

Submission to the Department of Social Development on the draft Social Assistance Bill

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Introduction

The new Social Assistance Act has a critical role to play in giving effect to the constitutional right to social assistance in terms of section 27 of the Constitution. It is therefore very important that the affected stakeholders are consulted in the drafting and decision making process. We would therefore like to thank the Department for giving us the opportunity to comment on the draft at this stage of the process.

However, the short time frames given for commenting on the draft bill has not allowed us to fully explore the draft and its implications and to consult adequately with our respective organisations and constituencies. We are also concerned that we have made our comment without being able to have sight of the draft regulations and the norms and standards document.

Taking the above into account, we therefore would like to expressly put on record that further consultation is required on this draft bill and that we look forward to further opportunities to refine our suggestions and positions with regards to the draft bill.

Please see our comments below. Deletions are indicated with ~~strikethrough~~ and additions are underlined. Where possible (time allowing) we have given motivations for our suggested re-drafts.

Preamble

Suggested amendment:

“WHEREAS the Constitution of the Republic of South Africa, 1996, as the supreme law of the Republic, was adopted so as to establish a society based on democratic values, social and economic justice, equality and fundamental human rights and to improve the quality of life of all citizens and to free the potential of all persons by every means possible, including, amongst others, by the establishment of a fair and equitable social security system;

AND WHEREAS everyone has the right to have access to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance;

AND WHEREAS the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right;

AND WHEREAS it is considered necessary that changes be effected to the existing laws relating to social security and that, as a first step in the reform of the entire South African social security system, certain of those laws be ~~restated with a view to emphasising the importance of a sensitive and fair approach to the determination of social security~~ amended in order to further promote the realisation of the constitutional right of access to social security.”

Definition Section

Insert new definitions:

“Appointed” in the context of a procurator means the completion of a power of attorney by the grant beneficiary, which indicates the nominated adult to collect the grant of the beneficiary. In the case of a person with a disability who is unable to complete a power of attorney this means the nomination of an adult by the relatives or primary care giver of the beneficiary to collect the

grant on the beneficiary's behalf, provided that the person nominated satisfies the Chief Executive Officer that the beneficiary and the nominee comply with the conditions prescribed in this Act.

Motivation:

It is currently impossible for a person with a mental disability to appoint an adult to collect his/her grant on his/her behalf. The only alternative is an application to the High Court to appoint a curator bonis who would be allowed to collect the grant. This is costly, raises the dilemma of having access to an attorney and is time consuming. The reality is that many of these beneficiaries consequently don't access these grants at all.

“child headed household” means a household where –

- (a) the parent or primary care giver of the household is terminally ill or has died because of AIDS or another cause;
- (b) no adult family member lives with and provides care for the children in the household; and
- (c) a child has assumed the role of primary care giver in respect of a child or children in the household.

Motivation:

- A definition of child headed households is needed for the procedures outline in the new section 15 aimed at enabling children in child headed households to benefit from social assistance grants. Please see new section 15 below.

“chronic illness” means a long term health condition which affects the person for at least one year or more, and produces one or more of the following sequelae:

- (i) limitation of function compared with peers,
- (ii) dependence on health care
- (iii) the need for medical or other services more than is normal, and/or
- (iv) requires long term health care

"mentor" means an individual or organisation who has been appointed by the relevant provincial Department of Social Development, a designated non-governmental organisation, or the Child and Family Court, to apply for, collect and administer a grant on behalf of a street child or a child living in a child headed household

Motivation:

Please see new section 15 below.

We decided that using the procurator system for children who do not have adult care givers may not be appropriate as the procurator is generally someone who simply collects the grant on behalf of the beneficiary and does not necessarily administer and keep the money for the beneficiary (they hand it over to the beneficiary). A mentor on the other hand would be a type of secondary care giver in the child's life who applies for, collects and administers the grant for the child concerned.

"street child" means a child who –

- (a) because of abuse, neglect, poverty, community upheaval or any other reason, has left his or her home, family or community and lives, begs or works on the streets for survival; or
- (b) because of inadequate care, begs or works on the streets for survival but returns home at night;

Motivation:

A definition of street child is needed due to the procedures suggested in the new section 15. These procedures are suggested in order to make provision for street children to access social security. At the moment they cannot access grants because they need to have an adult primary care giver to do so on their behalf. Please see new section 15 below.

“procurator” means a person appointed by a beneficiary to receive the beneficiary’s grant on his or her behalf”.

