



The Purpose of the Act:

**“To deal effectively with the plight of older persons by establishing a framework aimed at the empowerment and protection of older persons and at the promotion and maintenance of their status, rights, well-being, safety and security; and to provide for matters connected therewith.”
(Older Persons Act No. 13 of 2006)**

Who qualifies to be an older person in terms of the Act?

An “older person” means a person who is 60 years of age or older.

What are the constitutional rights of older persons?

Older persons enjoy the following rights contemplated in section 9 of the Constitution of the Republic of South Africa: The right to

- a) participate in community life in any position appropriate to his or her interests and capabilities;
- b) establish and participate in structures and associations for older persons;
- c) participate in activities that enhance his or her income-generating capacity;
- d) live in an environment catering for his or her changing capacities; and
- e) Access opportunities that promote his or her optimal level of social, physical, mental and emotional wellbeing.

What are the reasonable rights of an older person with a disability and or a chronic illness?

- 1) In any matter concerning an older person with a disability, due consideration must be given to:
 - a) providing the older person with family care or special care as and when appropriate;
 - b) making it possible for the older person to participate in social, cultural, religious and educational activities, recognising the special needs that the older person may have;
 - c) providing the older person with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community; and
 - d) Providing the older person and the care-giver with the necessary support services.
- 2) In any matter concerning an older person with chronic illness, due consideration must be given to:
 - a) providing the older person with family care or special care as and when appropriate;
 - b) providing the older person with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community; and
 - c) Providing the older person with the necessary support services.
- 3) *An older person with a disability or chronic illness has the right not to be subjected to medical, social, cultural or religious practices that are detrimental to his or her health, well-being or dignity.”*



What comprises the abuse of older persons?

Elder abuse is “a single or repeated act, or lack of appropriate action that occurs within any relationship where there is an expectation of trust and that causes harm or distress to an older person” (WHO, 2013:126).

Effect of Older persons Act 13 of 2006 on Domestic Violence Act 116 of 1998

“Section 24: The provisions of this Act (Older persons Act 13 of 2006) must not be construed as limiting, amending, repealing or otherwise altering any provision of the Domestic Violence Act, 1998 (No. 116 of 1998), or as exempting any person from any duty or obligation imposed by that Act or prohibiting any person from complying with any provision of that Act.”

What is described by the older persons Act 13 of 2006 to be the abuse of an older person?

- 1) *“Abuse” includes physical, sexual, emotional, verbal or psychological, harassment, spiritual abuse and economic abuse, which is explained as:*
 - a) physical abuse meaning any act or threat of physical violence towards an older person, including unlawful detention, medical sedation or shackling, deprivation of nutrition or medical care, neglect or exploitation of an older person in any manner;
 - b) sexual abuse meaning any conduct that violates the sexual integrity of an older person and includes an act of sexual penetration or sexual violation as defined in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
 - c) emotional, verbal or psychological abuse meaning emotional, verbal and psychological abuse as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998)
- 2) As per The Domestic Violence Act No. 116 of 1998 (as amended) emotional abuse happens: When there is a pattern of degrading, manipulating, threatening, offensive, intimidating or humiliating conduct towards an older person that causes mental or psychological harm to an older person, including:
 - a) Repeated insults ridicule or name calling;
 - b) Repeated threats to cause emotional pain; or
 - c) Repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute constitutes a serious invasion of an older person’s privacy, liberty, integrity or security;
 - d) The wilful damaging or destruction of any property in close vicinity of an older person;
 - e) To harm or threaten to harm a household pet or other animal, whose welfare affects an older person’s wellbeing?
 - f) To disclose or threaten to disclose an older person’s sexual orientation or other private information concerning an older person’, to others without an older person’s consent;



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- g) To threaten an older person with the death or injury of another person or damage of another person's property; or
 - h) Threats to commit suicide or self-harm
- 3) "Economic abuse" means:
- a) the deprivation/withholding of economic and financial resources to which an older person is entitled under any law;
 - b) the unreasonable deprivation/withholding of economic and financial resources which the older person requires out of necessity; or
 - c) the disposal of household effects or other property that belongs to the older person without the older person's consent;
- 4) Harassment according to the Domestic Violence Act No. 116 of 1998 (as amended) occurs when the alleged perpetrator engages in a pattern of conduct that induces the fear of harm to an older person, including:
- a) Repeatedly and unreasonably
 - i. Following, watching, stalking, pursuing or accosting an older person or a related person; or
 - ii. loitering outside of or near the building or place where the older person or a related person resides, works, carries on business, studies or happens to be, which inspires the belief in an older person that they or a related person may be harmed or their property may be damaged;
 - b) Repeatedly making telephone calls or inducing another person to make telephone calls to an older person, whether or not conversation ensues to repeatedly contact an older person by means of an electronic communications service, irrespective whether or not
 - i. A conversation ensues; or
 - ii. Any information is conveyed to an older person;
 - c) Repeatedly sending or delivering or causing the delivery of letters of packages, electronic mail communications or other objects to an older person, or leaving them where they may be found by, given to, or brought to the attention of, an older person;
 - d) The unauthorised access to an older person's communication or electronic communication;
 - e) the monitoring or tracking of an older person's movements, activities or interpersonal associations without an older person's consent, including, for example, by using technology;
 - f) To enter any part of the joint residence that is exclusively used by an older person or other property of an older person, without an older person's permission;
 - g) To unreasonably interfere with any property that is exclusively used by or is in the possession of an older person;
- 5) Spiritual abuse according to The Domestic Violence Act No. 116 of 1998 (as amended) means:
- a) advocating hatred against the an older person because of their religious or spiritual beliefs, that constitutes incitement to cause harm to the an older person;



