

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Regulation Gazette

No. 6297

Regulasiekoerant

Vol. 399

PRETORIA, 16 SEPTEMBER 1998

No. 19262

GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF WELFARE
DEPARTEMENT VAN WELSYN

No. R. 1180

16 September 1998

AGED PERSONS AMENDMENT BILL, 1998

The above-mentioned Bill is hereby published for general information and comment. Interested parties are invited to submit any substantiated comment on the proposed Bill or representations they wish to make in regard thereto to the Director-General of Welfare, Private Bag X901, Pretoria, 0001, or fax number (012) 324-2648 (for the attention of the Director: Special Needs), within 14 days of the date of publication of this notice.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
-
-

B I L L

To amend the Aged Persons Act, 1967, so as to insert certain definitions; to provide for conditions regarding subsidies to managers of registered homes for the aged and to certain other institutions; to monitor compliance with conditions of registration of homes for the aged; to provide for the establishment of management committees for those homes; to provide for the accessibility of those homes; to provide for the enquiry by designated bodies into matters regarding aged persons; to require reporting on the abuse of aged persons and the keeping of a register thereon; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 81 of 1967, as amended by section 1 of Act 14 of 1971, section 4 of Act 97 of 1972, section 21 of Act 37 of 1973, section 1 of Act 46 of 1976, section 1 of Act 44 of 1994, Proclamation No. R. 40 of 1994 and Proclamation No. R. 7 of 1996

- 1. Section 1 of the Aged Persons Act, 1967 (in this Act referred to as**

the principal Act), is hereby amended—

- (a) by the insertion before the definition of "aged person" of the following definition:

"**abuse**' includes, but is not limited to, intentional or negligent treatment of an aged person contrary to any provision of this Act or any other infliction of physical, mental or financial power on an aged person which adversely ^a affects any right of that person;"

- (b) by the insertion after the definition of "debilitated person" of the following definition:

"**designated body**' means a person or statutory body designated by the national Minister, by notice in the Gazette, for the purposes of sections 5A and 6;"; and

- (c) by the insertion after the definition of "Minister of Finance" of the following definition:

"**national Minister**' means the Minister for Welfare and Population Development in the national sphere of government;".

Insertion of section 2A in Act 81 of 1967

2. The following section is hereby inserted after section 2 of the principal Act:

"Conditions of subsidies to homes for the aged and certain other institutions

2A.(1) When a subsidy is paid in terms of section 2, the national Minister must, in consultation with the relevant competent authority referred to in the definition of 'Minister' in section 1, determine the conditions of use of that subsidy,

including conditions regarding the accounting for the subsidy so paid.

(2) Any person to whom a subsidy is paid in terms of section 2 must use, and account for, the subsidy in accordance with the conditions determined in terms of subsection (1).

(3) If any condition determined in terms of subsection (1) is not complied with, the national Minister may, in consultation with the competent authority referred to subsection (1) and after one month's notice of the intention to do so, withdraw the subsidy in question.

(4) Any person to whom a subsidy in terms of subsection (1) is paid is personally liable for the refund of the amounts used contrary to any condition determined in terms of subsection (1)."

Insertion of sections 3A, 3B and 3C in Act 81 of 1967

3. The followings sections are hereby inserted after section 3 of the principal Act:

"Monitoring compliance with conditions of registration of homes for the aged

3A.(1) The national Minister may, in consultation with the relevant competent authority referred to in the definition of 'Minister' in section 1, appoint a designated body—

- (a) to investigate compliance with the conditions referred to in section 3(3); and
- (b) to order specific measures to be adopted to facilitate compliance with those conditions.

(2) The applicant concerned must at all reasonable times

report to the national Minister and the competent authority referred to in subsection (1) any circumstances which may result in his or her inability to fully comply with the conditions referred to in section 3(3).

(3) If the registration of a home for the aged has been cancelled in terms of section 3(4), or if the manager of a home for the aged desires to close down or transfer that home for any other reason, the manager must—

- (a) prior to any decision to close down or transfer that home is made, consult with the national Minister on the matter;
- (b) furnish the national Minister with a full report on the future accommodation of the aged persons in question; and
- (c) at least six months before the closing down or transfer of that home in writing notify the aged persons in question and the national Minister of such closure or transfer.

Establishment of management committees for homes of the aged

3B.(1) If more than 10 aged persons resides in an home for the aged, a management committee shall be established as prescribed by the national Minister by regulation in terms of section 20A.

(2) The national Minister shall, by regulation in terms of section 20A, prescribe—

- (a) the composition of every management committee to be established under subsection (1), which shall include representation of the residents of the home for

the aged in question;

- (b) the election and appointment, qualifications, term of office, and grounds of removal from office, of the members of that committee; and
- (c) the number of meetings of that committee.

(3) A management committee established under subsection (1) shall—

- (a) facilitate interaction between the residents of the home for the aged concerned and their family, the community and that committee;
- (b) maintain the quality of services to that home;
- (c) provide opportunities for the training of the staff of that home, where appropriate;
- (d) ensure the sound financial management of that home;
- (e) prevent neglect, abuse and exploitation of the residents of that home;
- (f) appoint the staff of that home;
- (g) establish complaints procedures for the residents and staff of that home and persons who wishes to lodge a complaint on behalf of any such resident;
- (h) quarterly report to the residents and staff of that home on the financial position and the number and nature of complaints received from those residents and staff and the outcome of those complaints; and
- (i) do everything necessary or expedient for the effective functioning of that home.

Admission to homes for the aged

3C.(1) In determining eligibility for admission to a home

for the aged, no person may be unfairly discriminated against directly or indirectly.

(2)(a) Any person who unfairly discriminates, directly or indirectly, against a person otherwise eligible for admission to a home for the aged shall be guilty of an offence.