Motivation:

In the existing regulations the term procurator is mentioned in regulation 8(4)a relating to the limit in collecting only money on behalf of 5 people, whilst there is no clear definition of a procurator in the body of the Bill.

We hereby submit that the definition as submitted by us of procurator should not be limited to only include South African citizens, but should also give scope for documented permanent residents to be appointed. As beneficiaries of grants will include people from non-South African communities, procurators therefore should also be appointed from these communities.

“Permanent Resident” means someone who qualifies as a permanent resident in terms of the Immigration Act 13 of 2002”.

“Temporary Resident means someone who qualifies as a temporary resident in terms of the Immigration Act 13 of 2002”.

Suggested amendments to existing definitions:

(ii) **“applicant”** means any person who applies for social assistance, ~~a foster care allowance or social relief of distress~~ in respect of him or herself or on behalf of another person in terms of this Act;

(iii) **“beneficiary”** means any person who is in receipt of social assistance, ~~a foster care allowance or social relief of distress~~ in terms of this Act;

(iv) **“~~care-dependency grant~~ child disability grant”** means a grant awarded to a ~~care dependent child~~ child with a disability or chronic illness as prescribed in terms of this Act;

(v) ~~“care dependent child~~ **child with a disability**” means any child who requires care or support services as prescribed due to his or her physical, mental, intellectual or sensory impairment disability or chronic illness, including HIV/AIDS., which results in disability and who complies with the prescribed eligibility criteria.

(vii) **“child support grant”** means a grant awarded to a child as ~~prescribed~~ in terms of section 6 of this Act;

(xi) **“disability grant”** means a grant awarded to a person with a disability as ~~prescribed~~ in terms of this Act.

(xii) ~~“foster care allowance~~ **child grant**” means an ~~allowance~~ a grant awarded to foster parents in terms of this Act, in respect of a child placed in their care as prescribed

(xvi) **“grant in aid”** means a grant awarded to persons who ~~are totally incapacitated and require total care as prescribed~~ need personal assistance to perform daily activities, in terms of this Act.”

(xxiv) **“person with a disability”** means any person who has attained the ~~prescribed~~ required age and who owing to his or her physical or mental or intellectual or sensory impairment disability or chronic illness, ~~disabled~~ is unable to adequately support him or herself and/or his or her dependants”.

(xxvi) **“primary care giver”**, in relation to a child, means a person, whether or not related to the child, who ~~with the implied or express consent of the parent or guardian of the child has~~ takes the primary responsibility of meeting the daily care needs of the child as ~~prescribed~~

(xxix) **“social relief of distress”** means the provision of immediate ~~temporary~~ assistance in cash awards ~~material form to an individual or individuals in a family within the same household,~~ to a person who experiences destitution desperate need. and who are not already in receipt of social assistance.

Motivation: It is not logical to deny the grant to an individual in desperate need in a family on the basis that another member of the family might be receiving a social relief of distress grant or any other grant. This will also have perverse incentives in terms of fragmentation of destitute families.

In addition, there is no justification in the Constitution, as elucidated in the matter of Grootboom to justify the **temporary** nature of social assistance to those unable to provide for themselves.

(xxx)“**South African citizen**” means any person who has acquired citizenship in terms of Chapter Two of the South African Citizenship Act, 1995 (Act No. 88 of 1995), subject to the provisions of Section 2 below.

Delete the following definition:

Impairment - No longer required due to redrafted definitions of disability and

Application of this Act - Section 2

Suggested amendments:

Section 2(4): “The application of this Act to non South African citizens will be in accordance with the agreements signed between the Republic of South Africa and an individual’s country of origin: Notwithstanding the provisions of any such agreements a person qualifies for social assistance in accordance with the provisions of this Act, if such person is a permanent resident, or has lived and worked for a minimum of five years of his or her adult life as a temporary resident in the Republic of South Africa or if such person is the spouse or life partner of ~~a person who has lived and worked in the Republic of South Africa for such period.~~ such qualifying permanent or temporary resident.”

Suggested insertions:

Insert new section 2(5)(a) and (b)

5(a) Notwithstanding the provisions of subsection (4), the provisions of this Act will apply to all refugees in accordance with the provisions of Section 27(c) of the Refugees Act, 130 of 1998 and in further accordance with Article 24(1) of the 1951 United Nations Convention and Protocol relating to the Status of Refugees and Article 22 of the Universal Declaration of Human Rights. The same rights shall be enjoyed by the child, spouse or life partner of such refugee.

