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Committee Services

FREE STATE LEGISLATURE

Our reference:
Ons verwysing:
Tshupo ya rona:

SOCIAL DEVELOPMENT AND HEALTH PORTFOLIO COMMITTEE

Report on negotiating mandate on OLDER PERSONS BILL [B68-2003]

1. Terms of Reference

The Older Persons Bill [68-2003] has been referred to the Social Development and Health Committee by the Prioritising Committee.

2. Briefing

- (a) On 05 August 2004, Advocate J. Machaka of the Legislature's Legal Unit briefed the Committee on the legal substance and effects of the Bill.

The Committee was informed that the Bill deals effectively with the plight of older persons by establishing a framework aimed at the empowerment and protection of older persons and at the promotion and maintenance of their status, rights, well being, safety and security; and to provide for matters connected therewith.

- (b) On 05 August 2004, Mr T. Setona, Permanent Delegate to the NCOP briefed the Committee on the content of the Bill.

3. Consultation

The Committee considered the scope of consultation on the Bill, and resolved that:

- (a) Public Hearings should be conducted and stakeholders be provided with copies of the Bill.

4. Inputs received

- (a) Inputs were received from the following stakeholders;
- Thekolohelong Old Age Home in Phuthaditjhaba
 - NG Social Services- Free State.

(b) Public hearings were held at Fourth Raadsaal, Bloemfontein on 10 August 2004.

5. **Consideration**

The Committee considered the Bill, inputs and information received.

The following amendments were proposed by the Committee.

Clause 1

Page 4 to delete the definition of "owner" and to insert "operator" means a person who operates a facility.

Motivation: Owners of facilities who are merely landlords should be excluded from obligations under the Bill.

The word "operator" has been taken from "operate" under sub-clauses clause 5(1) and (2) is wide enough to include person who is not necessary an owner, but it may include the owner if such owner also operates.

Clause 2(2)

Page 4 to delete "The programmes referred to in subsection (1) are programmes aimed at" and to substitute "The aim of programmes referred to in subsections (1) and (2) include".

Motivation: It is unlikely that a closed list of programmes in this chapter will adequately deal with all needs as they change over time. See also the proposed clause 2(1) (b) in terms of which a new sub-clause (2) is proposed.

Clause 2(1) (a)

Page 4 to delete sub-clause "(1) (a)" to substitute "(1). The Minister must, in consultation with any other relevant Minister, develop programmes contemplated in subsection (3) or cause such programmes to be developed".

Motivation: The proposed amendment ensures an obligation on the part of the Minister to develop programmes under clause 2(1) (a).

Clause 2(1) (b)

Page 4 to delete sub-clause "(1) (b)" and to substitute a new sub-clause "2. The Minister may, in consultation with any other relevant Minister, support any person who runs programmes contemplated in subsection (3)".

Motivation: It is a consequential amendment arising from an amendment to clause 2(1) (a) above.

Clause 2(2)

Page 4 to delete "(2)" and to substitute "(3)", and to delete "subsection (1)" and to substitute "subsections (1) and (2)".

Motivation: It is a consequential amendment arising from an amendment to clause 2(1) (a) above.

Clause 4(3)

Page 5 to delete after "Council" to insert "responsible for social development in a province".

Motivation: See clause 3(2).

Clause 5[Heading]

Page 5 before "operation" to insert "management or".

Motivation: The word "management" should be retained in the heading in addition to "operation" as the two words are separated under sub-clause (1). Had it not been proposed that the word "own" be deleted, it would have been proposed that the word should also form part of the heading. The word "own" has also been separated from "operation" under sub-clause (1).

Clause 5(1) (a)

Page 5 to delete "own,".

Motivation: Ownership of property alone does not translate into involvement in the activities under the Bill. However, the Bill creates legal obligations for registered owners who may merely be landlords.

Clause 5(2)

Page 5 to delete "own,"

Motivation: See proposed clause 5(1) (a).

Clause 7

Page 6 to delete "owner" and to substitute "operator".

Motivation: See proposed clause 1.

Clause 9

Page 7 after sub-clause 3 to insert a new sub-clause (4) and the current sub-clause (4) becoming sub-clause (5). The new sub-clause (4) reads "No person may be admitted to a facility without his or her consent."

Motivation: This is proposed to ensure protection of older persons.

Clause 9(4)

Page 7 to delete "subsection (1)" and to substitute "subsections (1) and (4)".

Motivation: It is a consequential amendment arising from the insertion of the new sub-clause (4).

Clause 9(3)

Page 7 after "reasons", to insert "in writing".

Motivation: The reasons should be provided in writing as proof of refusal to admit a person to a facility.

Clause 10(1) (b)

Page 7 after "person" to insert "cared for or".

Motivation: See clause 10(1) (a) in the Bill.

Clause 10(3) (b)

Page 7 after "person" to insert "cared for or".

Motivation: See clause 10(1) (a) in the Bill.

Clause 14(1)

Page 8 to delete "a written statement under oath" and to substitute "an affidavit".

Motivation: The word "affidavit" is wider as it includes affirmation.

Clause 14(3)

Page 8 to delete "a statement under oath" and to substitute "an affidavit".

Motivation: See proposed 14(1).

Clause 17(2)

Page 10 to delete "own,"

Motivation: See proposed clause 1.

Clause 20(b)

Page 11 after "9(4)" to insert "or (5)".

Motivation: It is proposed to provide for a penalty for contravention of the proposed sub-clause (4)

Clause 24

Page 8 to delete "2003" and to substitute "2004".

Motivation: The Act will probably be passed during 2004.

6. Resolutions

The Committee resolved that:

- (1) The following negotiating mandate be conferred.

To support the Bill but to negotiate the amendments.

- (2) Mr T. Setona, be designated as Permanent Delegate to attend the interprovincial negotiation meeting on the Bill.

7/08/2004 09:56

Signed 

G RAMATHEBANE
Chairperson
Social Development and Health Committee
Free State Legislature

Date 17 August 2004