

MPUMALANGA

REPORT OF THE PORTFOLIO COMMITTEE ON HEALTH AND SOCIAL SERVICES ON THE OLDER PERSONS BILL [B68D-2003]

SECTION 76 BILL

1. INTRODUCTION

In terms of section 42 of the Constitution the National Council of Provinces represents provinces to ensure that provincial interests are taken into account in the national sphere of government by participating in the national legislative process. In turn, the Legislature is, in terms of section 118 (1) (a) of the Constitution, compelled to facilitate public involvement in the legislative and other processes of the legislature and its committees.

2. OBJECTIVES OF THE BILL

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

3. METHOD OF WORK

The Committee together with the Department of Health and Social Services met on 11 May 2006 for a briefing by Hon. BJ Tolo, NCOP Permanent Delegate, on the Older Persons Bill [B68D-2003] (the Bill). Further, the Committee met again on the 06 June 2006 to deliberate on the Bill.

After deliberation, the Committee noted that the Bill did not incorporate all the fundamental amendments as proposed.

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GAUTENG
LEGISLATURE
Your View ~ Our Vision
OFFICE OF THE SPEAKER

02 June 2006

**The Chairperson of the National Council of Provinces:
Honourable M J Mahlangu, MP
National Parliament
PO Box 15
Capé Town
8000**

Dear Hon. Mahlangu

RE: OLDER PERSONS BILL [B68D-2003]

I refer to the correspondence dated 30 May 2006, with regard to the Older Persons Bill [B68D-2003], addressed to me by the Acting Chairperson of the NCOP, Hon. P M Hollander, and the subsequent correspondence addressed to the respective Chairpersons of the Portfolio Committees on Social Development in the various provincial legislatures, from the Acting Chairperson of the Select Committee on Social Services, Mr BJ Tolo, dated 31 May 2006, referring to the same matter.

Having thoroughly considered your correspondence and sought legal and procedural advice on the matter, in order to ascertain the correctness of the request being put to provincial legislatures with regard to the amendments as received from the NA, together with the Chief Whip and the Chairperson of the Social Development Committee, have come to the conclusion that –

- i) the two omissions to which legislatures have been referred to which have not been incorporated in the D version of the bill as passed by the NA, are incomplete. Our legal & procedural office has brought to our attention further omissions and inconsistencies in both the C and D versions of the bill as passed by the NA and referred to the NCOP –

Other omissions in the D Version of [B-68D-2003]

- a) clause 18 (1)(a) of the D version is inconsistent with the proposed amendment in the C version, in that the amendment reads,
(1)(a) subject to section 35 – whereas the D version reads
"18.(1)(a) subject to section 22
- b) clause 5 as brought to our attention has been noted and confirm that indeed the D version, clause 18 - proposed (4) has not been inserted and once inserted, the current (4) will be (5) and the omitted insertion on the current (5)(b) will be (6)(b).
- c) clause 7 - proposed insertion of '*residential*' not effected in the heading of section 19 of the D version.
- d) clause 10 – proposed insertion of (e) and (f) has not been effected in section 22 of the D version.
- e) clause 10 – proposed insertion of '*residential*' after the sentence "at the request of the manager of the" not effected and further after the words "in question", the proposed insertion of '*produce a certificate ... person*' not effected in section 22(2).
- f) clause 17 – proposed insertion of '*or of any crime ...*' the word "*of*" has been omitted in section 31(1) of the D version.
- g) Section 18(7) of the D version – double "i" in residential – delete 'i)

Furthermore, inconsistencies have been identified in the B and D versions of the bill in relation to the usage of the following words –

- operator and in certain instances owner.
- professional removed but in other parts of the bill has been retained e.g, proposed amendment on page 7 line 21 of the C version.

- ii) In light of the above and the acceptance as recorded in Hon. Hollander's correspondence that the failure to incorporate all the amendments was an oversight on the part of the drafters and the inconvenience caused by the error regretted, clearly indicates that indeed this is an administrative error

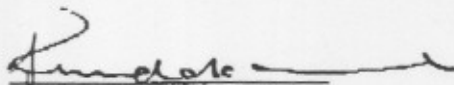
which in our view can easily be corrected by the Speaker of the National Assembly through the house which passed the amendments in question, being the NA. Accordingly, there are no policy deviations from the mandate as given by our legislature that can cause us to reject or affirm the bill.

iii) considering that the omitted amendments are significantly and materially substantive in nature, I'm accordingly of the view that it would be inappropriate for the NCOP together with provincial legislatures to consider and decide on amendments which have not been put for a debate and decision by the house which proposed them. It can further be concluded that the version of the bill as passed by the National Assembly with amendments, is materially and substantially inaccurate and would therefore recommend the following approach –

- i) that the Hon. Chairperson of the NCOP refer the amendments together with the amended bill (C & D versions) back to the NA;
- ii) that the Speaker of the NA correct the administrative error by referring the bill with amendments back to the Portfolio Committee to correct the inconsistencies contained in the two versions of the bill;
- iii) that the bill be tabled and dealt with by the NA in terms of their rules and the correct versions of the bill once passed be referred back to the NCOP for a final decision.