(b) In addition to subsection (5)(a), this Act shall further apply to all children who are dependant on refugees and asylum seekers, or who have entered South Africa as undocumented children.

Motivation: In terms of Article 2 of the Convention on the Rights of the Child (ratified by South Africa in 1995), a state party to the Convention may not discriminate against or deny any of the rights in the Convention (including social security) to a child due to the child's national origin.

Objects of the Act. - Section 2

Insert new clause (a) in addition to the existing clauses (a) to (d):

“(a) _____ to advance the progressive realisation of the right of access to appropriate social assistance for everyone who is unable to support themselves and their dependants”.

General principles of the Act - Section 4

The general principles of the Act are not specified in the Act. We therefore suggest the following insertion:

Insert the following general principles:

(1) The general principles of this Act are the following:

- (a) The rendering, suspension or termination of social assistance benefits must take place without any form of unfair discrimination;
- (b) All administrative action pertaining to social assistance benefits must be lawful, reasonable and procedurally fair;
- (c) All applications for social assistance must be expeditiously processed, and payment made to eligible beneficiaries within a reasonable period of time.
- (d) The human dignity of all applicants and beneficiaries of social assistance in terms of this Act must be respected and protected.
- (e) Measures must be taken to facilitate consultation of and participation by social assistance beneficiaries and other relevant stakeholders in matters pertaining to the realisation of social assistance rights.

Re-number the existing section 4(1) as section 4(2) as amend as follows:

4. ~~(1)~~ (2) The general principles set out in ~~this Act~~ subsection (1) ~~guides~~ bind -
- (a)
 - (b)
 - (c)

Delete the existing section 4(2).

Provision of Social Assistance - Sections 5 to 12

Suggested amendments:

Provision of Social Grants

5. The Minister must make provision for social grants for children, disabled persons and older persons, who are unable to ~~provide for~~ adequately support themselves, on such conditions as ~~prescribed~~ set out in this Act and regarding such amounts as the Minister from time to time by notification in the Gazette ~~may~~ must determine.

Child Support Grant

Replace section 6 with new section:

6(1) Every child of 14 years or younger is entitled to an appropriate child support grant if he or she is not adequately supported.

(2) The above grant is payable to the primary care giver of the child concerned or in the case of a street child or a child living in a child headed household, to a mentor appointed in terms of section 15 of this Act

(3) The Minister must, in keeping with the principles of protecting children to the maximum extent of the state's available resources and the progressive realisation of the right to social security, by regulation, increase the qualifying age specified in subsection (1) from 14 years to 18 years.

Motivation:

The above definition ensures that the only eligibility criteria is age and means ("not adequately supported"). The regulations would then flesh out the eligibility criteria, which would involve simply defining what "not adequately supported" means and designing a means test to ascertain whether the child qualifies.

Instructing the Minister to increase the age from 14 to 18 over time by regulation allows sufficient time and flexibility while also in effect making a policy choice now that the age 18 is the age to strive for. The provision also allows for the incorporation into legislation of the constitutional imperatives of protecting children to the maximum extent of state resources and the progressive realisation of socio-economic rights.

Child Disability Grant ~~Care Dependency Grant~~

7. Any child is entitled to a ~~care dependency grant~~ child disability grant if he or she, ~~as a result of his or her~~ has a physical or mental or intellectual or sensory disability or chronic illness and is not adequately supported. Provided that the child is not maintained on a 24-hour basis for a period longer than six months in an institution that is fully funded by the State.

Foster Child Grant

8. A foster parent or parents is entitled to a foster child grant, for a child or children determined to be a child in need of care, for the duration of the child being in such care: Provided that the foster parent or parents satisfies ~~Chief Executive officer that~~ the conditions as prescribed by the Child Care Act, 1983 ~~are complied with.~~ and the child concerned does not have income sufficient to adequately support the child.

Disability Grant

9. Any person is entitled to a disability grant if he or she as a result of his or her physical or mental or intellectual or sensory ~~impairment~~ disability or chronic illness is unable to adequately support themselves and/or their dependents: Provided that he or she or the person applying on his or her behalf, if he or she is unable to apply, satisfies the conditions in terms of this Act.

Older persons grant

10. An older person is entitled to either a grant for older persons or a war veterans grant if he or she is unable to support himself or herself or dependants: Provided that he or she or the person applying on his or her behalf, if he or she is unable to apply, satisfies the conditions in terms of this Act.

