

AGED PERSONS ACT 81 OF 1967

(English text signed by the Acting State President)

*[Assented To: 9 June 1967]
[Commencement Date: 1 October 1968]*

as amended by:

Pension Laws Amendment Act 98 of 1969
Second Pension Laws Amendment Act 86 of 1970
Aged Persons Amendment Act 14 of 1971
Pensions Laws Amendment Act 97 of 1972
Aged Persons Amendment Act 46 of 1976
Republic of South Africa Constitution Act 110 of 1983
Proclamation R.40 / GG 15578 / 19940325
Aged Persons Amendment Act 44 of 1994
Proclamation R.7 / GG 16992 / 19960223
Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996
Aged Persons Amendment Act 100 of 1998

NOTE:

The Act has been repealed by s. 21 of the Social Pensions Act 37 of 1973 in so far as it relates to pension matters.

The Act has been amended by Proc. R40/94 by the substitution for the word "Secretary", wherever it occurs of the words "Director-General".

ACT

To provide for the protection and welfare of certain aged and debilitated persons, for the care of their interests, for the establishment and registration of certain institutions, for the accommodation and care of such persons in such institutions, for the payment of old age pensions and certain allowances to or in respect of certain aged persons, and for matters incidental thereto.

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1. Definitions

- (1) In this Act, unless the context otherwise indicates -

“abuse” means the maltreatment of an aged person or any other infliction of physical, mental or financial power on an aged person which adversely affects that person;

[Definition of “abuse” inserted by s. 1 of Act 100/98]

“aged person” means a person who, in the case of a male, is sixty-five years of age or older, and, in the case of a female, is sixty years of age or older;

[Definition of “aged person” substituted by s. 1 of Act 14/71]

“attendant’s allowance” means an attendant’s allowance referred to in [section 2](#) (c);

“Black”

[Definition of “Black” deleted by s. 1 of Act 14/71]

“care”, when used as a noun, includes the provision of any meals, nursing services or other domestic services, and, when used as a verb, has a corresponding meaning;

[Definition of “care” inserted by s. 1 of Act 46/76]

“Chinese”

[Definition of “Chinese” deleted by s. 1 of Act 14/71]

“Coloured person”

[Definition of “Coloured person” deleted by s. 1 of Act 14/71]

“debilitated person” means a person who is sixty years of age or older and, by reason of old age or a physical or mental defect or illness, unable to care properly for his person or his interests, but does not require constant care by a medical practitioner or a qualified nurse;

[Definition of “debilitated person” substituted by s. 1 of Act 14/71]

“designated body” means-

- (a) a person versed in law; or
- (b) a statutory body referred to in [section 181](#)(1) of the Constitution,

designated by the national Minister, by notice in the *Gazette*, for the purposes of [sections 3A, 5A and 6](#);

[Definition of “designated body” inserted by s. 1 of Act 100/98]

“Director-General”, in so far as a provision of this Act is applied in or with reference to a particular province, means the officer who is the head of the component which is charged with welfare matters in the provincial administration of that province;

[Definition of “Director-General” inserted by Proc. R.40/94 and s. 1 of Act 44/94 and substituted by Proc. R.7/96]

“district pension officer” means any person appointed as such in terms of [section 8](#);

“home for the aged” means any institution or other place of residence maintained mainly for the accommodation and care of aged or debilitated persons;

[Definition of “home for the aged” substituted by s. 4 of Act 97/72 and s. 1 of Act 46/76]

“Indian”

[Definition of “Indian” deleted by s. 1 of Act 14/71]

“magistrate” includes an additional and an assistant magistrate;

[Definition of “magistrate” substituted by s. 1 of Act 44/94]

“manager”, in relation to a home for the aged, means the person exercising control over such home;

“Minister”, in so far as a provision of this Act is applied in or with reference to a particular province, means the competent authority to whom the administration of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), been assigned in that province;

[Definition of “Minister” substituted by Proc. R.40/94, s. 1 of Act 44/94 and Proc. R.7/96]

“Minister of Finance”, in so far as a provision of this Act is applied in or with reference to a particular province, means the member of the Executive Council of that province responsible for the budget in the province;

[Definition of “Minister of Finance” inserted by Proc.R.7/96]

“national Minister” means the Minister for Welfare and Population Development in the national sphere of government;

[Definition of “national Minister” inserted by s. 1 of Act 100/98]

