



SOCIAL DEVELOPMENT COMMITTEE

NEGOTIATING MANDATE

ON THE

**OLDER PERSONS BILL [B68-2003]
(Section 76)**

16 August 2004

1. INTRODUCTION

The Speaker formally referred the Older Persons Bill [B68-2003], a Section 76 Bill to the Social Development Portfolio Committee for consideration and report in terms of Rule 6.49 (1) (c) on Tuesday, 3 August 2004. The Chairperson, Mr S Ngwenya, tabled a negotiating mandate on the Older Persons Bill as follows.

2. PROCESS FOLLOWED

On Friday, 6 August 2004, the Portfolio Committee was briefed on the content of the Bill by the permanent delegate from the NCOP, Ms M Madlala.

The Committee further deliberated on the Bill on Friday, 13 August 2004. The negotiating mandate was adopted on Monday, 16 August 2004.

3. STAKEHOLDERS AND THE PUBLIC HEARINGS

Due to time constraints, no public hearings were conducted but the Committee sought a legal opinion on certain aspects in the Bill, from the Legislature's legal adviser.

4. THE OBJECTIVES OF BILL

The Committee was informed that the main objectives of the Bill were:

- i. To maintain, increase and promote the status, well-being, safety and security of older persons;
- ii. To maintain and protect the rights of older persons as recipients of services;
- iii. To regulate the registration of facilities for older persons; and
- iv. To combat the abuse of older persons.

5. FINANCIAL IMPLICATIONS OF THE BILL FOR THE PROVINCE

The financial implications for the Province are not yet known but the National Department of Social Development had commissioned a consultant to do a scoping exercise of the preliminary costing of the Bill with the view to identifying the intergovernmental fiscal implications and budgetary implications.

6. PRINCIPLE OF THE BILL

The Social Development Portfolio Committee and the Gauteng Department of Social Services and Population Development support the principle and the detail of the Older Persons Bill [B68-2003].

7. PROPOSED AMENDMENTS TO THE BILL

- 7.1 The Committee proposes that the process to eliminate the discrimination in the ages in which men and women become eligible for the old age grant be expedited.
- 7.2 Section 21 (1) (a) should read: "***The Minister must/should make regulations regarding- ...***"
- 7.3 Section 18(4) puts an obligation on the DG or the social worker to take steps to ensure the protection of the older person. The Committee proposes that the said Section be changed to read as follows: "***..., the HOD or a delegated official including the police, must take such steps as may be prescribed to ensure adequate provision for basic needs and protection of the older person***".
- 7.4 Section 19(5) of the Bill provides that the Director-General of the National Department may delegate to the Provincial Director-General. The Committee agrees with the Department that, in terms of Section 7(3) (a) and (b) of the Public Service Act, 1994, read together with Schedule 2 of the said Act, the Head of Department is responsible for the management and administration of the Department. The PFMA provides that the Head of Department is responsible for the financial administration and the management of the Department's budget. Therefore, all functions regarding social development that fall within the ambit of the functions of the Department can only be delegated to the Head of Department and not to the Director-General. The Committee proposes that Section 19(5) of the Bill be amended in accordance with the above provisions.

8. NEGOTIATING POSITION ADOPTED BY THE COMMITTEE

The Committee supports the principle and detail of the Older Persons Bill [B68-2003], subject to consideration of the proposed amendments as reflected under item 7 of the report.



S. NGWENYA

CHAIRPERSON: SOCIAL DEVELOPMENT COMMITTEE