(b) Any person convicted of an offence referred to in paragraph (a) shall, notwithstanding section 19, be liable to a fine or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

(3) The manager of a home for the aged must, on request by any person authorised by law to take a sworn statement, provide a sworn statement regarding the grounds on which the decision to refuse admission to that home is based."

Repeal of section 5 of Act 81 of 1967, as amended by sections 4 and 11 of Act 44 of 1994

4. Section 5 of the principal Act is hereby repealed.

Insertion of section 5A in Act 81 of 1967

5. The following section is hereby inserted before section 6 of the principal Act:

"Enquiry by designated body into matters regarding aged persons

5A.(1) The Minister may appoint any designated body to inquire into and consider any matter relating to the rights of an aged person.

(2) The designated body so appointed may, for the

purposes of that enquiry—

(a) summon in the manner prescribed by regulation under section 20A any person—

(i) who, in the opinion of the designated body, is able to furnish information of material importance to the enquiry; or

(ii) who the designated body has reason to believe has in his or her possession or custody or under his or her control, any book, document or record relating to the subject of the enquiry;

to appear at a time and place specified in the summons to be examined or to produce that book, document or record and may retain for examination any book, document or record so produced;

(b) through the person presiding at the enquiry—

(i) administer an oath to, or accept an affirmation from, any person summoned in terms of paragraph (a); and

(ii) examine or cause him or her to be examined by a person designated by the designated body to lead the evidence at the enquiry; and instruct him or her to produce any book, document or record in his or her possession or custody or under his or her control.

(3) A summons referred to in subsection (2) shall contain the information and must be served in the manner, prescribed by regulation under section 20A, and section 51(2) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall *mutatis mutandis* apply in respect of any person on whom that summons has been so served.

(4) The law relating to privilege, as applicable to a witness summoned to give evidence or to produce a book, document or record in a civil proceedings, shall *mutatis mutandis* apply in respect of the examination of or the production of any book, document or record by any person summoned in terms of this section.

(5) If the record of a criminal or civil proceedings is relevant in any enquiry in terms of this section, that record shall on the mere production thereof be *prima facie* proof of the facts stated therein.

(6) If the conduct which forms the subject of any enquiry referred to in subsection (1), forms or is likely to form the subject of any criminal or civil proceedings, the designated body may postpone the enquiry until those proceedings have been concluded.

(7) Any person against whom an enquiry is instituted in terms of this Act, shall be entitled, in person or through his or her legal representative, to answer the charge and to be heard in his or her defence.

(8)(a) The designated body may, generally or in any specified case, appoint a committee in the manner prescribed by regulation under section 20A to exercise and perform all powers and duties of that person or body conferred or imposed by this Act.

(b) If the designated body so appoints a committee, those powers and duties are regarded to have been delegated to the committee.

(9) Any person who, having been duly sworn or having made an affirmation, tenders false evidence at an enquiry held in terms of this section, knowing that evidence to be false, shall be guilty of an offence and shall, notwithstanding section 19, be

liable on conviction to the penalties which may be imposed for the offence of perjury."

Amendment of section 6 of Act 19 of 1967, as amended by section 3 of Act 46 of 1976 and section 5 of Act 44 of 1994

6. Section 6 of the principal Act is hereby amended—

(a) by the substitution for subsections (1) and (2) of the following subsections:

"(1) Subject to the provisions of this section, **[a magistrate]** the designated body before whom any person is brought in terms of section **[5]** 5A, shall enquire into the correctness or otherwise of the allegations contained in the summons in question.

(2) The **[Public Prosecutor or any other person designated by the magistrate shall appear at the enquiry, and]** designated body may call witnesses and cross-examine any other witnesses giving evidence at the enquiry.";

(b) by the substitution of subsection (5) of the following subsection:

"(5) The proceedings at the enquiry shall be conducted in an open court room or behind closed doors, as the **[magistrate]** designated body holding the enquiry may determine.";

(c) by the substitution for subsections (8), (9) and (10) of the following subsections:

"(8) The **[report referred to in section 5(2) shall be submitted to the magistrate holding the enquiry, and he]** designated body may direct the district surgeon, or a psychiatrist or a clinical psychologist designated by **[him]** the body to examine the aged or debilitated person

in question and to furnish **[him]** the body with a report on his or her findings.

(9) The contents of a report **[submitted or]** furnished in terms of subsection (8) shall be disclosed to the person against whom the allegations were made, and if he or she so desires, he or she or his or her legal representative shall be given an opportunity of cross-examining the person who made the report, in relation to any matter arising out of the report, and of disproving any allegation occurring therein.

(10) If after consideration of the evidence and of any report **[submitted or]** furnished in terms of subsection (8), it appears to the **[magistrate]** designated body that any allegation in the summons in question against the person in question is correct, **[he]** the body—

(a) prohibit that person from accommodating or caring for the aged or debilitated person in question except subject to such conditions and in accordance with such requirements as the **[magistrate]** designated body may impose; or

(b) prohibit that person from accommodating or caring for any aged or debilitated person for such period, but not exceeding ten years, as may be determined by the **[magistrate]** designated body.”; and

(d) by the substitution for subsection (11) of the following subsection:

“(11) Any person who contravenes or fails to comply with any condition, requirement or prohibition imposed in terms of subsection (10) shall, subject to the provisions of

subsection (12), be guilty of an offence and shall, notwithstanding section 19, be liable on conviction to a fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment."

Insertion of sections 6A, 6B and 6C in Act 81 of 1967

7. The following sections are hereby inserted after section 6 of the principal Act:

"Report on abuse of aged persons

6A.(1) Any person who examines, treats, attends to, advises, instructs or cares for an aged person in circumstances which ought to give rise to the reasonable suspicion that daardie aged person has been abused or suffers from any injury, shall immediately report such circumstances to the Director-General: Welfare and a police officer or social worker.

