



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

VOL. 354

KAAPSTAD, 9 DESEMBER 1994

CAPE TOWN, 9 DECEMBER 1994

No. 16147

KANTOOR VAN DIE PRESIDENT

No. 2119. 9 Desember 1994

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word:

No. 44 van 1994: Wysigingswet op Bejaarde Persone, 1994.

OFFICE OF THE PRESIDENT

No. 2119. 9 December 1994

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:

No. 44 of 1994: Aged Persons Amendment Act, 1994.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Wet op Bejaarde Persone, 1967, ten einde sekere woordskrywings in te voeg, te skrap of te wysig; die registrasie van ouetehuse verder te reël; die delegering van sekere bevoegdhede verder te reël; strawwe te verhoog; die Minister se bevoegdheid om regulasies uit te vaardig opnuut te reël; sekere verouderde bepalings te wysig of te herroep; en sekere diskriminerende bepalings te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die President geteken.)
(Goedgekeur op 25 November 1994.)

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 en artikel 1 van Wet 46 van 1976

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

(a) deur in subartikel (1) na die omskrywing van “bestuurder” die volgende omskrywing in te voeg:

“ ‘Direkteur-generaal’ die Direkteur-generaal: Welsyn;”;

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(b) deur in subartikel (1) die omskrywing van “die gebied” te skrap;

(c) deur in subartikel (1) die omskrywing van “geregisteerde welsyns-organisasie” deur die volgende omskrywing te vervang:

“ ‘geregisteerde welsynsorganisasie’ ’n welsynsorganisasie wat ingevolge die Nasionale Welsynswet, [1965 (Wet No. 79 van 1965)] 15
1978 (Wet No. 100 van 1978), geregistreer is of geag word geregistreer te wees;”;

(d) deur in subartikel (1) die omskrywing van “landdros” deur die volgende omskrywing te vervang:

“ ‘landdros’ ook ’n addisionele landdros en ’n assistent-landdros [en ook ’n Kommissaris, ’n Addisionele Kommissaris en ’n Assistent-kommissaris];”;

20

(e) deur in subartikel (1) na die omskrywing van “landdros” die volgende omskrywing in te voeg:

“ ‘maatskaplike werker’ iemand wat kragtens die Wet op Maatskaplike Werk, 1978 (Wet No. 110 van 1978), as ’n maatskaplike werker 25
geregistreer is en in diens van die Staat is;”;

(f) deur in subartikel (1) die omskrywing van “Minister” deur die volgende omskrywing te vervang:

“ ‘Minister’ die Minister vir Welsyn en Bevolkingsontwikkeling;”;

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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.

ACT

To amend the Aged Persons Act, 1967, so as to insert, delete or amend certain definitions; to further regulate the registration of homes for the aged; to further regulate the delegation of certain powers; to increase penalties; to regulate anew the Minister's power to make regulations; to amend or repeal certain obsolete provisions; and to repeal certain discriminatory provisions; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)
(Assented to 25 November 1994.)

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 and section 1 of Act 5 46 of 1976

1. Section 1 of the Aged Persons Act, 1967 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion in subsection (1) after the definition of "debilitated person" of the following definition:

10 "'Director-General' means the Director-General: Welfare;";
- (b) by the substitution in subsection (1) for the definition of "magistrate" of the following definition:

15 "'magistrate' includes an additional and an assistant magistrate [and also a Commissioner and an additional and an assistant Commissioner];";
- (c) by the substitution in subsection (1) for the definition of "Minister" of the following definition:

20 "'Minister' means the Minister for Welfare and Population Development;";
- (d) by the substitution in subsection (1) for the definition of "registered welfare organization" of the following definition:

25 "'registered welfare organization' means a welfare organization registered or deemed to be registered in terms of the National Welfare Act, [1965 (Act No. 79 of 1965)] 1978 (Act No. 100 of 1978);";
- (e) by the insertion in subsection (1) after the definition of "registered welfare organization" of the following definition:

 "'social worker' means any person who is registered as a social worker under the Social Work Act, 1978 (Act No. 110 of 1978), and who is in the service of the State;";

(g) deur in subartikel (1) die omskrywings van "Republiek", "Sekretaris" en "volkswelnsynbeampte" te skrap; en

(h) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die bepalings van hierdie Wet is nie van toepassing nie ten opsigte van 'n plek of 'n gedeelte van 'n plek wat ingevolge 'n wet as 'n hospitaal of kliniek geregistreer is of in stand gehou word of ten opsigte waarvan 'n hoteldranklisensie **[of 'n binneverbruikslisensie vir huisvestingsinrigtings]** ingevolge die Drankwet, **[1928 (Wet No. 30 van 1928), of die Drankordonnansie, 1969 (Ordonnansie No. 2 van 1969), van die gebied (na gelang van die geval)]** 1989 (Wet No. 27 van 1989), uitgereik en van krag is nie."

