

OFFICE OF THE PRESIDENT

No. 2119 9 December 1994

NO. 44 OF 1994: AGED PERSONS AMENDMENT ACT, 1994.

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

General Explanatory Note:

Words in *bold italic* indicate omissions from existing enactments.

Words in *italic* indicate insertions in existing enactments.

ACT

To amend the Aged Persons Act, 1967, so as to insert, delete or amend certain definitions; to further regulate the registration of homes for the aged; to further regulate the delegation of certain powers; to increase penalties; to regulate anew the Minister's power to make regulations; to amend or repeal certain obsolete provisions; and to repeal certain discriminatory provisions; and to provide for matters connected therewith.

(Afrikaans text signed by the President.) (Assented to 25 November 1994.)

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

Amendment of section I of Act 81 of 1967, as amended by section I of Act 14 of 1971, section 4 of Act 97 of 1972, section 21 of Act 37 of 1973 and section I of Act 46 of 1976

1. Section I of the Aged Persons Act, 1967 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the insertion in subsection (1) after the definition of "debilitated person" of the following definition:
" *Director-General* means the *Director-General: Welfare*";

(b) by the substitution in subsection (1) for the definition of "magistrate" of the following definition: " 'magistrate' includes an additional and an assistant magistrate **and also a Commissioner and an additional and an assistant Commissioner**";

(c) by the substitution in subsection (1) for the definition of "Minister" of the following definition: *Minister* means the *Minister for Welfare and Population Development*";

(d) by the substitution in subsection (1) for the definition of "registered welfare organization" of the following definition: " 'registered welfare organization' means a welfare organization registered or deemed to be registered in terms of the National Welfare Act, **1965 (Act No. 79 of 1965) 1978 (Act No. 100 of 1978)**";

(e) by the insertion in subsection (1) after the definition of "registered welfare organization" of the following definition: " *social worker* means any person who is registered as a social worker under the Social Work Act, 1978 (Act No. 110 of 1978), and who is in the service of the State";

(f) by the deletion in subsection (1) of the definitions of "Republic", "Secretary", "social welfare officer" and "the territory"; and

(g) by the substitution for subsection (2) of the following subsection: "(2) The provisions of this Act shall not apply in respect of any place or part of a place registered or maintained in terms of any law as a hospital or clinic or in respect of which a hotel liquor licence *or an accommodation establishment on-consumption licence* has been issued and is in force in terms of the Liquor Act, 1928 (Act No. 30 of 1928), or the Liquor Ordinance, 1969 (Ordinance No. 2 of 1969), of the territory (as the case may be) 1989 Act No. 27 of 1989."

Substitution of section 2 of Act 81 of 1967, as amended by section 5 of Act 97 of 1972 and section 21 of Act 37 of 1973

2. The following section is hereby substituted for section 2 of the principal Act:

"Establishment and maintenance of homes for the aged, payment of subsidies to homes for the aged and certain clubs, service centres and welfare organizations

2. The Minister may, subject to the provisions of this Act and with the concurrence of the Minister of Finance, out of moneys appropriated by Parliament for that purpose-

(a) establish and maintain homes for the aged;

(b) pay subsidies to the managers of registered homes for the aged, clubs and service centres for aged persons and registered welfare organizations providing welfare services to aged and debilitated persons. "

Amendment of section 3 of Act 81 of 1967

3. Section 3 of the principal Act is hereby amended-

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

"(3) After consideration of an application referred to in subsection (2) the Minister *may in his discretion shall-*

(a) refuse the application or grant it subject to such conditions as he *or she* may *deem fit* determine, and if he or she grants it, direct that a registration certificate specifying those conditions be issued to the applicant in the prescribed form; or

(b) subject to such conditions as he *or she* may *deem fit* determine, grant authority to the applicant to manage the home for the aged for such period (not exceeding 12 months) as the Minister may determine, and direct that a registration certificate specifying those conditions be issued to the applicant in the prescribed form for that period, and after expiration of the said period, or after notice by the applicant in the prescribed manner that the said conditions have been complied with, whichever may occur first, reconsider the application."; and

(b) by the substitution for subsection (8) of the following subsection:

"(8) The manager of a home for the aged which immediately prior to the date of commencement of this section is being subsidized by the State, shall be entitled to have such home registered in terms of subsection (3)(a) subject to such conditions as the Minister may *deem fit determine*."