(2) Any person who fails to report such cases of suspected abuse shall be guilty of an offence and shall, notwithstanding section 19, be liable on conviction to a fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

Keeping of register

6B. The national Minister shall, in the manner prescribed by regulation under section 20A, cause to be kept a register of cases of suspected abuse of aged persons reported in terms of section 6A, together with the details thereof.

Report to national Minister by managers of homes for the aged

6C. The manager of a home for the aged shall within 60 days after the end of the financial year of that home submit to the national Minister a report on—

(a) compliance with—

(i) the service standards, prescribed by regulation under section 20A; and

(ii) the measures, so prescribed, to prevent and combat abuse of aged persons,

during that financial year; and

(b) the content of the service level agreements, so prescribed, concluded during that financial year.”.

Insertion of section 18A in Act 81 of 1967

8. The following section is hereby inserted after section 18 of the principal Act:

“Delegation by national Minister

18A.(1) The national Minister may, on such conditions as he or she may determine, in writing delegate to the Director-General: Welfare or any other officer in the service of the State, any power conferred upon the Minister by or in terms of this Act, except a power referred to in section 20A.

(2) The national Minister shall not be divested of any power delegated by him or her, and may amend or set aside any decision taken by a person in the exercise of the power delegated to him or her.”.

Insertion of section 20A in Act 81 of 1967

9. The following section is hereby inserted after section 20 of the principal Act:

"Regulations by national Minister

25A. The national Minister may make regulations regarding—

- (a) any matter which in terms of this Act is required or permitted to be prescribed by the national Minister;
- (b) measures—
 - (i) to prevent, combat and deal with the abuse of aged persons;
 - (ii) to be taken to advance persons disadvantaged by unfair discrimination;
 - (iii) to promote the rights of residents of homes for the aged;
- (c) the form and content of service level agreement between the residents and the management committee of a home for the aged;
- (d) the minimum service standards for homes for the aged;
- (e) the minimum norms and standards for the care of aged persons;
- (f) criteria, and assessment procedures, for admission of persons to homes for the aged."

Short title and commencement

10. This Act shall be called the Aged Persons Amendment Act, 1998, and shall come into operation on a date determined by the President by proclamation in the *Gazette*.

No. R. 1180

16 September 1998

WYSIGINGSWETSONTWERP OP BEJAARDE PERSONE, 1998

Bogemelde Wetsontwerp word hierby gepubliseer vir algemene inligting en kommentaar. Belanghebbende partye word versoek om enige stawende kommentaar op die voorgestelde Wetsontwerp of verhoë wat hulle daaromtrent wil maak, binne 14 dae na die datum van publikasie van hierdie kennisgewing, voor te lê aan die Direkteur-generaal: Welsyn, Privaatsak X901, Pretoria, 0001, of faksnommer (012) 324-2648 (vir die aandag van die Direkteur: Spesiale Behoeftes).

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vetdruk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WETSONTWERP

Tot wysiging van die Wet op Bejaarde Persone, 1967, ten einde sekere omskrywings in te voeg; om voorsiening te maak vir voorwaardes betreffende subsidies aan die bestuurders van geregistreerde ouetehuse en aan sekere ander instellings; om die nakoming van voorwaardes van registrasie van ouetehuse te monitor; om voorsiening te maak vir die instelling van bestuurskomitees vir daardie tehuise; om voorsiening te maak vir die toeganklikheid van daardie tehuise; om voorsiening te maak vir die ondersoek deur aangewese liggame aangaande aangeleenthede betreffende bejaarde persone; om die raportering oor die mishandeling van bejaarde persone en die hou van 'n register daaroor te vereis; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 81 van 1967, soos gewysig deur artikel 1 van Wet 14 van 1971, artikel 4 van Wet 97 van 1972, artikel 21 van Wet 37 van 1973, artikel 1 van Wet 46 van 1976, artikel 1 van

Wet 44 van 1994, Proklamasie No. R. 40 van 1994 en Proklamasie No. R. 7 van 1996

1. Artikel 1 van die Wet op Bejaarde Persone, 1967 (in hierdie Wet die Hoofwet genoem), word hierby gewysig—

- (a) deur voor die omskrywing van "bejaarde persoon" die volgende omskrywing in te voeg:

"aangewese liggaam' 'n persoon of statutêre liggaam wat deur die nasionale Minister, by kennisgewing in die Staatskoerant, aangewys word;"

- (b) deur na die omskrywing van "Minister van Finansies" die volgende omskrywing in te voeg:

"nasionale Minister' die Minister vir Welsyn en Bevolkingsontwikkeling in die nasionale regeringsfeer;"

- (c) deur na die omskrywing van "Minister van Finansies" die volgende omskrywing in te voeg:

"mishandeling' ook, maar is nie beperk nie tot, die opsetlike of nalatige behandeling van 'n bejaarde persoon in stryd met enige bepaling van hierdie Wet of enige ander toebrenging van fisieke, geestelike of finansiële invloed op 'n bejaarde persoon wat 'n nadelige gevolg het op enige reg van daardie persoon;"

Invoeging van artikel 2A in Wet 81 van 1967

2. Die volgende artikel word hierby na artikel 2 van die Hoofwet ingevoeg:

"Voorwaardes van subsidies aan ouetehuse en sekere ander instellings

2A.() Wanneer 'n subsidie ingevolge artikel 2 betaal word,

moet die nasionale Minister, in oorleg met die tersaaklike bevoegde gesag bedoel in die omskrywing van 'Minister' in artikel 1, die voorwaardes vir die gebruik van daardie subsidie bepaal, met inbegrip van voorwaardes betreffende verslagdoening oor die subsidie aldus betaal, opleë.

