

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**SOUTH AFRICAN SOCIAL
SECURITY AGENCY BILL**

[B 51—2003]

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

[B 51A—2003]

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AMENDMENTS AGREED TO

SOUTH AFRICAN SOCIAL SECURITY AGENCY BILL
[B 51—2003]

CLAUSE 1

1. On page 4, from line 4, to omit the definition of “service providers”.
2. On page 4, after line 3, to insert:

“social assistance” means social assistance as defined in section 1 of the Social Assistance Act, 2003;
“social insurance” means contribution based benefit payments aimed at income maintenance;
“social security” includes both social assistance and social insurance;.
3. On page 4, in line 7, to omit “any regulation made in terms of section 22” and to substitute “the regulations”.

CLAUSE 3

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Objects of Agency

3. The objects of the Agency are to—
 - (a) act, eventually, as the sole agent that will ensure the efficient and effective management, administration and payment of social assistance;
 - (b) serve as an agent for the prospective administration and payment of social security; and
 - (c) render services relating to such payments.

CLAUSE 4

Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow on clause 3:

Functions of Agency

4. (1) The Agency must—
 - (a) administer social assistance in terms of chapter 3 of the Social Assistance Act, 2003 and perform any function delegated to it under that Act;
 - (b) collect, collate, maintain and administer such information as is necessary for the payment of social security, as well as for the central reconciliation and management of payment of transfer

funds, in a national data base of all applicants for and beneficiaries of social assistance;

- (c) establish a compliance and fraud mechanism to ensure that the integrity of the social security system is maintained; and
- (d) render any service in accordance with an agreement or a provision of any applicable law as contemplated in subsection (4).

(2) The Agency may—

- (a) with the concurrence of the Minister enter into an agreement with any person to ensure effective payments to beneficiaries, and such an agreement must include provisions contemplated in subsection (3).
- (b) do anything necessary for the realisation of the Agency's objects.

(3) The agreement contemplated in subsection 2(a) must include provisions to ensure—

- (a) the effective, efficient and economical use of funds designated for payment to beneficiaries of social security;
- (b) the promotion and protection of the human dignity of applicants for and beneficiaries of social security;
- (c) the protection of confidential information held by the Agency other than as is contemplated in section 17;
- (d) honest, impartial, fair and equitable service delivery;
- (e) mechanisms to regulate community participation and consultation; and
- (f) financial penalties for non-compliance with the provisions of the agreement.

(4) The Agency may in terms of any applicable law or any agreement between itself and any other relevant authority, responsible for the provision of forms of social security, other than social assistance, administer, evaluate and verify any application for such forms of social security and effects payment in respect thereof.

CLAUSE 5

1. On page 5, in line 4, after “a”, to insert “fit and proper and suitably qualified”.
2. On page 5, in line 4, to omit “with suitable qualifications”.

CLAUSE 6

1. On page 5, in line 21, to omit “an annual report” and to substitute:
reports in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999)
2. On page 5, in line 32, to omit “or assign”.
3. On page 5, in line 34, to omit “or assignment”.
4. On page 5, in line 35, to omit “or assign”.
5. On page 5, in line 36, to omit “or further assign”.
6. On page 5, in line 37, to omit “or assignment”.
7. On page 5, in line 42, to omit “or assignment”.
8. On page 5, in line 45, to omit “or assignment”.

9. On page 5, after line 45, to add:

(7) The Minister may override any decision taken by the Chief Executive Officer.

CLAUSE 7

1. On page 5, in line 47, to omit “such”.
2. On page 5, in line 48, to omit “as may be necessary for the efficient and effective performance of the functions of the Agency”.
3. On page 5, in line 50, after “Administration” to insert:

in consultation with the Minister and the Minister of Finance
4. On page 5, in line 52, to omit “core benefits and to substitute “conditions of service”.
5. On page 5, after line 55, to insert:

(3) The Minister must after consultation with the Chief Executive Officer determine a code of conduct, applicable to all members of staff of the Agency and justiciable for purposes of disciplinary proceedings, to ensure—

- (a) compliance with applicable law;
- (b) the effective, efficient and economical use of the Agency’s resources;
- (c) the effective, efficient and economical use of funds designated for payment to beneficiaries of social security;
- (d) the promotion and protection of the human dignity of applicants for and beneficiaries of social security;
- (e) the promotion and maintenance of a high standard of professional ethics;
- (f) the prevention of conflicts of interest other than those contemplated in section 8;
- (g) the protection of confidential information held by the Agency other than as is contemplated in section 17; and
- (h) honest, impartial, fair and equitable service .