Grant-in-Aid

11. Any person who is in need of personal assistance to perform daily living activities due to his or her physical, mental, sensory or intellectual disability or chronic illness is eligible for a grant-in-aid: Provided that he or she satisfies the conditions in terms of this Act.

Social Relief of Distress

12. Any person who experiences ~~temporary destitution~~ desperate need as ~~a result of one or more situations as prescribed by this Act which contribute or result in destitution~~ is eligible for social relief of distress: Provided that the applicant satisfies the conditions in terms of this Act.

7. Application for Social Assistance (Sections 14)

- 14 (1) Any person who ~~desires~~ wishes to apply for social assistance must do so in the prescribed manner to the Chief Executive Officer.
- (2) In considering an application under sub-section (1) the Chief Executive Officer may conduct such investigation and request such additional information, as he or she may deem reasonably necessary in respect of the application.
- (3) If the applicant qualifies for the social assistance ~~or foster child grant~~ applied for in terms of this Act, the Chief Executive Officer must authorise the rendering of the relevant social assistance.
- (4) Information to be furnished to the Chief Executive Officer is considered confidential and will be treated with discretion.

Insert new Section 15:

Application for social assistance for a child headed household or a street child

(1)The provincial Department of Social Development, Child and Family Court or a non governmental organisation designated by the provincial department, must appoint mentors to apply, collect and administer social assistance on behalf of street children and children living in child headed households.

(2) The procedure for appointment and ensuring accountability of mentors must be prescribed in the regulations

(3) The mentor referred to in subsection (1) –

(a) may apply, collect and administer for the child headed household or street child any social security grant or other grant or assistance to which the household or street child is entitled; and

(b) is accountable to the child and family court, or the provincial department of social development, or to another organ of state

or a non-governmental organisation designated by the provincial head of social development, for the administration of any money received on behalf of the household or street child in the prescribed manner.

- (c) may not take any decisions concerning such household and the children in the household or child without consulting –
- (v) the child at the head of the household; and
 - (vi) given the age, maturity and stage of development of the other children, also those other children;
 - (vii) the street child.

Motivation:

A significant and rapidly escalating problem facing South African children at present concerns the availability of financial support for children orphaned by HIV/AIDS and other causes, and especially those living in child headed households, and street children. There are currently 840 000 children in South Africa who have lost a mother, the majority of these to AIDS, and that figure is expected to rise to 3 million by the year 2015, in the absence of major health interventions.¹ Child headed households are thus a growing phenomenon owing to the increase of HIV/AIDS infected adults.

Furthermore:

- currently, only children aged under 7, and living with a **primary care giver** can apply for a Child Support Grant (CSG);
- children must be placed in **formal foster care** in order for the Foster Care Grant (FCG) to be payable;
- the formal placement options for children in need of care and protection are inadequate to cater for the massive number of children orphaned by AIDS;

¹ Johnson & Dorrington, 2001:1 in Children's Institute, UCT, "Guidelines for health and social services for addressing the needs of children experiencing orphanhood" December 2002.

A procedure allowing for children in child headed households and street children to benefit from social assistance must be designed. The draft Children's Bill proposes a system that we have imported into this submission in an adapted form. Essentially, child headed households and street children should be assisted by mentors (individuals working in NGOs or CBOs and other responsible individuals) to provide the necessary adult supervision in the application and spending of the grant.

In order to provide support to child headed households and street children, we recommend that:

- Legal recognition be given to schemes in terms of which one or more appropriately selected and mandated adults are appointed as 'mentors' over a cluster of child headed households by the Department of Social Development, a recognised/accredited NGO or the court;
- The proposed 'mentor' may not make decisions in respect of the child headed household without consulting the child at the head of the household and without giving due weight to the opinions of the siblings as appropriate to their, age, maturity and stage of development;
- The proposed 'mentor' be able to access grants and other social benefits on behalf of the child headed household; and
- The proposed 'mentor' be accountable to the department of Social Development or a recognised/accredited NGO or the court.
- We recommend that organisations such as street children shelters be entitled to receive and administer grants on behalf of street children.

Application for social relief of distress - Section 15

This paragraph was deleted in the workshop as the new section 14 covers social relief of distress applications as well.