(2) Enige persoon aan wie 'n subsidie ingevolge artikel 2 betaal is, moet in ooreenstemming met die voorwaardes ingevolge subartikel (1) bepaal, die subsidie aanwend en daaroor verslag doen.

(3) Indien enige voorwaarde ingevolge subartikel (1) bepaal nie nagekom is nie, kan die Minister, in oorleg met die bevoegde geag bedoel subartikel (1) en na een maand kennisgewing van die voorneme om dit te doen, 'n subsidie onttrek.

(4) Enige persoon aan wie 'n subsidie ingevolge artikel 2 betaal is, is persoonlik aanspreeklik vir die terugbetaling van die bedrae wat aangewend is in stryd met enige voorwaarde ingevolge subartikel (1) bepaal."

Invoeging van artikels 3A, 3B en 3C in Wet 81 van 1967

3. Die volgende artikels word hierby na artikel 3 van die Hoofwet ingevoeg:

"Monitering van nakoming van voorwaardes van registrasie van ouetehuse

3A.(1) Die nasionale Minister kan, na oorleg met die tersaaklike bevoegde gesag bedoel in die omskrywing van 'Minister' in artikel 1, 'n aangewese liggaam aanstel—

(a) om die nakoming van die voorwaardes bedoel in artikel 3(3) te ondersoek; en

(b) om spesifieke maatreëls wat aangeneem moet word om die nakoming van daardie voorwaardes te vergemaklik, te beveel.

(2) Die betrokke applikant moet te alle redelike tye aan die nasionale Minister en die bevoegde gesag bedoel in subartikel (1) verslag doen oor enige omstandighede wat tot gevolg mag hê dat hy of sy nie in staat is om ten volle aan die voorwaardes bedoel in artikel 3(3) te voldoen nie.

(3) Indien die registrasie van 'n ouetehuis ingevolge artikel 3(4) ingetrek is, of indien die bestuurder van 'n ouetehuis om 'n ander rede die ouetehuis wil sluit of oordra, moet die bestuurder—

(a) voor enige beslissing gemaak word om die ouetehuis te sluit of oor te dra, die nasionale Minister daaroor raadpleeg;

(b) die nasionale Minister voorsien van 'n volledige verslag oor die toekomstige verblyf van die betrokke bejaarde persone: en

(c) ten minste ses maande voor die sodanige sluiting of oordrag, die betrokke bejaarde persone en die nasionale Minister skriftelik daarvan in kennis stel.”.

Instelling van bestuurskomitees en verteenwoordiging van bejaardes op bestuurskomitees

3B.(1) Indien meer as 10 bejaarde persone in 'n ouetehuis woonagtig is, moet 'n bestuurskomitee soos voorgeskryf deur die nasionale Minister by regulasie ingevolge artikel 20A ingestel word.

(2) Die nasionale Minister moet, by regulasie ingevolge artikel 20A—

(a) die samestelling van elke bestuurskomitee wat ingevolge subartikel (1) ingestel moet word, wat voorsiening moet

maak vir die verteenwoordiging van die inwoners van die betrokke ouetehuis;

(b) die verkiesing en aanstelling, kwalifikasies, ampstermyn, en gronde vir ampsverwydering, van die lede van daardie komitee; en

(c) die getal vergaderings van daardie komitee, voorskryf.

(3) 'n Bestuurskomitee ingestel kragtens subartikel (1) moet—

(a) interaksie tussen die inwoners van die betrokke ouetehuis en hul familie, die gemeenskap en daardie bestuurskomitee vergemaklik;

(b) die kwaliteit van dienste aan daardie tehuis handhaaf;

(c) geleenthede vir die opleiding van die personeel van daardie tehuis, waar gepas, verskaf;

(d) die gesonde finansiële bestuur van daardie tehuis verseker;

(e) die verwaarlosing, mishandeling en uitbuiting van die inwoners van daardie tehuis voorkom;

(f) die personeel van daardie tehuis aanstel;

(g) klagteprosedures vir die inwoners en personeel van daardie tehuis en persone wat ten behoeve van enige sodanige inwoner 'n klag wil lê, instel;

(h) kwartaaliks aan die inwoners en personeel van daardie tehuis verslag doen oor die finansiële posisie en die getal, en aard van, klagtes wat van daardie inwoners en personeel ontvang is en die uitslag van daardie klagtes;

(i) enigiets anders doen wat nodig of dienstig is vir die doeltreffende werking van daardie tehuis is.

Toegang tot ouetehuse

3C.(1) By die bepaling van die geskiktheid vir toelating tot 'n

ouetehuis, mag teen geen persoon direk of indirek onbillik gediskrimineer word nie.

(2)(a) Iemand wat direk of indirek onbillik diskrimineer teen 'n persoon wat andersins geskik was vir toelating tot 'n ouetehuis is aan 'n misdryf skuldig.

(b) Iemand wat aan 'n misdryf bedoel in paragraaf (a) skuldig bevind word, is, ondanks artikel 19, strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met daardie boete sowel as daardie gevangenisstraf.

(3) Die bestuurder van 'n ouetehuis moet op versoek van enige persoon, by wet gemagtig om 'n beëdigde verklaring af te neem, 'n beëdigde verklaring voorsien betreffende die gronde waarop die besluit om toelating tot daardie tehuis te weier, berus."

Herroeping van artikel 5 van Wet 81 van 1967, soos gewysig deur artikels 4 en 11 van Wet 44 van 1994

4. Artikel 5 van die Hoofwet word hierby herroep

Invoeging van artikel 5A in Wet 81 van 1967

5. Die volgende artikel word hierby na artikel 5 van die Hoofwet ingevoeg:

"Ondersoek deur aangewese liggaam na aangeleenthede betreffende bejaarde persone

5A.(1) Die Minister kan 'n aangewese liggaam aanstel om ondersoek te doen na en enige aangeleentheid te oorweeg betreffende die regte van 'n bejaarde persoon.