“pensioner” means a person receiving a pension under this Act;

“prescribed” means prescribe by regulation made under this Act;

“province” means a province established in terms of section 124 of the Constitution of the Republic of South Africa, 1993;

[Definition of “province” inserted by Proc.R.7/96]

“provincial administration”, in so far as a provision of this Act is applied in and with reference to a particular province, means the provincial administration established for that province by the Public Service Act, 1994 (Proclamation No. 103 of 1994);

[Definition of “provincial administration” inserted by Proc.R.7/96]

“registered home for the aged” means a home for the aged registered in terms of [section 3](#);

“registered welfare organization” means a welfare organization registered or deemed to be registered in terms of the National Welfare Act, 1978 (Act No. 100 of 1978); [Definition of “registered welfare organization” substituted by s. 1 of Act 14/71 and s. 1 of Act 44/94]

“Republic”

[Definition of “Republic” inserted by s. 1 of Act 14/71 and deleted by s. 1 of Act 44/94]

“Secretary”

[Definition of “Secretary” substituted by s. 4 of Act 97/72 and deleted by Proc.R.40/94 and s. 1 of Act 44/94]

“social welfare officer”

[Definition of “social welfare officer” deleted by s. 1 of Act 44/94]

“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;

[Definition of “social worker” inserted by s. 1 of Act 44/94]

“the territory”

[Definition of “the territory” inserted by s. 1 of Act 14/71 and deleted by s. 1 of Act 44/94]

“this Act” includes the regulations made thereunder;

“white person”

[Definition of “white person” deleted by s. 1 of Act 14/71]

- (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 has been issued and is in force in terms of the Liquor Act, 1989 (Act No. 27 of 1989).

[Sub-s (2) added by s. 1 of Act 46/76 and substituted by s. 1 of Act 44/94]

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

The Minister may, subject to the provisions of this Act and with the concurrence of the Minister of Finance, out of moneys appropriated by the Provincial Legislature concerned for the 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 organizations providing welfare services to aged and debilitated persons.

[S. 2 amended by s. 5 of Act 97/72, substituted by s. 2 of Act 44/94 and amended by Proc.R.7/96]

2A. Conditions for subsidies to homes for the aged and certain other institutions

- (1) When a subsidy is paid in terms of [section 2](#), the national Minister shall, by regulation in terms of [section 20A](#), prescribe 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](#) shall use, and account for, the subsidy in accordance with the conditions referred to in subsection (1).

- (3) If any condition referred to in subsection (1) is not complied with, the national Minister may, in consultation with the relevant competent authority referred to in the definition of “Minister” in [section 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 [section 2](#) is paid is personally liable for the refund of the amounts used contrary to any condition referred to in subsection (1).
[S. 2A inserted by s. 2 of Act 100/98]

3. Prohibition on management of unregistered homes for the aged, and registration of such homes

- (1) No person shall manage a home for the aged (except such a home maintained by the State), unless such home has been registered under this section.
- (2) If any person desires to manage a home for the aged he may in the prescribed manner apply to the Minister for registration thereof.
- (3) After consideration of an application referred to in subsection (2) the Minister shall -
 - (a) refuse the application or grant it subject to such conditions as he or she may 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
 - (b) subject to such conditions as he or she may determine, grant authority to the applicant to manage the home for the aged for such period (not exceeding twelve 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.
[Sub-s. (3) substituted by s. 3 of Act 44/94]
- (4) The Minister may at any time after one month’s notice of his intention to do so, and after consideration of any representations received by him during such month, amend or cancel, subject to the provisions of subsection (5), a registration certificate issued in terms of subsection (3) (a).
- (5) The amendment or cancellation of such registration certificate shall be effected by notice to the holder thereof, and shall take effect on a date specified in the notice, not being earlier than three months after the date of the notice, unless the Minister and the holder of the registration certificate have agreed otherwise.
- (6) A person to whom a registration certificate has been issued in terms of subsection (3), shall not without the prior approval of the Minister transfer it to any other person.
- (7) If the registration of a home for the aged has been cancelled in terms of subsection (4), or if the manager of a home for the aged desires to close down such home for any other reason, he shall take reasonable steps to ensure that on the closing down of such home the aged persons in question can be accommodated in another registered home for the aged or with persons who, in the opinion of a social worker, are fit and proper persons for accommodating them.
[Sub-s. (7) amended by s. 11 of Act 44/94]

- (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 determine.
[Sub-s. (8) substituted by s. 3 of Act 44/94]
- (9) A home for the aged which is in existence immediately prior to the date of commencement of this section but which is not then being subsidized by the State, shall be deemed to have been registered in terms of subsection (3) (a) during the period of twelve months immediately following upon the said date.
- (10) Any person who contravenes or fails to comply with a provision of this section, or of a condition imposed thereunder, shall be guilty of an offence.