CLAUSE 8

1. On page 6, from line 31, to omit subsections (7) and (8).

CLAUSE 11

1. On page 7, in line 13, to omit “Annual report” and to substitute “Reporting”.
2. On page 7, in line 14, after “(1)”, to insert “(a)”.
3. On page 7, after line 16, to insert:

(b) Notwithstanding subsection (1), the Agency must submit in addition to its reports, such further reports as the Minister may require.

CLAUSE 12

Clause rejected.

CLAUSE 17

1. On page 8, after line 9, to insert:
 - (2) (a) No person may disclose any information kept in the register contemplated in section 8(6) unless such disclosure is—
 - (i) in terms of any law that compels or authorises such disclosure;
 - (ii) materially necessary for the proper functioning of the Agency;or
 - (iii) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Agency;
 - (b) Where a disclosure contemplated in paragraph (a) is to be made, the person concerned must be informed thereof timeously.
2. On page 8, in line 10, after “(1)” to insert “or (2)(a)”.

CLAUSE 20

1. On page 8, after line 27, to add:
 - (3) Any person who falsely claims that he or she is authorised to charge or collect fees on behalf of or by direction of the Agency, is guilty of an offence.

CLAUSE 21

1. On page 8, in line 30, to omit “two” and to substitute “15”.

CLAUSE 22

1. On page 8, in line 32, after “Minister” to insert:

must make regulations regarding any matter that must be prescribed in terms of this Act and
2. On page 8, in line 33, to omit “must or”.
3. On page 8, in line 33, to omit paragraph (b) and to substitute:
 - (b) the establishment and operations of the compliance and fraud mechanism contemplated in section 4(1)(c);.

CLAUSE 23

1. On page 8, in line 39, to omit “Employees” and to substitute “Transfer of staff”.
2. On page 8, in line 40, to omit “employees” and to substitute “staff”.

NEW CLAUSE

1. That the following be a new Clause:

Transfer of social assistance administration to Agency

24. The Minister must, after consultation with the Minister of Finance and the Minister of Public Service and Administration, and in the spirit of co-operative government envisaged in Chapter 3 of the Constitution, enter into memoranda of understanding with the respective members of executive councils of provinces responsible for the administration of social assistance in terms of the Social Assistance Act, 1992, insofar as it has been assigned to the provincial sphere of government, in order to ensure that—

- (a) the payment of social assistance contemplated in the Social Assistance Act, 2003, is in future exclusively performed by the Agency;
- (b) the right to social assistance to recipients thereof in terms of the Social Assistance Act, 1992, is not in any way interrupted, discontinued or decreased;
- (c) the transfer of the social assistance function to the Agency contemplated in paragraph (a) does not in any way cause discomfort, stress or an interruption of payments to recipients thereof;
- (d) the transfer of the function does not negatively impact on the effective, efficient and economical use of resources at both national and provincial level;
- (e) the matters contemplated in sections 23 and 24 are adequately provided for at administrative level;
- (f) adequate and appropriate capacity and mechanisms exist to effect an effortless transfer of the social assistance administration and ancillary matters to the Agency;
- (g) adequate provision has been made in respect of budgetary matters affecting the transfer of the social assistance administration to the Agency.

LONG TITLE

Long Title rejected.

1. That the following be a new Long Title:

To provide for the establishment of the South African Social Security Agency as an agent for the administration and payment of social assistance; to provide for the prospective administration and payment of social security by the Agency and the provision of services related thereto; and to provide for matters connected therewith.

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