(2) Die aangewese liggaam so aangestel kan vir die doeleindes van sodanige ondersoek iemand—

- (a) wat na die oordeel van die aangewese liggaam in staat is om inligting te verstrek wat van wesenlike belang vir die ondersoek is; of
- (b) wat die aangewese liggaam rede het om te vermoed enige boek, dokument of rekord wat op die onderwerp van die ondersoek betrekking het, in sy of haar besit of bewaring of onder sy of haar beheer het,

op die wyse voorgeskryf by regulation kragtens artikel 20A dagvaar om op 'n tyd en plek in die dagvaarding vermeld te verskyn om ondervra te word of om daardie boek, dokument of rekord oor te lê en kan daardie boek, dokument of oorkonde wat aldus oorgelê is, vir ondersoek behou;

- (b) deur die persoon wat by die ondersoek voorsit—
 - (i) iemand wat by die ondersoek teenwoordig is 'n eed oplê of van hom of haar 'n bevestiging aanneem; en
 - (ii) hom of haar ondervra of laat ondervra deur iemand wat deur die aangewese liggaam aangewys is om die getuienis by die ondersoek te lei, en hom of haar aansê om enige boek, dokument of rekord in sy of haar besit of bewaring of onder sy of haar beheer oor te lê.

(3) 'n Dagvaarding bedoel in subartikel (2) moet die inligting bevat en word op die wyse beteken, wat by regulation kragtens artikel 20A voorgeskryf word, en artikel 51(2) van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), is *mutatis mutandis* van toepassing ten opsigte van iemand aan wie so 'n dagvaarding aldus beteken is.

(4) Die regsbepalings betreffende privilegie, soos van toepassing op 'n getuie wat gedagvaar is om in 'n siviele verrigtinge getuienis af te lê of om 'n boek, dokument of rekord oor te lê, is

mutatis mutandis van toepassing ten opsigte van die ondervraging van of oorlegging van 'n boek, dokument of rekord deur iemand wat ingevolge hierdie artikel gedagvaar is.

(5) Indien die oorkonde van strafregtelike of siviele verrigtinge by 'n ondersoek ingevolge hierdie artikel ter sake is, is daardie oorkonde by blote voorlegging daarvan *prima facie* bewys van die feite daarin vermeld.

(6) Indien die gedrag wat die onderwerp van 'n in subartikel (1) bedoelde ondersoek uitmaak die onderwerp van enige strafregtelike of siviele verrigtinge uitmaak of waarskynlik sal uitmaak, kan die aangewese liggaam die ondersoek uitstel totdat daardie verrigtinge afgehandel is.

(7) Iemand teen wie 'n ondersoek ingevolge hierdie Wet ingestel word, is geregtig om, òf persoonlik òf deur sy of haar regsverteenwoordiger, op die beskuldiging te antwoord en sy of haar verdediging aan te voer.

(8)(a) Die aangewese liggaam kan, in die algemeen of in 'n bepaalde geval, 'n komitee op die wyse, voorgeskryf by regualse kragtens artikel 20A, aanstel om alle bevoegdhede en pligte van die aangewese liggaam verleen of opgelê by hierdie Wet uit te oefen en te verrig.

(b) Indien die aangewese liggaam aldus 'n komitee aanstel, word daardie bevoegdhede en pligte geag aan die komitee gedelegeer te gewees het.

(9) Iemand wat, nadat hy of sy behoorlik beëdig is of 'n bevestiging gedoen het, by 'n ondersoek wat ingevolge hierdie Wet gehou word valse getuienis aflê met die wete dat daardie getuienis vals is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat vir die misdryf van meened opgelê kan word."

Wysiging van artikel 6 van Wet 81 van 1967, soos gewysig deur artikel 3 van Wet 46 van 1976 en artikel 5 van Wet 44 van 1994

6. Artikel 6 van die Hoofwet word hierby gewysig—

(a) deur subartikels (1) en (2) deur die volgende subartikels te vervang:

“(1) Behoudens die bepalings van hierdie artikel, moet ’n **[landdros]** die aangewese liggaam voor wie iemand ingevolge artikel **[5] 5A** gebring word, ondersoek instel na die juistheid al dan nie van die bewerings in die betrokke dagvaarding vervat.

(2) Die **[Staatsaanklaer of iemand anders deur die landdros vir die doel aangewys, verskyn by die ondersoek en]** aangewese liggaam kan getuies oproep en ander getuies wat by die ondersoek getuienis aflê onder kruisverhoor neem.”;

(b) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) Die verrigtings by die ondersoek geskied in ’n ope hofsaal of agter geslote deure, na gelang die **[landdros]** aangewese liggaam wat die ondersoek hou, bepaal.”;

(c) deur subartikels (8), (9) en (10) deur die volgende subartikels te vervang:

“(8) Die **[verslag bedoel in artikel 5 (2) moet voorgelê word aan die landdros wat die ondersoek hou, en hy]** aangewese liggaam kan gelas dat die distriksgeneesheer of ’n psigiater of kliniese sielkundige deur **[hom]** die liggaam aangewys, die betrokke bejaarde of verswakte persoon moet ondersoek en aan **[hom]** die liggaam ’n verslag van sy bevindings moet verstrek.

(9) Die inhoud van ’n verslag wat ingevolge subartikel (8) **[voorgelê of]** verstrek is, moet aan die persoon teen

wie die bewerings gedoen is, meegedeel word, en indien hy of sy dit verlang, moet hy of sy of sy of haar regsverteenvoerder in die geleentheid gestel word om die persoon wat die verslag uitgebring het, onder kruisverhoor te neem met betrekking tot enige aangeleentheid wat uit die verslag voortspruit, en om enige bewering wat daarin voorkom, te weerlê.