Amendment of section 5 of Act 81 of 1967

4. Section 5 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) The provisions of the Criminal Procedure Act, **1955 (Act No. 56 of 1955)** 1977 (*Act No. 51 of 1977*), in relation to the form and manner of service of summonses in criminal cases in lower courts, the time to be allowed to a person summoned to appear, and the manner in which persons who have been summoned to appear, may be dealt with if they fail to appear or to remain in attendance, as required, shall mutatis mutandis apply in respect of summonses issued in terms of this section."

Amendment of section 6 of Act 81 of 1967, as amended by section 3 of Act 46 of 1976

5. Section 6 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) The provisions of section **156(1)** *159(1)* of the Criminal Procedure Act, **1955 (Act No. 56 of 1955)** 1977 (*Act No. 51 of 1977*), in so far as they relate to the conduct of a criminal trial in the absence of an accused, shall mutatis mutandis apply in respect of an enquiry held in terms of this section."

Substitution of section 18 of Act 81 of 1967, as amended by section 16 of Act 98 of 1969

6. The following section is hereby substituted for section 18 of the principal Act:

"Delegation

18.(1) The Minister may, on such conditions as he or she may determine, in writing delegate to the Director-General or any other officer in the service of the State, any power conferred upon the Minister by or under this Act, except a power referred to in section 20.

(2) The Director-General may, on such conditions as he or she may determine, delegate to an officer in the service of the State, any power conferred upon the Director-General by or under this Act or delegated to him or her under subsection (1).

(3) The Minister or Director-General shall not be divested of any power delegated by him or her, and may amend or set aside any decision taken by a person in the exercise of such power delegated to him or her."

Substitution of section 19 of Act 81 of 1967

7. The following section is hereby substituted for section 19 of the principal Act:

"Penalties

19. Any person convicted of any offence in terms of any provision of this Act shall be liable to a fine **/not exceeding one hundred rand** or to imprisonment for a period not exceeding **three** 12 months, or to both such fine and such imprisonment."

Substitution of section 20 of Act 81 of 1967, as amended by section 8 of Act 86 of 1970, section 3 of Act 14 of 1971 and section 21 of Act 37 of 1973

8. The following section is hereby substituted for section 20 of the principal Act:

"Regulations

20. *The Minister may make regulations regarding-*

(a) the form of any application, authority, certificate, consent, notice, order, register, process or subpoena which is to or may be made, granted, given, issued or kept in terms of this Act, and any other form required in administering the provisions of this Act;

(b) the procedure to be followed and the conditions which may be imposed in connection with the registration of homes for the aged, and the minimum standards with which such homes are to comply;

(c) the books, accounts and registers which are to be kept by the managers of registered homes for the aged, the manner in which such books, accounts and registers are to be kept and dealt with, and the returns and reports to be furnished in connection with such homes for the aged;

(d) the records to be kept by any person who cares for or accom-modates for remuneration, whether by way of money or goods, any aged or debilitated person in any place other than a registered home for the aged;

(e) any matter which in terms of this Act is required or permitted to be prescribed; generally, any matter in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve the objectives of this Act, and the generality of this provision shall not be limited by the preceding paragraphs."

Repeal of sections 21 and 21A of Act 81 of 1967

9. Sections 21 and 21A of the principal Act are hereby repealed.

Amendment of section 23 of Act 81 of 1967

10. Section 23 of the principal Act is hereby amended by the deletion of subsection (2).

Substitution of certain expressions

11. The principal Act is hereby amended-

(a) by the substitution in sections 3(7), 4 and 5 for the expression "social welfare officer", wherever it occurs, of the expression "social worker"; and

(b) by the substitution in section 4(2) for the expression "Secretary" of the expression "Director-General".

Short title and commencement

12. This Act shall be called the *Aged Persons Amendment Act, 1994*, and shall come into operation on a date fixed by the President by proclamation in the Gazette.
