



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

SOCIAL ASSISTANCE AMENDMENT BILL, [B 8B-2018] PRESENTATION TO NATIONAL COUNCIL OF PROVINCES 2020

INTRODUCTION

The Social Assistance Amendment Bill was introduced to the National Assembly on the 13th of April 2018, but unfortunately lapsed in May 2019 due to the change in administration. It was then revived in October 2019 and subsequently considered by the Portfolio Committee on Social Development.

The Committee held public hearings and received written comments on the Bill. The vast majority of these comments supported the proposed Bill and the committee approved it on the 11th of March 2020, with minor amendments. The Bill was then sent to the National Assembly, who passed and referred it to the National Council of Provinces, known as the NCOP, for concurrence. The NCOP is now seeking mandates from all the provinces to enable them to respond to the National Assembly's request for concurrence. The Provincial legislature is thus conducting these public hearings to obtain the views of their constituencies so that they can then take forward their provincial mandates to the NCOP.

OBJECTIVES OF THE BILL

In addition to a few minor changes to definitions, the Bill has three main objectives.

The first objective is to empower the Minister of Social Development, with the concurrence of the Minister of Finance, to make additional amounts payable on top of the existing social grants. This will enable the Department of Social Development and SASSA to implement the extended Child Support Grant policy, which seeks to pay an additional amount for orphans living with family members, on top of the existing payment for the child support grant.

As many may know, South Africa has a large amount of orphans. Most orphans are raised by grandparents or other family members. However, due to high levels of poverty in the country, the Foster Child Grant has become the default grant for supporting orphans. However, the majority of families taking care of orphans have not been able to access the foster care system due to overwhelming numbers and the limited resources within government to place children into Foster Care.

The Foster Child Grant and foster care system was originally only designed for children in need of **care and protection**. These are children who have been abused or neglected and removed from their caregivers. Most orphans do not fit into this category and are in safe environments with their extended families. This has resulted in many vulnerable children not being able to access the foster care system.

The intention of this policy is to provide extra income support to orphans living with family members so that they do not have to go through the foster care system. This will relieve the burden on the foster care system and allow the department to utilise its social workers more effectively while at the same time providing additional income support to orphans without the need to go through the cumbersome foster care system.

The applicants will not require a court process nor the associated social work process before being able to apply for the additional support. However once the grant is allocated, they will be referred to the Department of Social Development for social services and support.

The second objective of the Bill seeks to streamline the Appeals process.

The process at present is made up of two parts. If someone applies for a social grant and SASSA rejects the application, the person then has a right to Appeal. However, before they can appeal, they first need to go back to SASSA and request SASSA to reconsider their application. This process is called: Internal Reconsideration in the current Act. SASSA has 90 days to reconsider the applicant's appeal and in the vast majority of cases, they still reject the application as SASSA is not considering the merits of the case but just checking whether they have complied with all the administrative requirements provided for in the legislation. Only once an application has been reconsidered by SASSA may the applicant, if he or she is still in disagreement with SASSA's reconsidered decision, approach the Appeals Tribunal to lodge an Appeal. The appeals process itself also takes 90 days. The full process is thus 180 days or 6 months.

The internal reconsideration process causes significant delays to persons in accessing the right to appeal in relation to social grants, without adding any substantial value. The Amendment Bill therefore proposes to remove this process and allow an applicant the right to lodge an appeal directly with the Independent Tribunal for Social Assistance Appeals if he/she is dissatisfied or aggrieved with the outcome of a grant application or a decision made during the review of a grant, by SASSA. This will reduce the time frames for appeals from 180 days to just 90 days.

The third object is to change the organizational form of the Inspectorate from that of a government department to a government component.

Section 24 of the Social Assistance Act provides for the establishment of the Inspectorate for Social Assistance. However, this section has not yet been promulgated, due to the Inspectorate being a government department. Given the numerous government departments we currently have and the significant costs involved relating to the establishment of government departments, we do not need another one. Hence this Bill seeks to change the structure of the Inspectorate to a Government Component within the Department of Social Development. The Inspectorate however will maintain its independence and still be able to carry out its function without interference from the Department or SASSA.

Establishing the Inspectorate will assist in ensuring that the issue of fraud and corruption is adequately addressed. The key functions of the inspectorate are to investigate fraud, corruption and theft, investigate forms of financial and service

mismanagement, conduct financial and compliance audits, investigate any criminal activity within the SASSA and in connection with their functions, duties and operations, as well as maintenance of the integrity of the social assistance frameworks and systems. It will also combat social assistance abuse and develop a complaints mechanism.

In conclusion, these objectives aim to improve the efficiency of the social grants system and enable improved benefits for orphans, quicker access to the Appeals Tribunal as well as reducing the potential for fraud and corruption within the social grant system.