(10) As dit, na oorweging van die getuienis en van 'n verslag wat ingevolge subartikel (8) **[voorgelê of]** verstrekkend is, aan die **[landdros]** aangewese liggaam blyk dat 'n bewering in die betrokke dagvaarding teen die betrokke persoon juis is, kan **[hy]** die liggaam—

(a) daardie persoon verbied om die betrokke bejaarde of verswakte persoon te huisves of te versorg behalwe op die voorwaardes en ooreenkomstig die vereistes wat die **[landdros]** aangewese liggaam stel; of

(b) daardie persoon verbied om enige bejaarde of verswakte persoon te huisves of te versorg vir dié tydperk, maar hoogstens tien jaar, wat die **[landdros]** aangewese liggaam bepaal.”; en

(d) deur subartikel (11) deur die volgende subartikel te vervang:

“(11) Iemand wat 'n voorwaarde, vereiste of verbod opgelê ingevolge subartikel (10) oortree of nie nakom nie, is, behoudens die bepalinge van subartikel (12), aan 'n misdryf skuldig en by skuldigbevinding, ondanks artikel 19, strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met daardie boete sowel as daardie gevangenisstraf.”.

7. Die volgende artikels word hierby na artikel 6 van die Hoofwet ingevoeg:

"Verslag oor mishandeling van bejaarde persoon

6A.(1) Iemand wat 'n bejaarde persoon ondersoek, behandel, verpleeg, adviseer of versorg onder omstandighede wat 'n redelike vermoede behoort te laat ontstaan dat daardie bejaarde persoon mishandel is of aan beserings ly, moet onmiddellik die sodanige omstandighede aan die Direkteur-generaal: Welsyn en 'n polisiebeampte of maatskaplike werker rapporteer.

(2) Iemand wat versuim om sodanige gevalle van vermoedelike mishandeling aan te meld is aan 'n misdryf skuldig en by skuldigbevinding, ondanks artikel 19, strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met daardie boete sowel as daardie gevangenisstraf.

Hou van register

6B. Die nasionale Minister laat hou, op die wyse voorgeskryf by regulasie kragtens artikel 20A, 'n register van gevalle van vermoedelike mishandeling van bejaarde persone wat ingevolge artikel 6A gerapporteer is, tesame met die besonderhede daarvan.

Verslagdoening aan nasionale Minister deur bestuurders van ouetehuse

6C.(1) Die bestuurder van 'n ouetehuis moet binne 60 dae na die einde van die finansiële jaar van daardie tehuis 'n verslag aan die Minister voorlê oor—

(a) nakoming van—

- (i) die diensstandaarde, voorgeskryf by regulasie ingevolge artikel 20A; en
- (ii) die maatreëls, aldus voorgeskryf, om die mishandeling van bejaarde persone te verhoed; gedurende daardie finansiële jaar; en
- (b) die inhoud van diensstandaardooreenkomste, aldus voorgeskryf, wat gedurende daardie finansiële jaar aangegaan is."

Invoeging van artikel 18A van Wet 81 van 1967

8. Die volgende artikel word hierby na artikel 18 van die Hoofwet ingevoeg:

"Delegering deur nasionale Minister

18A.(1) Die nasionale Minister kan, op die voorwaardes wat hy of sy bepaal, enige bevoegdheid by of kragtens hierdie Wet aan hom of haar verleen, behalwe 'n bevoegdheid in artikel 20A bedoel, skriftelik aan die Direkteur-generaal of 'n ander beampte in diens van die Staat delegeer.

(2) Die Minister is nie ontdoen van enige bevoegdheid wat hy of sy gedelegeer het nie, en kan enige beslissing van 'n persoon wat geneem word in die uitoefening van 'n bevoegdheid aan hom of haar gedelegeer, wysig of herroep."

