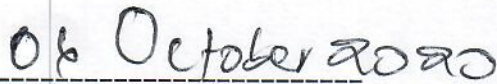
The Portfolio Committee recommends that the House approve the passing of the Social Assistance Amendment Bill, and mandate to the North West Permanent Delegate in the National Council of Provinces to vote in support of the Social Assistance Amendment Bill as tabled by the Minister of Social Development.

I present to this House, the report of the Portfolio Committee on Health and Social Development for consideration and adoption.



HON. T.P. WILLIAMS

CHAIRPERSON OF HEALTH AND SOCIAL DEVELOPMENT



DATE