Payment of grants - Section 16

The Minister must subject to the provisions of this Act and with the concurrence of the Minister of Finance, out of money appropriated by the National Treasury for that purpose make payment of Social Assistance.

(Provisions (a) to (c) inclusive were deleted).

Appointment of procurators - Section 17

A person applying for social assistance can authorise another person in accordance with the conditions prescribed by this Act to apply or receive social assistance on his or her behalf: Provided both the beneficiary and the procurator satisfy the (delete: Chief Executive Officer that they comply with) conditions prescribed by the Act.

Appeal to Minister - Section 21

- (1) If a person is aggrieved by a decision of the Chief Executive Officer in the administration of this Act, and after having exhausted all the prescribed procedures to set aside such a decision, such person, or person acting on their behalf may within 90 days after the date on which he or she was notified in writing of the decision, appeal in writing to the Minister against such decision who may confirm, vary or set aside that decision.
- (2) Any decision to reject or to consider suspending a grant must be communicated to the applicant or beneficiary as the case may be in writing, together with adequate reasons in writing. (this provision may rather belong under a heading of “suspension and termination of grants”.)

(Change numbering from (2) to (3) for existing clause; the department is to revisit this last sub-section)

- (3) The Minister may appoint an independent tribunal as prescribed to consider the appeal in accordance with the conditions prescribed by the Act.

Misuse of social assistance or foster care allowance - Section 22

We are concerned by the inclusion of this section in the draft bill. If the misuse of a grant can result in the suspension of the grant, which in effect results in the severe limitation of a constitutional right, the term “misuse” needs to be narrowly defined in terms of objective criteria. Furthermore, a transparent and administratively fair procedure, which allows for the beneficiary to state their side of the story, needs to be prescribed.

The decision to suspend based on misuse should definitely not be left to the CEO’s opinion.

With regards to children’s grants, the CEO should be **obliged** to ensure that a suitable alternative adult is appointed to administer the grant before suspending the grant. If this procedure is not followed, the child ends up being disadvantaged due to an adult’s “transgressions”.

Restrictions on the transfer of the rights and payments of social assistance - Section 23

- 23.(1) Any person entitled to receive social assistance in terms of this Act shall not transfer, cede or pledge such right.
- (2) (1) The amounts payable or received in respect of such right shall not be ceded or pledged, nor shall they be liable to attachment or any form of execution under a judgement or order of a court of law.
- (2) Subject to subsection (6), no payments shall be made to third parties out of the social assistance grant until such amount has been received by the beneficiary until the Minister has made provision for the regulation of such deductions.

Motivation:

There is an urgent need for the department to regulate deductions; the forthcoming new regulations should contain such regulation.

- (3) If a beneficiary attempts to transfer or cede or pledge such right or the payment accruing from such right, such purported transaction shall be void *ab initio*, and both the right and the payment of the amount in question may by order of the Minister be withheld, suspended or terminated.

(4)(a) No amount that has accrued to a beneficiary shall during his or her lifetime, be liable to be attached or subjected to execution under a judgment of a court or form part of his or her insolvent estate; or

- (b) upon his or her death, if he or she is survived by a spouse, child, stepchild, grandchild or parent, not be available for the purpose of payment of his or her debts.

Motivation:

Any right to a social grant that has been applied for prior to the death of an applicant should be paid over to the estate of the deceased. It is clear that the purpose of the current restriction on payment to the deceased estate is to prevent the amount being distributed among the creditors of the state, not to the estate of the applicant/beneficiary per se. This view has been recently supported in the ruling by Justice Chetty in the Eastern Cape matter of S S January/ MEC for Welfare, Eastern Cape Provincial Government, Case no. 2294/99, and in the previous judgment of O Tupa N.O/ MEC for Welfare, Eastern Cape Provincial Government, Case No. 1056/01.

In the first matter (heard most recently), Judge Chetty concluded that the right to a social assistance grant clearly, in terms of the Act, accrues at the date of attestation of the grant. And if the beneficiary dies after this date, *“such an accrued right does indeed form part of the beneficiaries estate.”* Further more the judge continued:

“12. In my judgment the underlined operative words ‘shall not form part of the deceased estate’ in the context of the act and the regulations can only mean that the monetary value of the accrued right cannot be utilised by the executor in the deceased estate for payment of the estate’s debts”.....”The intention of the legislature clearly was to protect the beneficiaries right to the grant”.