Finally, having articulated the above stance, please be notified that the Gauteng Provincial Legislature will not be in a position to pronounce its acceptance nor rejection of the amendments as put before the Committee on Social Development for a report and recommendation to the House, until the errors have been duly rectified by the NA.

Yours sincerely



RICHARD MDAKANE
SPEAKER: GAUTENG PROVINCIAL LEGISLATURE

CC: HON. MASILO
CHAIRPERSON: SELECT COMMITTEE ON SOCIAL SERVICES
(021)403-8733



Committee Services

*Our referentor,
Ons versorging,
Tshupo ya rona.*

**FREE STATE LEGISLATURE
HEALTH AND SOCIAL SERVICES**

**Report on conferral of authority to vote on OLDER PERSONS BILL
[B68D-2003]**

1. Report on Inter provincial negotiation

The Committee received a report on inter provincial negotiating meeting held on 11 May 2006, NCOP.

2. Consideration


The Committee considered the report of the Select Committee, and amendments agreed to on the Bill.

3. Resolution

The Committee resolved that:

The Free State delegation must not vote for the adoption of the Older Persons Bill [68D-2003].


**MR. T. M. H. MOFOKENG: CHAIRPERSON
HEALTH AND SOCIAL SERVICES
Free State Legislature
07 JUNE 2006**


**Ms. E. Rockman
Secretary to the Free State Legislature**

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WES-KAAPSE PROVINSIALE PARLEMENT
WESTERN CAPE PROVINCIAL PARLIAMENT
IPALAMENTE YEPHONDO LENTSHONA KOLONI

Ref: 11/4/1/5/12

Final Mandate of the Western Cape Provincial Parliament

Report of the Standing Committee on Social Development, on the *Older Persons Bill [B68D -2003] (NCOP)*, dated 7 June 2006, as follows:

The Standing Committee on Social Development, having considered the subject of the *Older Persons Bill [B68D -2003] (NCOP)*, referred to the Provincial Parliament in terms of the rules of the National Council of Provinces (NCOP), begs to report that it confers on the Western Cape's delegation in the NCOP the authority to support the Bill.

The committee notes with concern the contents of the minutes of the NCOP Select Committee on Social Services dated 26 May 2006. Since this does not impact on the necessity of the Bill itself, the committee still presents this mandate which is consistent with the decision taken by the Provincial Parliament on 25 May 2006.

M G VANTURA
CHAIRPERSON
07 JUNE 2006



NORTHERN CAPE PROVINCIAL LEGISLATURE

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OFFICE OF THE SPEAKER

Date: 06 June 2006

Our Ref: Final Mandate Older Persons
Your Ref:

Enquiries: CPC HAAS

**TO: CHAIRPERSON OF THE NCOP
HON. MJ MAHLANGU**

FINAL MANDATE: *OLDER PERSONS BILL* [B68D-2003]

The Portfolio Committee on Social Services and Population Development met to consider the Older Persons Bill [B68D-2003].

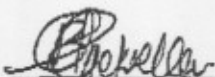
The Committee rejects the Bill based on the following omissions:

Clause 5: To insert the following section:

(4) Temporary registration contemplated in subsection (3)(b) may not extended for more than 12 months under the same conditions.

And on page 5, line 48, after "months" to insert: "for permanent registration and one month for temporary registration"

The House now mandates the Permanent Delegates to reject the Bill.


Hon. C Cjiekella (Ms)
DEPUTY SPEAKER

6. On page 5, in line 53, after "a" to insert "residential".
7. On page 5, in line 54, after "a" to insert "residential".
8. On page 5, in line 56, after "registered" to insert "residential".

CLAUSE 6

Clause rejected.

CLAUSE 7

3. On page 6, in line 19, after "a" to insert "residential".

CLAUSE 8

1. On page 6, in line 26, after "for" to insert "residential".
2. On page 6, in line 27, after the first "a" to insert "residential".
3. On page 6, in line 32, after "must" to insert:

be reflective of the profile of residents and must