Vervanging van artikel 2 van Wet 81 van 1967, soos gewysig deur artikel 5 van Wet 97 van 1972 en artikel 21 van Wet 37 van 1973

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

"Oprigting en instandhouding van ouetehuse, betaling van subsidies aan ouetehuse en sekere klubs, dienssentrum en welsynsorganisasies

2. Die Minister kan, behoudens die bepalings van hierdie Wet en met die instemming van die Minister van Finansies, uit geld wat die Parlement vir dié doel bewillig—

- (a) ouetehuse oprig en in stand hou;
- (b) subsidies betaal aan die bestuurders van geregistreerde ouetehuse, klubs en dienssentrum vir bejaarde persone en geregistreerde welsynsorganisasies wat welsynsdienste aan bejaarde en verswakte persone verskaf."

Wysiging van artikel 3 van Wet 81 van 1967

3. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Na oorweging van 'n aansoek bedoel in subartikel (2) **[kan]** moet die Minister **[na goeddunke]**—

- (a) die aansoek van die hand wys of toestaan op die voorwaardes wat hy **[goedvind]** of sy bepaal, en indien hy of sy dit toestaan, gelas dat 'n registrasiesertifikaat waarin daardie voorwaardes vermeld word, aan die aansoeker in die voorgeskrewe vorm uitgereik word; of
- (b) op die voorwaardes wat hy **[goedvind]** of sy bepaal, die aansoeker magtiging verleen om die ouetehuis te bestuur vir die tydperk (maar hoogstens 12 maande) wat die Minister bepaal, en gelas dat 'n registrasiesertifikaat waarin daardie voorwaardes vermeld word, aan die aansoeker in die voorgeskrewe vorm vir daardie tydperk uitgereik word, en na verloop van dié tydperk, of na kennisgewing deur die aansoeker op die voorgeskrewe wyse dat aan genoemde voorwaardes voldoen is, watter ook al die eerste geskied, die aansoek heroorweeg."

(b) deur subartikel (8) deur die volgende subartikel te vervang:

"(8) Die bestuurder van 'n ouetehuis wat onmiddellik vóór die datum van inwerkingtreding van hierdie artikel deur die Staat gesubsideer word, is geregtig op registrasie van dié ouetehuis ingevolge subartikel (3)(a) op die voorwaardes wat die Minister **[goedvind]** bepaal."

Wysiging van artikel 5 van Wet 81 van 1967

4. Artikel 5 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Die bepalings van die Strafproseswet, **[1955 (Wet No. 56 van 1955)]** 1977 (Wet No. 51 van 1977), met betrekking tot die vorm en wyse van betekening van dagvaardings in strafsake in laerhowe, die tydperk wat aan 'n

- (f) by the deletion in subsection (1) of the definitions of "Republic", "Secretary", "social welfare officer" and "the territory"; and
(g) by the substitution for subsection (2) of the following subsection:

5 “(2) The provisions of this Act shall not apply in respect of any place or part of a place registered or maintained in terms of any law as a hospital or clinic or in respect of which a hotel liquor licence **[or an accommodation establishment on-consumption licence]** has been issued and is in force in terms of the Liquor Act, **[1928 (Act No. 30 of 1928), or the Liquor Ordinance, 1969**
10 **(Ordinance No. 2 of 1969), of the territory (as the case may be)]** 1989 (Act No. 27 of 1989).”.

Substitution of section 2 of Act 81 of 1967, as amended by section 5 of Act 97 of 1972 and section 21 of Act 37 of 1973

15 2. The following section is hereby substituted for section 2 of the principal Act:

“Establishment and maintenance of homes for the aged, payment of subsidies to homes for the aged and certain clubs, service centres and welfare organizations

20 2. The Minister may, subject to the provisions of this Act and with the concurrence of the Minister of Finance, out of moneys appropriated by Parliament for that purpose—

- (a) establish and maintain homes for the aged;
(b) pay subsidies to the managers of registered homes for the aged, clubs and service centres for aged persons and registered welfare
25 organizations providing welfare services to aged and debilitated persons.”.