3A. Monitoring compliance with conditions for registration of homes for the aged

- (1) If there is reason to believe that any of the conditions referred to in [section 3](#)(3) have not been complied with, the national Minister shall, in consultation with the relevant competent authority referred to in the definition of “Minister” in [section 1](#), appoint a designated body-
- (a) to monitor compliance with those conditions; and
 - (b) to order specific measures to be adopted to facilitate compliance with those conditions.
- (2) The applicant concerned shall 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 shall-
- (a) prior to any decision to close down or transfer that home is made, consult with the national Minister and the competent authority referred to in subsection (1) on the matter;
 - (b) furnish the national Minister and the competent authority referred to in subsection (1) with a full report on the steps taken regarding the future accommodation of the aged persons in question as contemplated in [section 3](#)(7); 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 and the competent authority referred to in subsection (1) of such closure or transfer.

[S. 3A inserted by s. 3 of Act 100/98]

3B. Establishment of management committees for homes for the aged

- (1) If more than 10 aged persons reside in a 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 and staff of the relevant home for the aged and the public in general;
 - (b) the election and appointment, qualifications, term of office, and grounds of removal from office, of the members of that committee and the filling of vacancies on that committee; and
 - (c) the number of, and procedure at, meetings of that committee.
- (3) A management committee established under subsection (1) shall ensure that the manager of the home for the aged in question-
- (a) facilitates interaction between the residents of the home and their families, the public in general and that committee;
 - (b) provides quality service to the home;
 - (c) provides opportunities for the training of the staff of the home;
 - (d) applies principles of sound financial management and submits quarterly financial reports to the residents and staff of the home;
 - (e) monitors activities at the home in order to deal speedily with any incidents of abuse of the residents of the home and takes steps to report such incidents to the appropriate authority;
 - (f) consults the management committee in the appointment of the staff of the home;
 - (g) establishes complaints procedures for the residents and staff of the home and persons who wish to lodge a complaint on behalf of any such resident; and
 - (h) does everything necessary or expedient for the effective functioning of the home.

[S. 3B inserted by s. 3 of Act 100/98]

3C. Admission to homes for the aged

- (1) When deciding whether or not to admit a person to a home for the aged, no person shall unfairly discriminate directly or indirectly against the first-mentioned person on one or more grounds referred to in [section 9](#)(3) of the Constitution.
- (2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, notwithstanding [section 19](#), be liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.
- (3) The need for a home for the aged to reflect broadly the race composition of South Africa shall be considered when determining eligibility for admission to that home.
- (4) If a person is refused admission to a home for the aged, the manager of that home shall, on the request of that person, give reasons for such refusal to the person.

[S. 3C inserted by s. 3 of Act 100/98]

4. Inspection

- (1) A social worker may at any time -
 - (a) visit and inspect a home for the aged, any place where any aged or debilitated person is cared for or accommodated for remuneration, whether by way of money or goods, or any place which the social worker believes upon reasonable grounds to be a home for the aged or such a place;
 - (b) interview any aged or debilitated person accommodated in such home for the aged or place;
 - (c) either with or without the assistance of a medical practitioner, there enquire into the welfare of any such person;
 - (d) direct any person who has in his possession or custody any book or document relating to such home for the aged or place, to submit such book or document to him for inspection.
- (2) A social worker exercising any power in terms of subsection (1) shall, at the request of the manager of the home for the aged in question or the person who has control over the place in question (as the case may be), produce a certificate issued by the Director-General and stating that he is such an officer.
- (3) Any person who obstructs or hinders a social worker in the exercise of his powers in terms of subsection (1), or who refuses to give him at his request access to an aged or debilitated person accommodated in a home for the aged or place referred to in subsection (1), or who refuses or fails to comply with a direction in terms of subsection (1) (d), shall be guilty of an offence.