Invoeging van artikel 20A in Wet 81 van 1967

9. Die volgende artikel word hierby na artikel 20 van die Hoofwet ingevoeg:

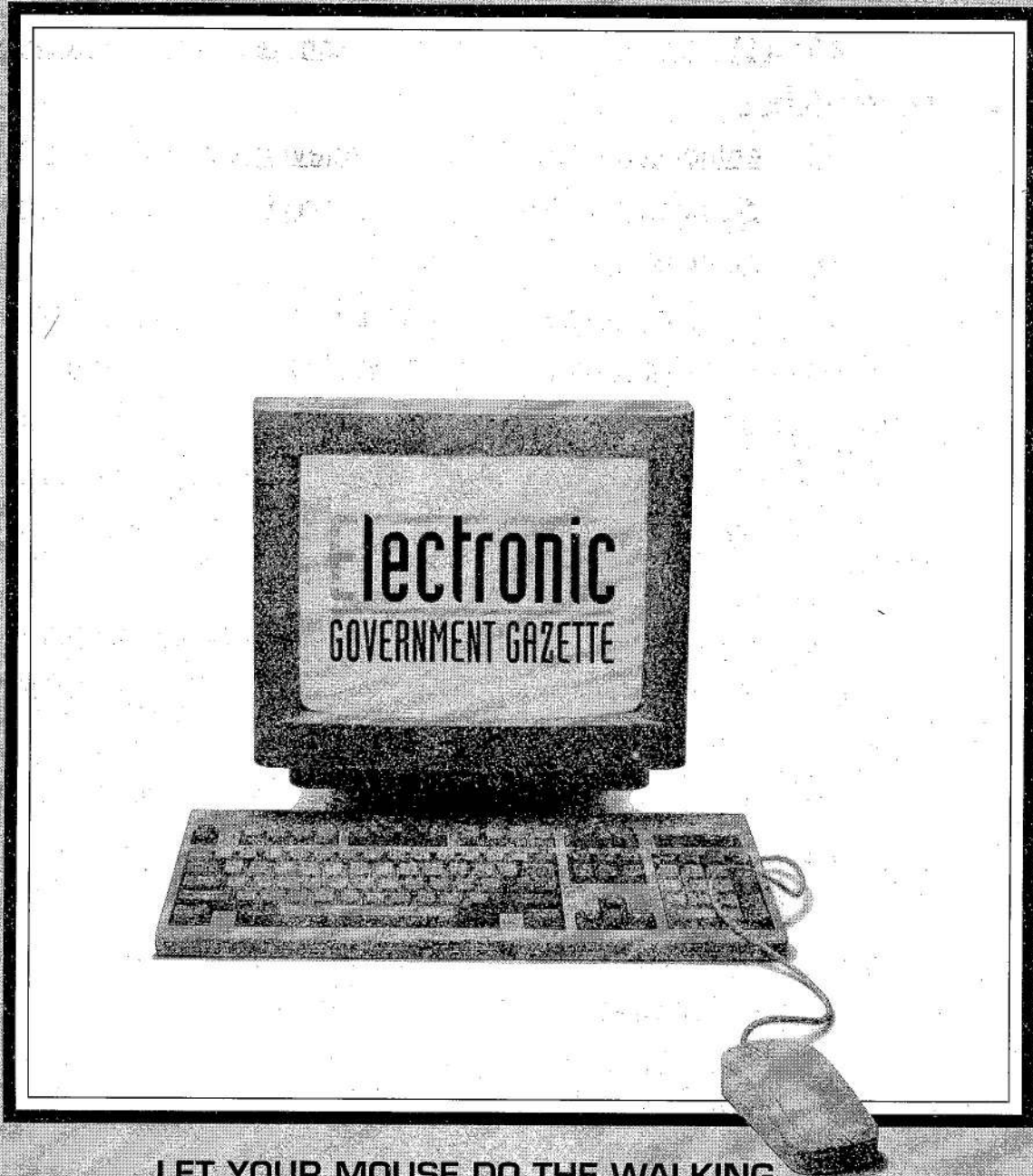
"Regulasies deur nasionale Minister

20A.(1) Die nasionale Minister kan regulasies uitvaardig betreffende—

- (a) enige aangeleentheid wat ingevolge hierdie Wet deur die nasionale Minister voorgeskryf moet of kan word;**
- (b) maatreëls—**
 - (i) om die mishandeling van bejaarde persone te voorkom, te bestry en daarmee te handel;**
 - (ii) wat geneem moet word om persone wat benadeel is deur onbillike diskriminasie, te bevoordeel;**
 - (iii) om die regte van inwoners van ouetehuse te bevorder;**
- (c) die vorm en inhoud van diensstandaardooreenkomste tussen die inwoners en die bestuurskomitee van 'n ouetehuis;**
- (d) die minimum diensstandaarde vir ouetehuse;**
- (e) die minimum norme en standaarde vir die sorg van bejaardes;**
- (f) kriteria, en beoordelingsprosedure, vir toelating tot ouetehuse."**

Kort titel en inwerkingtreding

10. Hierdie Wet heet die Wysigingswet op Bejaarde Persone, 1998, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.



LET YOUR MOUSE DO THE WALKING

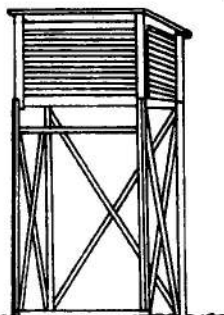
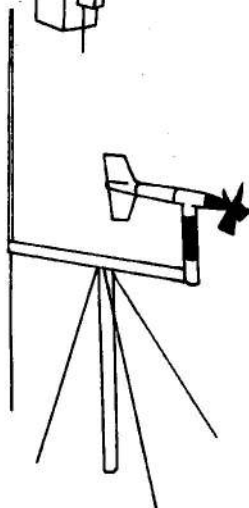
Subscribe to our full-text, Electronic Government Gazette and cut hours off the time you spend searching for information. Just point and click and within seconds, you can let your computer do the searching. Data is available within two days after publication and we can now also offer the full-text of the nine provincial gazettes. Contact us today and save time, space and paper.



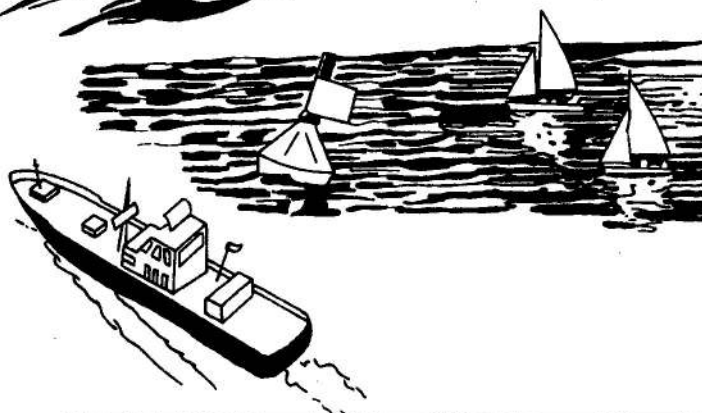
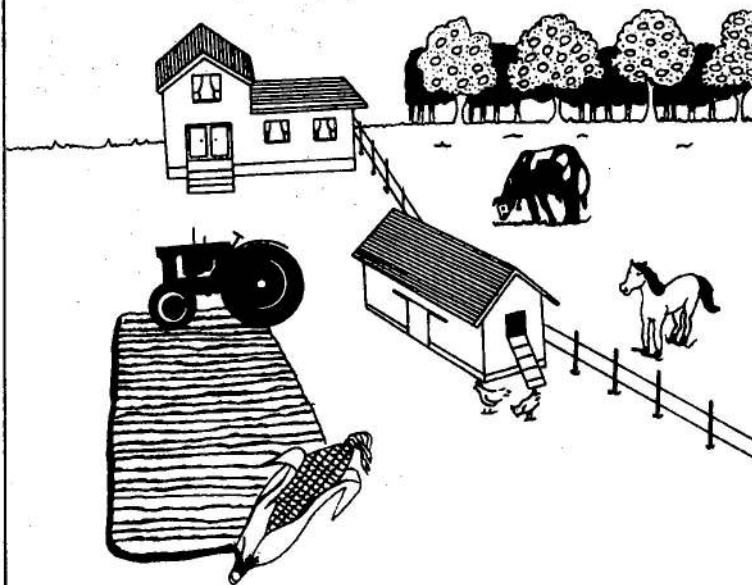
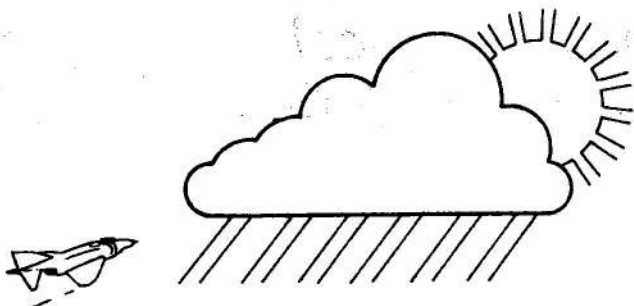
The proven source of information

