

REPUBLIC OF SOUTH AFRICA

PORTFOLIO COMMITTEE AMENDMENTS

TO

OLDER PERSONS

AMENDMENT BILL

[B 11—2022]

*(As agreed to by the Portfolio Committee on Social Development
(National Assembly))*

[B 11A—2022]

ISBN 978-1-4850-xxxx-x

AMENDMENTS AGREED TO

OLDER PERSONS AMENDMENT BILL
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CLAUSE 1

- On page 2, from line 13, to omit the definition of “care” and to substitute:

“**‘care’** means physical, psychological, social, or material assistance to an older person, and includes services aimed at promoting **[the]** and maintaining the comfort, quality of life and general well-being of an older person;”.
- On page 2, from line 19, to omit the definition of “caregiver” and to substitute:

“**‘caregiver’** means—
(a) a family member who provides family care; or
(b) any other person who provides care and support services at a community-based care facility, residential facility or similar facility and who possesses a qualification accredited in terms of the National Qualifications Framework, appropriate for the care of older persons;”.
- On page 2, from line 28, to omit paragraph (e) and to substitute:

“(e) by the insertion after the definition of “Director-General” of the following definition:
“**‘family care’** means the provision of support and assistance by family members to an older person including one who is frail or living with disabilities;””.
- On page 3, in line 4, to omit “provisioning” and to substitute “provision”.
- On page 3, in line 11, to omit “and South African Police Services” and to substitute “, National Prosecuting Authority, South African Police Service”.
- On page 3, in line 13, to omit “stakeholder” and to substitute “other organ of state”.
- On page 3, from line 29, to omit the definition of “private residential facility” and to substitute:

“**‘private residential facility’** means a residential facility that is not owned by the state and that is registered in terms of any applicable law;”.
- On page 3, after line 47, to insert the following definition:

“**‘special care’** means customised care and support tailored to meet the unique needs and challenges faced by the older person;”;

9. On page 3, after line 50, to insert the following definition:

“‘**substance**’ means a substance as defined in section 1 of the Prevention of and Treatment for Substance Abuse Act, 2008 (Act No. 70 of 2008);”.

CLAUSE 3

1. On page 4, after line 20, to insert the following subsection:

“(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 must prioritise older persons.”.

CLAUSE 5

1. On page 4, in line 43, to omit “harmful”.

CLAUSE 6

1. On page 4, in line 49, to omit “An older person may not be denied the right to” and to substitute “Older persons have the responsibility to”.
2. On page 5, from line 1, to omit “**Protection of rights to property, inheritance and physical abuse of older person**” and to substitute “**Protection of rights against abuse, to property, inheritance and bodily integrity of older person**”.
3. On page 5, in line 4, to omit paragraph (a) and to substitute:

“(a) any form of abuse, violence and discrimination based on gender;”

CLAUSE 7

1. On page 5, from line 12, to omit “non-communicable chronic” and to substitute “all”.

CLAUSE 8

1. On page 5, after line 41, to insert the following paragraph:

“(d) by the addition of the following subsection:

“(5) Any person who contravenes or fails to comply with the provisions of this section is guilty of an offence.”

CLAUSE 10

1. On page 6, in line 8, to omit “may” and to substitute “must”.

CLAUSE 13

1. On page 7, after line 23 to insert the following paragraph:

“(4) Any person who contravenes or fails to comply with any provision of this section is guilty of an offence.”

CLAUSE 14

1. On page 7, after line 25, to insert the following paragraph:

“(a) by the substitution for paragraph (a) of subsection (5) for the following paragraph:

“(a) has his or her income, assets or [old age] older person’s grant taken against his or her wishes or who suffers any other economic abuse;”;

CLAUSE 15

1. On page 8, from line 24, to omit “as contemplated in section 27(1)(b) of the Social Service Professions Act, 1978 (Act No. 110 of 1978),”.

CLAUSE 16

1. On page 9 in line 17, to omit “modifications” and to substitute “changes”.

CLAUSE 18

1. On page 9, from line 48, to delete paragraph (a) and to substitute:

“(a) by the substitution for subsection (3) of the following subsection:

“(3) For the purposes of subsection (2), ‘abuse’ includes physical, sexual, [psychological] emotional, verbal or psychological, harassment, spiritual abuse and economic abuse and—

(a) ‘physical abuse’ means any act or threat of physical violence towards an older person, including unlawful detention, medical sedation or shackling, deprivation of nutrition or medical care, neglect or exploitation of an older person in any manner;

(b) ‘sexual abuse’ means any conduct that violates the sexual integrity of an older person and includes an act of sexual penetration or sexual violation as defined in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);

(c) [‘psychological abuse’ means any pattern of degrading or humiliating conduct towards an older person, including

(i) repeated insults, ridicule or name calling;

(ii) repeated threats to cause emotional pain; and

(iii) repeated invasion of an older person’s privacy, liberty, integrity or security] ‘emotional, verbal or psychological abuse’ means emotional, verbal and psychological abuse as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998) (“Domestic Violence Act”);

- (d) **‘economic abuse’** means—
- (i) the deprivation of economic and financial resources to which an older person is entitled under any law;
 - (ii) the unreasonable deprivation of economic and financial resources which the older person requires out of necessity; or
 - (iii) the disposal of household effects or other property that belongs to the older person without the older person’s consent;
- (e) **‘harassment’** means harassment as defined in section 1 of the Domestic Violence Act;
- (f) **‘spiritual abuse’** means spiritual abuse as defined in section 1 of the Domestic Violence Act.”.

CLAUSE 20

1. On page 10, in line 15, to omit paragraph (a) and to substitute:

“(a) section 12(2), 13(5), 14(4), 18(1), 18(8), 18(9), 18A(4), 19(4), 22(5)(a), (b) or (c), or 28(6)(a) or (b) is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment;”.

NEW CLAUSE

1. The following new clause to follow clause 21:

Transitional provision

22. “Any person operating a community-based care and support service, home-based care or residential facility as a sole proprietor immediately before this Act took effect, must within 12 months from the date on which this Act took effect, convert the sole proprietorship to a juristic person.”

