

REPUBLIC OF SOUTH AFRICA

SOCIAL ASSISTANCE AMENDMENT BILL

*(As amended by the Portfolio Committee on Social Development (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF SOCIAL DEVELOPMENT)

[B 5B—2010]

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vary or set aside that decision.] application to the Agency requesting the Agency to reconsider its decision in the prescribed manner.

(1A) If an applicant or a beneficiary disagrees with a reconsidered decision made by the Agency in respect of a matter contemplated in subsection (1), that person or a person acting on his or her behalf may, within 90 days of his or her gaining knowledge of that decision, lodge a written appeal with the Minister against that decision, setting out the reasons why the Minister should vary or set aside that decision. 5

(2) The Minister may—

(a) upon receipt of the applicant's or beneficiary's written appeal and the Agency's reasons for the decision confirm, vary or set aside that decision; or 10

(b) appoint an independent tribunal to consider an appeal contemplated in **[subsection (1) in accordance with such conditions as the Minister may prescribe by notice in the *Gazette*]** subsection (1A) in the prescribed manner and that tribunal may, after consideration of the matter, confirm, vary or set aside that decision **[or make any other decision which is just]**. 15

(3) If the Minister has appointed an independent tribunal in terms of subsection (2)(b) all appeals contemplated in subsection [(1)] (1A) must be considered by that tribunal. 20

(4) Notwithstanding subsection (1A), the independent tribunal may in the prescribed manner condone any late application by an applicant or a beneficiary.”.

Short title

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4. This Act is called the Social Assistance Amendment Act, 2010.

**MEMORANDUM ON THE OBJECTS OF THE
SOCIAL ASSISTANCE AMENDMENT BILL, 2010**

1. PURPOSE OF BILL

The Bill seeks to—

- allow both applicants and beneficiaries an opportunity, before appealing to the independent tribunal, to request the South African Social Security Agency (the Agency) to reconsider its decisions in order to expedite the resolution of disagreements between applicants, beneficiaries and the Agency;
- allow beneficiaries an opportunity to appeal against a decision of the Agency;
- make provision for the consideration of appeals by the independent tribunal in a manner to be prescribed by regulation; and
- effect certain consequential amendments and to effect certain textual corrections.

2. DEPARTMENTS/BODIES/PERSONS CONSULTED

- The Agency.
- The National Department of Health.
- The Social Sector Cluster of the Forum of South African Directors General.
- The South African Federal Council on Disability.
- South African Disability Alliance.

3. FINANCIAL IMPLICATIONS FOR STATE

The cost in respect of the health professionals that are required to implement the provisions of the Bill is to be determined by the Department of Health. The initial training of 400 officials was conducted by the Department of Social Development at a cost of R462 683. It was estimated that the Department of Health will require R2 million to train 1 000 officials at 400 health facilities across the country.

4. PARLIAMENTARY PROCEDURE

- 4.1 The State Law Advisers and the Department of Social Development are of the opinion that this Bill should be dealt with in terms of the procedure prescribed by the provisions of 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”.
- 4.2 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.