The January case involves an applicant who died after the approval of the application: however in May 2001, a judgment was handed down by acting Justice Plaskett in the same division in a matter which involved an application for a disability grant in which the applicant died before the grant had been approved. In this matter too, the court ruled that the department had to determine the application within 30 days of the ruling, and if the application was successful, payment should be made to the estate of the deceased, together with interest forthwith; if the application for the grant was refused, then adequate written reasons had to be furnished to the attorney representing the state of the deceased within 15 days of the decision being made.

Clearly the above two cases are just two authorities that suggest that payment should be made into the estate of the deceased, and the ambiguity that currently plagues the subsection should be remedied forthwith.

The above wording is based on the wording of section 63(1) of the Long-term Insurance Act 52 of 1998, which has specific reference to the proceeds of policy benefits under an *assistance, life, disability or health policy*.

In addition, while sections 32 and 33 of the Compensation for Occupational Injuries and Diseases Act (130 of 1993) (which provides for social security) provide that no benefit arising from the death of a worker may be alienated or ceded respectively, section 34 of the act specifically excludes any compensation from forming part of the deceased’s estate.

Urgent area in need of attention: When the primary care giver of a child dies, the grant is terminated, and the child, already traumatized by the death of his or her care giver, is further traumatized when his or her basic needs are not met due to the stoppage of the grant. The new adult care giver has to reapply for a new grant and the child loses the benefit of social assistance during this period. The Act needs to contain a section on the termination of grants and provide a procedure for insuring that child beneficiaries are not disadvantaged through stoppage of their grants when the adult receiving the grant on their behalf dies. This is a major problem for the many children losing their parents and care givers to AIDS, violence and the other leading causes of death in South Africa.

Regulations - section 43

Motivation:

Various post 1994 Acts include provisions that are aimed at ensuring that the public, other government departments and bodies, and Parliament are consulted when regulations are drafted. These include the Water Services Act 108 of 1997 [section71 and 75], Non-profit Organisations Act 71 of 1997 [Section 27 and 28], Promotion of Access to Information Act 2 of 2000 [Section 92(2)] , Administrative Justice Act 3 of 2000 [Section 10(4)] , the Domestic Violence Act 116 of 1998 and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 [section 30].

We have constructed a provision appropriate to the Social Assistance Act after looking at the various provisions in the above Acts. As many of the eligibility criteria will be in the regulations, we believe that it is very important that the regulation drafting and decision making process ensures maximum consultation public participation and the active involvement of the legislature.

Suggested insertion:

Regulations

43. (1) The Minister may make any regulation that is necessary or expedient in order to achieve the objects of this Act.

(2) Any condition, eligibility criteria, restriction or prohibition contained in a regulation must -

- (a) be in keeping with the general principles laid down in the Act and the specific enabling provision of the Act
- (a) be proportionate to the objective pursued by that regulation;
- (b) limit the rights of persons as little as is reasonably possible

(3)The Minister must, before making regulations under this Act -

- (a) publish the draft regulations in the Gazette for public comment;
- (b) send copies of the draft regulations and invite comment from -
 - (i) the provincial MECs and Departments of Social Development
 - (ii) any other government department or body affected by the regulations;
- (c) allow a period of at least one month from the date of the notice for interested parties to comment on the draft regulations
- (d)consider the contents of all comments, consultations and discussions before finalising the regulations; and
- (e)if a comment was not taken into account, provide reasons therefore if requested to do so

(4)Subsection (1) does not apply if:

- (a) the amendment to the regulations is merely aimed at correcting a textual error; or
- (b)the public interest requires the regulations to be made without delay and the regulations do not adversely affect anyone's constitutional rights to social security

(5)The Minister must, table the draft regulations in Parliament for consideration by the Portfolio Committee on Social Development in terms of section (44).

44.(1) In considering a draft regulation tabled in Parliament, the Portfolio Committee on Social Development must consider whether the regulation -

(a) is consistent with the objectives of this Act;

(b) is within the powers conferred by this Act; and

(c) is consistent with the Constitution; or

(d) requires clarification

(2) Parliament may, within 30 days after the draft regulation has been tabled, or within 30 days after the commencement of the first sitting after the tabling of a regulation, reject the regulation in whole or part.

(3) If Parliament rejects a regulation, it must state its reasons.

(4) The Minister must, within 30 days after being informed in writing that Parliament has rejected a regulation, withdraw the draft regulation or repeal the regulation if it has already been promulgated, and timeously make a new regulation in accordance with Parliament's instructions

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