tel: (012) 663-4954 fax: (012) 663-3543 toll free tel: 0800 11 11 73
e-mail: sabinet@sabinet.co.za www: <http://www.sabinet.co.za>

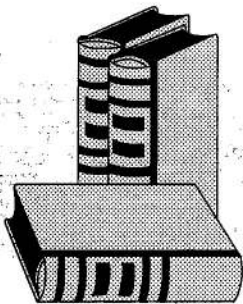
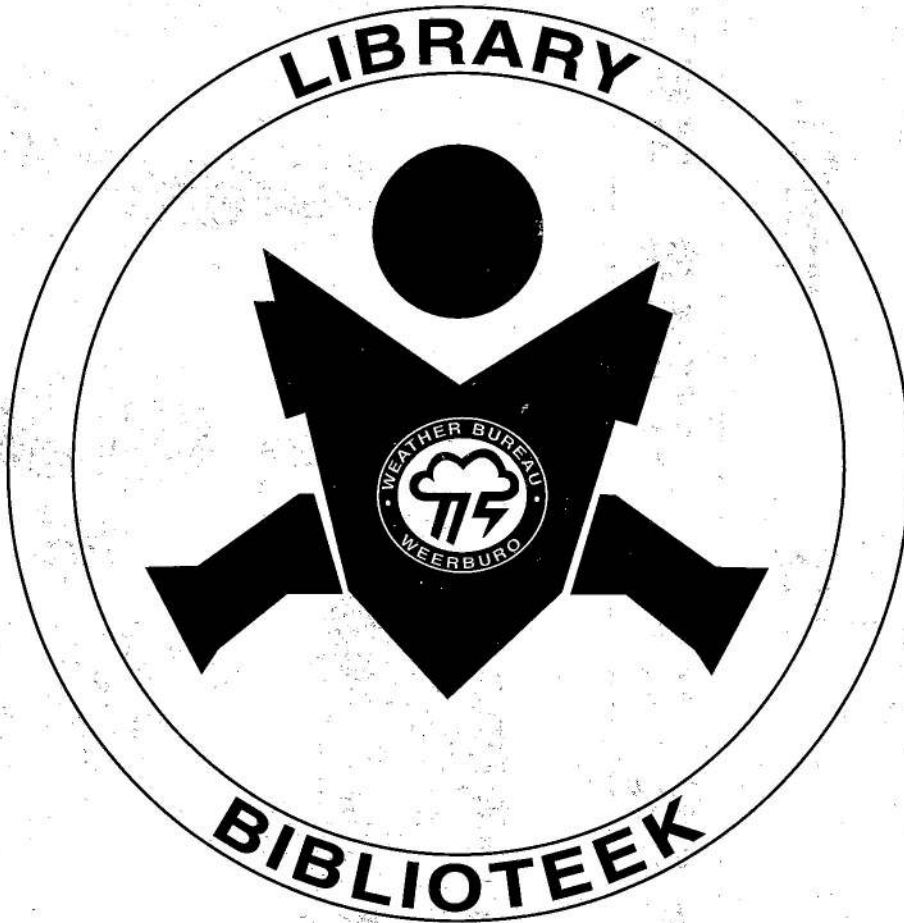
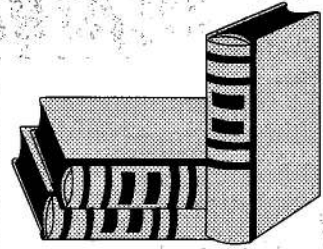
SA WEATHER BUREAU SA WEERBURU



**W
E
A
T
H
E
R
·
S
E
R
V
I
C
E
S
·
W
E
E
R
D
I
E
N
S
T
E**



Where is the largest amount of meteorological information in the whole of South Africa available?



Waar is die meeste weerkundige inligting in die hele Suid-Afrika beskikbaar?

Department of Environmental Affairs and Tourism
Departement van Omgewingsake en Toerisme

CONTENTS**INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>	<i>Bladsy No.</i>	<i>Koerant No.</i>
GOVERNMENT NOTICE			GOEWERMENTSKENNISGEWING		
Welfare, Department of			Welsyn, Departement van		
<i>Government Notice</i>			<i>Goewermentskennisgewing</i>		
R. 1180	Aged Persons Amendment Bill, 1998: For general information and comment....	1 19262	R. 1180	Wysigingswetsontwerp op Bejaarde Persone, 1998: Vir algemene inligting en kommentaar	15 19262

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001
Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515