[S. 4 substituted by s. 2 of Act 46/76 and amended by s. 11 of Act 44/94]

5. Procedure for bringing a person who accommodates or cares for an aged or debilitated persons before a magistrate

- (1) If a social worker submits or makes a written statement under oath to a Public Prosecutor, and in such statement it is alleged that any person within the area of jurisdiction of the magistrate's court to which that Public Prosecutor is attached -
 - (a) accommodates or cares for an aged or debilitated person in a place other than a registered home for the aged in circumstances or in a manner likely to be injurious to his physical or mental well-being; or
 - (b) presumably takes advantage of an aged or debilitated person by receiving excessive remuneration, by way of money or goods, for the accommodation or care of such person in a place other than a registered home for the aged,that Public Prosecutor may, subject to the provisions of subsection (2), request the clerk of that court to issue a summons calling upon such firstmentioned person to appear, at a time and place specified therein, before a magistrate within that area, and informing him of the allegations against him.
- (2) A Public Prosecutor shall not in terms of subsection (1) request a clerk of the court to issue a summons unless he has obtained from a social worker a report on the accommodation or care of the aged or debilitated person in question.
- (3) If on the ground of a statement under oath referred to in subsection (1) the Public Prosecutor has reason to suspect that a social worker will be prevented or prohibited

from going into or entering upon the place where the aged or debilitated person in question is being accommodated or cared for to make the necessary investigation for the purposes of a report referred to in subsection (2), or if such an officer has been prevented or prohibited from doing so, the magistrate in question may on the application of the Public Prosecutor issue a warrant authorizing a social worker to go into or enter upon that place to make such investigation.

- (4) A magistrate may in a warrant issued by him in terms of subsection (3) authorize a social worker to take a district surgeon or a police officer or both with him for the purposes of an investigation referred to in the said subsection.
- (5) The provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in relation to the form and manner of 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.

[Sub-s. (5) substituted by s. 4 of Act 44/94]

- (6) Any person who obstructs or hinders a social worker in the performance of his functions in terms of this section or refuses to furnish to a social worker at his request any information in connection with the accommodation or care of an aged or debilitated person at his disposal which such officer requires for the purposes of an investigation referred to in subsection (3), shall be guilty of an offence.

[S. 5 amended by s. 11 of Act 44/94]

6. Enquiry into accommodation or care of aged or debilitated person

- (1) Subject to the provisions of this section, a magistrate before whom any person is brought in terms of [section 5](#), 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 for the purpose shall appear at the enquiry, and may call witnesses and cross-examine any other witnesses giving evidence at the enquiry.
- (3) The person against whom the allegations in question were made, may give evidence himself, and he, or his legal representative, may cross-examine any witnesses called in terms of subsection (2), and call witnesses himself, and shall be given the opportunity to advance reasons why an order shall not be issued under subsection (10).
- (4) Subject to anything to the contrary contained in this Act, the law relating to criminal trials in magistrates' courts shall *mutatis mutandis* apply in respect of the subpoena, the calling and examination of witnesses for the purposes of or at the enquiry, the taking of evidence and the production of documents and other articles thereat, and the payment of allowances to witnesses.
- (5) The proceedings at the enquiry shall be conducted in an open court room or behind closed doors, as the magistrate holding the enquiry may determine.
- (6) The provisions of [section 159](#) (1) of the Criminal Procedure Act, 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.

[Sub-s. (6) substituted by s. 5 of Act 44/94]

- (7) The provisions of [section 108](#) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall *mutatis mutandis* apply in respect of any proceedings in connection with an enquiry held in terms of this section.
- (8) The report referred to in [section 5](#) (2) shall be submitted to the magistrate holding the enquiry, and he may direct the district surgeon, or a psychiatrist or a clinical psychologist designated by him, to examine the aged or debilitated person in question and to furnish him with a report on his 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 so desires, he or his 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 that any allegation in the summons in question against the person in question is correct, he may -
- (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 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.

[Para. (b) substituted by s. 3 of Act 46/76]

- (10A) A prohibition imposed in terms of subsection (10) shall be of force throughout the Republic.

[Sub-s. (10A) inserted by s. 3 of Act 46/76]

- (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.
- (12) It shall be a defence to a charge under subsection (11) alleging that the accused accommodated or cared for an aged or debilitated person in contravention of a condition, requirement or prohibition imposed in terms of subsection (10), that the aged or debilitated person was unable to find any other accommodation or care.

