

REPUBLIC OF SOUTH AFRICA

SOCIAL ASSISTANCE AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill published in Government Gazette No. 30891 of 28 March 2008)
(The English text is the official text of the Bill)*

(MINISTER OF SOCIAL DEVELOPMENT)

[B 17—2008]

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Social Assistance Act, 2004, so as to regulate afresh the eligibility of men for an older person’s grant; and to make further provision for the consideration of appeals against the Agency by an independent tribunal; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 10 of Act 13 of 2004

1. Section 10 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph: 5

“(b) in the case of a man, he has **[attained the age of 65 years]**—
 (i) after 1 April 2008, attained the age of 63 years;
 (iii) after 1 April 2009, attained the age of 61 years; or
 (iv) after 1 April 2010, attained the age of 60 years.”.

Amendment of section 18 of Act 13 of 2004 10

2. Section 18 of the principal Act is hereby amended—
(a) by the substitution for subsection (2) of the following subsection:

“(2) The Minister may, **after considering**—
(a) upon receipt of the applicant’s written appeal and the Agency’s reasons for the decision, [— 15
(a)] confirm, vary or set aside that decision; or
(b) appoint an independent tribunal to consider **[the] an** appeal contemplated in subsection (1) in accordance with such conditions as the Minister may prescribe by notice in the *Gazette*, and that tribunal may, after consideration of the matter, confirm, vary or set aside that decision or make any other decision which is just.”; and 20

(b) by the addition of the following subsection:
 “(3) If the Minister has appointed an independent tribunal in terms of subsection (2)(b) all appeals contemplated in subsection (1) must be considered by that tribunal.”. 25

Short title

3. This Act is called the Social Assistance Amendment Act, 2008.

MEMORANDUM ON THE OBJECTS OF THE SOCIAL ASSISTANCE AMENDMENT BILL, 2008

1. BACKGROUND

During the State of the Nation Address, the President indicated that Government would equalise the age of eligibility for the old age grant between men and women. When implemented, men would also be able to access the old age grant when they attain the age of 60 years. The Inter-Ministerial Committee for Social Security has since met to plan the implementation of this policy. On 20 February 2008, during his budget speech, the Minister of Finance announced that men of certain ages would, with effect from 1 April 2008, qualify for an old age grant.

2. OBJECTS OF BILL

- 2.1 The Social Assistance Act, 2004 (Act No. 13 of 2004) (the Act), currently provides that women are eligible for the old age grant when they attain the age of 60 years and men when they attain the age of 65 years. The Bill seeks to equalise the ages of eligibility for men and women over a period of time, as suggested by the Minister of Finance in his budget speech.
- 2.2 The Act currently provides that the Minister may consider an appeal against a decision of the South African Social Security Agency or that he or she may appoint an independent tribunal to consider such an appeal. The Bill seeks to rephrase the provision and to add that if the Minister appoints such a tribunal, all appeals against decisions of the Agency must from then on be considered by that tribunal.

3. CONSULTATION

South African Social Security Agency.

4. FINANCIAL IMPLICATIONS FOR STATE

The National Treasury has approved the budget to meet the cost of the age equalisation.

5. PARLIAMENTARY PROCEDURE

- 5.1 The State Law Advisers and the Department of Social Development are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely "Welfare services".
- 5.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.