Amendment of section 3 of Act 81 of 1967

3. Section 3 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
30 “(3) After consideration of an application referred to in subsection (2) the Minister **[may in his discretion]** shall—
(a) refuse the application or grant it subject to such conditions as he or she may **[deem fit]** determine, and if he or she grants it, direct that a registration certificate specifying those conditions be issued to the applicant in the prescribed form; or
35 (b) subject to such conditions as he or she may **[deem fit]** determine, grant authority to the applicant to manage the home for the aged for such period (not exceeding 12 months) as the Minister may determine, and direct that a registration certificate specifying those conditions be issued to the applicant in the prescribed form for that period, and after expiration of the said period, or after notice by the applicant in the prescribed manner that the said conditions have been complied with, whichever may occur first, reconsider the application.”; and
40 (b) by the substitution for subsection (8) of the following subsection:

45 “(8) The manager of a home for the aged which immediately prior to the date of commencement of this section is being subsidized by the State, shall be entitled to have such home registered in terms of subsection (3)(a) subject to such conditions as the Minister may **[deem fit]** determine.”.
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Amendment of section 5 of Act 81 of 1967

4. Section 5 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

- 55 “(5) The provisions of the Criminal Procedure Act, **[1955 (Act No. 56 of 1955)]** 1977 (Act No. 51 of 1977), in relation to the form and manner of

gedagvaarde persoon toegestaan moet word om te verskyn, en die wyse waarop gehandel kan word met persone wat gedagvaar is om te verskyn, as hulle versuim om te verskyn of om teenwoordig te bly, soos vereis, is *mutatis mutandis* van toepassing ten opsigte van dagvaardings wat ingevolge hierdie artikel uitgereik word.”.

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Wysiging van artikel 6 van Wet 81 van 1967, soos gewysig deur artikel 3 van Wet 46 van 1976

5. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Die bepalings van artikel **[156(1)]** 159(1) van die Strafproseswet, **[1955 (Wet No. 56 van 1955)]** 1977 (Wet No. 51 van 1977), vir sover hulle betrekking het op die hou van ’n strafverhoor in die afwesigheid van ’n beskuldigde, is *mutatis mutandis* van toepassing ten opsigte van ’n ondersoek wat ingevolge hierdie artikel gehou word.”.

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Vervanging van artikel 18 van Wet 81 van 1967, soos gewysig deur artikel 16 van Wet 98 van 1969

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6. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

“Delegering

18. (1) Die 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 20 bedoel, skriftelik aan die Direkteur-generaal of ’n ander beampte in diens van die Staat deleger.

20

(2) Die Direkteur-generaal kan, op die voorwaardes wat hy of sy bepaal, enige bevoegdheid by of kragtens hierdie Wet aan hom of haar verleen of kragtens subartikel (1) aan hom of haar gedelegeer, aan ’n beampte in diens van die Staat deleger.

25

(3) Die Minister of Direkteur-generaal 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.”.

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Vervanging van artikel 19 van Wet 81 van 1967

7. Artikel 19 van die Hoofwet word hierby deur die volgende artikel vervang:

“Strawwe

19. Iemand wat weens ’n misdryf ingevolge die een of ander bepaling van hierdie Wet skuldig bevind word, is strafbaar met ’n boete **[van hoogstens honderd rand]** of met gevangenisstraf vir ’n tydperk van hoogstens **[drie]** 12 maande, of met daardie boete sowel as daardie gevangenisstraf.”.

35

Vervanging van artikel 20 van Wet 81 van 1967, soos gewysig deur artikel 8 van Wet 86 van 1970, artikel 3 van Wet 14 van 1971 en artikel 21 van Wet 37 van 1973

40

8. Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

“Regulasies

20. Die Minister kan regulasies uitvaardig betreffende—

(a) die vorm van ’n aansoek, magtiging, sertifikaat, toestemming, kennisgewing, bevel, register, prosesstuk of dagvaarding wat ingevolge hierdie Wet gedoen, verleen, gegee, uitgereik of gehou moet of kan word, en enige ander vorm wat by die uitvoering van die bepalings van hierdie Wet nodig is;

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(b) die prosedure wat gevolg moet word en die voorwaardes wat opgelê kan word in verband met die registrasie van ouetehuse, en die minimum standaarde waaraan ouetehuse moet voldoen;

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5 service of summonses in criminal cases in lower courts, the time to be allowed to a person summoned to appear, and the manner in which persons who have been summoned to appear, may be dealt with if they fail to appear or to remain in attendance, as required, shall *mutatis mutandis* apply in respect of summonses issued in terms of this section.”.

Amendment of section 6 of Act 81 of 1967, as amended by section 3 of Act 46 of 1976

5. Section 6 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

10 “(6) The provisions of section **[156(1)]** 159(1) of the Criminal Procedure Act, **[1955 (Act No. 56 of 1955)]** 1977 (Act No. 51 of 1977), in so far as they relate to the conduct of a criminal trial in the absence of an accused, shall *mutatis mutandis* apply in respect of an enquiry held in terms of this section.”.