[Sub-s. (12) substituted by s. 3 of Act 46/76]

6A. Notification of abuse of aged persons

- (1) Every registered dentist, medical practitioner, nurse or social worker or any other person who examines, attends to or deals with an aged person and suspects that that aged person-
- (a) has been abused; or
 - (b) suffers from any injury,

shall immediately notify the Director-General: Welfare or the relevant officer referred to in the definition of "Director-General" in [section 1](#).

- (2) On receipt of a notification in terms of subsection (1), the Director-General or the officer referred to in subsection (1)-
- (a) may issue a warrant, in the form and manner prescribed by regulation under [section 20A](#), for the removal of the aged person concerned to a hospital or such other place as that Director-General or officer may determine;
 - (b) shall arrange that the aged person receive the necessary treatment.
- (3) Any dentist, medical practitioner, nurse, social worker or other person shall not be liable in respect of any notification given in good faith in accordance with subsection (1).
- (4) Any dentist, medical practitioner, nurse, social worker or other person who fails to comply with subsection (1) 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.
- [S. 6A inserted by s. 7 of Act 100/98]

6B. Prohibition of abuse of aged persons

Any person who abuses an aged person 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.

[S. 6B inserted by s. 7 of Act 100/98]

6C. Keeping of register of abuse of aged persons

The national Minister shall, in the manner prescribed by regulation under [section 20A](#), cause to be kept a register of all notifications in terms of [section 6A](#)(1), together with a description of the circumstances regarding each notification.

[S. 6C inserted by s. 7 of Act 100/98]

6D. Report to national Minister by managers of homes for the aged

- (1) 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 and the relevant competent authority referred to in the definition of “Minister” in [section 1](#) a report on-
- (a) compliance with-
 - (i) the service standards, prescribed by regulation in terms of [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.
- (2) When the manager of a home for the aged fails to submit a report in accordance with subsection (1), the national Minister may, in consultation with the competent authority referred to in subsection (1)-

- (a) give notice to that manager that if such report is not submitted within 90 days after the date of that notice, any subsidy paid in respect of that home in terms of [section 2](#) will be withdrawn; and
- (b) if such report is not submitted within 90 days after the date of the notice given in terms of paragraph (a), withdraw such subsidy after giving one month's notice of the intention to do so.

[S. 6D inserted by s. 7 of Act 100/98]

7. Persons entitled to old age pension

- (1) Subject to the provisions of this Act every aged person shall be entitled to receive an old age pension if he satisfies the Director-General -
 - (a) that at the time of his application for such a pension in terms of [section 10](#) he is resident in the Republic; and
 - (b) that he -
 - (i) is a South African citizen; or
 - (ii) was ordinarily resident in the Republic for not less than fifteen out of the twenty years immediately preceding the date of that application; or
 - (iii) has entered the Republic from Angola or any other territory or country specified by the Minister, and complies with such conditions as the Minister may, in consultation with the Minister of Finance, determine.

[Sub-para. (iii) substituted by s. 2 of Act 14/71]

(2)

[Sub-s. (2) deleted by s. 2 of Act 14/71]

(3)

[Sub-s. (3) deleted by s. 2 of Act 14/71]

(4) No pension shall be paid under this Act to any person in receipt of a pension or an allowance under the Blind Persons Act, 1962 (Act No. 39 of 1962), the War Veterans' Pensions Act, 1962 (Act No. 40 of 1962), or the Disability Grants Act, 1962 (Act No. 41 of 1962).

(5) The payment of a pension under this Act to a person who is absent from the Republic for a continuous period exceeding six months shall be suspended as from the first day of the seventh month following upon the month in which he has left the Republic: Provided that if the Director-General is, for reasons advanced by such person, of the opinion that it is just that payment of that pension be continued or resumed, the Director-General may permit payment thereof to be continued or resumed for such period or periods and subject to such conditions as he may determine.

[Sub-s. (5) substituted by s. 2 of Act 14/71]

(6)

[Sub-s. (6) deleted by s. 2 of Act 14/71]

8. District pension officers

The Minister shall appoint for every area determined by him an officer in the public service as district pension officer who shall be charged with -

- (a) the receipt and registration of applications for pensions in terms of this Act;
- (b) the investigation of such applications; and
- (c) the submission of every such application with his report thereon to the Director-General.

9. Powers of Director-General and district pension officer as to the gathering of evidence

- (1) The Director-General or a district pension officer may take evidence for the purpose of enquiring into any matter falling within his functions in terms of this Act relating to pensions and allowances, and for that purpose may subpoena witnesses, require the production of any book, record or document relevant to the enquiry, administer an oath or an affirmation to any witness and examine him, and examine any such book, record or document.
- (2) A subpoena to appear before the Director-General or a district pension officer or to produce any book, record or document, shall correspond as nearly as practicable with the form prescribed for the purpose, shall be signed by the Director-General or the district pension officer in question, and shall be served on the person subpoenaed either by registered letter sent through the post or by delivery by a person authorized by the Director-General or the district pension officer so to serve it, or in the same manner as it would be served if it were a subpoena in a criminal case issued by a magistrate's court.
- (3) Any person who, without lawful excuse (the onus of proving which shall be upon him) fails to attend at the time and place specified in a subpoena served upon him in terms of subsection (2), or to produce any book, record or document in terms of any such subpoena, or refuses to be sworn or to make an affirmation when called upon in terms of subsection (1) to do so, or when being examined in terms of that subsection, refuses to answer fully and satisfactorily any question lawfully put to him, shall be guilty of an offence: Provided that any person so subpoenaed shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.
- (4) A witness who after having been duly sworn or having made an affirmation, gives false evidence, before the Director-General or a district pension officer on any matter relevant to the enquiry, knowing such evidence to be false, shall be guilty of perjury.

10. Application for a pension and decision thereon

- (1) Any person who claims a pension shall on the form prescribed by the Director-General apply to a district pension officer therefor, and shall furnish such evidence and information in support of his application as may be prescribed or as the district pension officer may require.
- (2) The district pension officer shall after such enquiry as he may consider necessary in connection with any application in terms of subsection (1), transmit to the Director-General the application together with the prescribed particulars and all information at his disposal in connection therewith, and his report thereon.
- (3) The Director-General shall after consideration of any application transmitted to him in terms of subsection (2) and of the report of the district pension officer thereon and any particulars and information furnished in respect thereof, determine whether the applicant is entitled to a pension and, if he is so entitled, fix the amount of such pension.

11. Suspension and administration of pensions

- (1) If in the opinion of the Director-General a pensioner misuses his pension the Director-General may suspend payment thereof or order that it be administered subject to such conditions as he may determine.
- (2) If the Director-General is of the opinion that it is for any reason not advisable to pay a pension directly to a pensioner, he may order such pension to be paid to some other person on behalf of that pensioner subject to such conditions as to its administration as the Director-General may determine.

12. Repayment of overpayments

- (1) If any person in terms of this Act received any sum of money which was paid to him by virtue of the fact that he was a pensioner or was regarded as a pensioner, and to which he was not entitled, he or, if he dies, his estate, shall be liable to repay that sum to the Minister, unless the Minister is satisfied that he received it without any knowledge that he was not entitled thereto.
- (2) Such sum may in the discretion of the Director-General and without prejudice to any other remedy, be recovered by means of deductions from any pension due to the person liable to repay it.
- (3) The provisions of this section shall apply with the necessary modification in the case of a person to whom such a sum of money was paid for or for the benefit of any other person.
- (4) The Treasury or any person authorized thereto by the Treasury may at its or his discretion write off the whole or any portion of any sum repayable in terms of this section, if the Treasury or such person is satisfied that it would be uneconomical to recover such sum or that recovery thereof would cause undue hardship.

13. Appeal to the Minister

- (1) Any decision or action relating to pensions and allowances by the Director-General in the administration of this Act shall be subject to an appeal to the Minister.
- (2) The Minister may at any time reconsider and vary or reverse any decision made by him or her under subsection (1).

[Sub-s. (2) substituted by s. 39 of Act 88/96]

14. Pensions not assignable or executable

- (1) No pension or allowance or right to a pension or an allowance in terms of this Act shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated, nor shall it be liable to attachment or any form of execution under a judgment or order of a court of law, and if a pensioner attempts to assign, transfer or otherwise cede or to pledge or hypothecate a pension or an allowance or a right to a pension or an allowance, payment of the pension and allowance may by order of the Minister be withheld, suspended or entirely discontinued.
- (2) In any proceedings for civil imprisonment against a pensioner his means shall be deemed not to include any sum received by him by virtue of this Act.
- (3) If the estate of any pensioner is sequestrated, any sum payable to him in terms of this Act

by virtue of the fact that he is a pensioner, shall not form part of the assets in his insolvent estate.