15 **Substitution of section 18 of Act 81 of 1967, as amended by section 16 of Act 98 of 1969**

6. The following section is hereby substituted for section 18 of the principal Act:

“Delegation

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

25 (2) The Director-General may, on such conditions as he or she may determine, delegate to an officer in the service of the State, any power conferred upon the Director-General by or under this Act or delegated to him or her under subsection (1).

30 (3) The Minister or Director-General 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 such power delegated to him or her.”.

Substitution of section 19 of Act 81 of 1967

7. The following section is hereby substituted for section 19 of the principal Act:

“Penalties

35 **19.** Any person convicted of any offence in terms of any provision of this Act shall be liable to a fine **[not exceeding one hundred rand]** or to imprisonment for a period not exceeding **[three]** 12 months, or to both such fine and such imprisonment.”.

Substitution of section 20 of Act 81 of 1967, as amended by section 8 of Act 86 of 1970, section 3 of Act 14 of 1971 and section 21 of Act 37 of 1973

40 8. The following section is hereby substituted for section 20 of the principal Act:

“Regulations

20. The Minister may make regulations regarding—

- 45 (a) the form of any application, authority, certificate, consent, notice, order, register, process or subpoena which is to or may be made, granted, given, issued or kept in terms of this Act, and any other form required in administering the provisions of this Act;
- (b) the procedure to be followed and the conditions which may be imposed in connection with the registration of homes for the aged, and the minimum standards with which such homes are to comply;

- (c) die boeke, rekenings en registers wat deur die bestuurders van geregistreerde ouetehuse gehou moet word, die wyse waarop sodanige boeke, rekenings en registers gehou en daarmee gehandel moet word, en die opgawes en verslae wat in verband met sodanige ouetehuse verstrekkend moet word; 5
- (d) die aantekeninge wat gehou moet word deur iemand wat 'n bejaarde of verswakte persoon teen vergoeding, hetsy by wyse van geld of goedere, huisves of versorg in 'n ander plek as 'n geregistreerde ouetehuis; 10
- (e) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word; 10
- (f) in die algemeen, enige aangeleentheid ten opsigte waarvan die Minister dit nodig of dienstig ag om regulasies uit te vaardig ten einde die oogmerke van hierdie Wet te bereik, en die algemeenheid van hierdie bepaling word nie beperk deur die voorafgaande paragrafe nie.”. 15

Herroeping van artikels 21 en 21A van Wet 81 van 1967

9. Artikels 21 en 21A van die Hoofwet word hierby herroep.

Wysiging van artikel 23 van Wet 81 van 1967

10. Artikel 23 van die Hoofwet word hierby gewysig deur subartikel (2) te skrap. 20

Vervanging van sekere uitdrukkings

11. Die Hoofwet word hierby gewysig—

- (a) deur in artikels 3(7), 4 en 5 die uitdrukking “volkswelsynbeampte”, oral waar dit voorkom, deur die uitdrukking “maatskaplike werker” te vervang; en 25
- (b) deur in artikel 4(2) die uitdrukking “Sekretaris” deur die uitdrukking “Direkteur-generaal” te vervang.

Kort titel en inwerkingtreding

12. Hierdie Wet heet die Wysigingswet op Bejaarde Persone, 1994, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal. 30

AGED PERSONS AMENDMENT ACT, 1994

Act No. 44, 1994

- 5 (c) the books, accounts and registers which are to be kept by the managers of registered homes for the aged, the manner in which such books, accounts and registers are to be kept and dealt with, and the returns and reports to be furnished in connection with such homes for the aged;
- (d) the records to be kept by any person who cares for or accommodates for remuneration, whether by way of money or goods, any aged or debilitated person in any place other than a registered home for the aged;
- 10 (e) any matter which in terms of this Act is required or permitted to be prescribed;
- (f) generally, any matter in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve the objectives of this Act, and the generality of this provision shall not be limited by the preceding paragraphs.”
- 15

Repeal of sections 21 and 21A of Act 81 of 1967

9. Sections 21 and 21A of the principal Act are hereby repealed.

Amendment of section 23 of Act 81 of 1967

20 10. Section 23 of the principal Act is hereby amended by the deletion of subsection (2).

Substitution of certain expressions

- 25 11. The principal Act is hereby amended—
- (a) by the substitution in sections 3(7), 4 and 5 for the expression “social welfare officer”, wherever it occurs, of the expression “social worker”; and
- (b) by the substitution in section 4(2) for the expression “Secretary” of the expression “Director-General”.

Short title and commencement

30 12. This Act shall be called the Aged Persons Amendment Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