15. False statements and improper receipt of pensions

Any person who, for the purpose of obtaining or retaining a pension or an allowance in terms of this Act, whether for himself or for any other person, or for the purpose of obtaining such a pension or an allowance for himself or for any other person at a higher rate than that appropriate to the case, makes any statement or representation which he knows to be false, and any person who receives in respect of any such pension or allowance payment of any sum which he is to his knowledge not entitled to receive, shall be guilty of an offence.

16. Exemption from stamp duty

No stamp duty shall be payable in respect of -

- (a) any power of attorney given by an applicant to any person to apply on his behalf for a pension or an allowance in terms of this Act, or any power of attorney given by a pensioner to any person to receive payment of such a pension and an allowance on his behalf; or
- (b) any receipt given in respect of the payment of such a pension and an allowance.

17. Information to be furnished to the Director-General

Notwithstanding anything to the contrary contained in any law, any registrar of births and deaths, any registrar of deeds or any prescribed officer shall upon application by the Director-General furnish him with such information relative to any applicant for a pension in terms of this Act as may be prescribed or as may in any particular case be determined by the Director-General.

18. Delegation

- (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](#).
- (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).
- (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.

[S. 18 amended by s. 16 of Act 98/69 and substituted by s. 6 of Act 44/94]

18A. Delegation by national Minister

- (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 national 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.

[S. 18A inserted by s. 8 of Act 100/98]

19. Penalties

Any person convicted of any offence in terms of any provision of this Act shall be liable to a fine or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.

[S. 19 substituted by s. 7 of Act 44/94]

20. Regulations

The Minister may make regulations regarding -

- (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) 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;
- (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.

[S. 20 amended by s. 8 of Act 86/70, s. 3 of Act 14/71 and s. 4 of Act 46/76 and substituted by s. 8 of Act 44/94]

20A. Regulations by national Minister

(1) The national Minister may, subject to subsection (2), 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 agreements 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;
- (g) the conditions of use of subsidies paid in terms of [section 2](#);
- (h) the form of, and manner in which, a warrant referred to in [section 6A\(2\)\(a\)](#) is to be issued;
- (i) the keeping of a register of all notifications in terms of [section 6A\(1\)](#).

(2) Any regulation made in terms of subsection (1) shall be made after consultation with every competent authority referred to in the definition of “Minister” in [section 1](#).

[S. 20A inserted by s. 9 of Act 100/98]

21.

[S. 21 amended by s. 4 of Act 14/71 and repealed by Proc.R.40/94 and s. 9 of Act 44/94]

21A.

[S. 21A inserted by s. 5 of Act 14/71 and repealed by s. 9 of Act 44/94]

22. Repeal of laws

- (1) Subject to the provisions of subsections (2) and (3) the laws specified in the Schedule are hereby repealed to the extent shown in the third column thereof.
- (2) Anything done in terms of a law repealed by subsection (1) which could be done in terms of a provision of this Act, shall be deemed to have been done in terms of that provision.
- (3) Notwithstanding the repeal of the Old Age Pensions Act, 1962 (Act No. 38 of 1962), by subsection (1) of this section, the provisions of section 2 (4) of that Act shall continue to apply in respect of any person to whom a pension is being paid at the commencement of this Act by virtue of those provisions, until he returns to the Republic.

23. Short title and commencement

(1) This Act shall be called the Aged Persons Act, 1967, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2)

[Sub-s. (2) deleted by s. 10 of Act 44/94]

Schedule

No. and Year of Law	Title	Extent of Repeal
Act No. 38 of 1962	Old Age Pensions Act, 1962	The whole
Act No. 92 of 1962	Pension Laws Amendment Act, 1962	Sections 42 and 43, and section 51 in so far as it relates to old age pensions

Act No. 95 of 1963	Pension Laws Amendment Act, 1963	Sections 24, 25 and 26
Act No. 84 of 1964	Pension Laws Amendment Act, 1964	Sections 13, 14, 15 and 16
Act No. 102 of 1965	Pension Laws Amendment Act, 1965	Sections 32, 33 and 34
Act No. 26 of 1966	Pension Laws Amendment Act, 1966	Section 13 in so far as it relates to old age pensions