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- b) preventing an older person from exercising their constitutional right to freedom of conscience, religion, thought, belief and opinion, including to give external manifestation to their religious or spiritual convictions and beliefs; or manipulating an older person's religious or spiritual convictions and beliefs to justify or rationalise abusing an older person

When is an older person in need of care and protection? When he or she:

- a) Has his or her income, assets or older persons grant taken against his or her wishes or who suffers any other economic abuse;
- b) has been removed from his or her property against his or her wishes or who has been unlawfully evicted from any property occupied by him or her;
- c) has been neglected or abandoned without any visible means of support; lives or works on the streets or begs for a living;
- d) abuses or is addicted to a substance and without any support or treatment for such substance abuse or addiction;
- e) lives in circumstances likely to cause or to be conducive to seduction, abduction or sexual exploitation;
- f) lives in or is exposed to circumstances which may harm that older person physically or mentally;
- g) Is in a state of physical, mental or social neglect.
- h) has been or is being maltreated, abused, neglected or degraded by a care-giver, family member or any other person; or
- i) Has been or is being accused of practising witchcraft or blamed by the community for inexplicable events.

Who has the duty to report an older person who is in need of care and protection?

- 1) Any person who is involved with an older person in a professional capacity and who on personal observation concludes that the older person is in need of care and protection must report such conclusion to the Director-General (of the department responsible for social development).
- 2) Any person other than a person in a professional capacity who is of the opinion that an older person is in need of care and protection may report such opinion to a social worker.
- 3) The Director-General or the social worker to whom a report has been made must investigate the matter.
- 4) If the report is substantiated by the investigation, the Director-General (of the department responsible for social development) or the social worker concerned may take any one or more of the following actions, namely:
 - a) Facilitate/assist with the removal of the older person concerned to a hospital, in case of injury, or to a shelter;
 - b) Make a report to a police official requesting the latter to act in terms of section 27 (issuing of a written notice for an offender to appear in court);
 - c) Take such other steps as may be prescribed to ensure adequate provision for the basic needs and protection of the older person



concerned; or if the older person concerned is the victim of an offence or crime, assist the older person to see a police official in order to lay a criminal complaint.

When can an older person be moved to temporary safe care?

- 1) A social worker or health care provider or a police official must, with the consent of an older person or authorised person in the event that the older person is incapable of providing such consent, remove such older person and place that older person in temporary safe care without a court order, if there are reasonable grounds for believing:
 - a) that the older person:
 - i. is in need of care and protection as contemplated in subsection 5) (below); and
 - ii. needs immediate emergency protection;
 - b) that the delay in obtaining a court order for the removal of an older person to temporary safe care may jeopardise the safety and well-being of the older person; and
 - c) That the removal of the older person from his or her home environment is the best way to secure the safety and well-being of that older person.
- 2) If a *social worker or health care provider* has removed an older person and placed the older person in temporary safe care, the social worker or health care provider must, in writing, report the matter to the relevant provincial department of social development and must:
 - a) without delay, but within 24 hours, inform the family of the older person of such removal and the place where the older person has been moved to; and
 - b) Without delay, obtain a court order within 48 hours for the placement of the older person in temporary safe care.
- 3) If a *police official* has removed an older person and placed the older person in temporary safe care, the police official must:
 - a) without delay, but within 24 hours, inform the family of the older person, in writing, of such removal;
 - b) without delay, but within 24 hours, notify the provincial department of social development, in writing, of the removal of the older person and of the place where the older person has been placed; and
 - c) Without delay, obtain a court order within 48 hours for the placement of the older person in temporary safe care.
- 4) Notwithstanding subsection 1) (above), any person may apply to a court having jurisdiction to obtain an order authorising the removal of an older person to a temporary safe care in instances where there is no need for immediate removal.
- 5) The placement of an older person into temporary safe care may be for any period not exceeding six months and every effort must be made by the Director-General to find a safe permanent placement.



- 6) Misuse of a power referred to in subsection 1) by a social worker employed in terms of the Public Service Act, 1994 (Proclamation No.103 of 1994), or any other law or by a non-profit organisation, constitutes unprofessional or improper conduct by that social worker.
- 7) Misuse of a power referred to in subsection (1) by a police official constitutes grounds for disciplinary proceedings against such police official as contemplated in section 40 of the South African Police Service Act, 1995 (Act No. 68 of 1995).
- 8) Misuse of a power referred to in subsection 1) by a health care worker constitutes grounds for disciplinary proceedings against such health care worker in accordance with section 23 of the Allied Health Professions Act, 1982 (Act No. 63 of 1982), section 3(n) of the Health Professions Act, 1974 (Act No. 56 of 1974), section 46 of the Nursing Act, 2005 (Act No. 33 of 2005), section 39 of the Pharmacy Act, 1974 (Act No. 53 of 1974), and section 35 of the Dental Technicians Act, 1979 (Act No. 19 of 1979), whichever Act is applicable.
- 9) *A person exercising a power or acting pursuant to this section is not liable to any person if he or she has acted or exercised that power in good faith.*

What is the procedure for notification of the abuse of older persons?

- 1) Any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General, a social worker or a police official or the manager, if applicable of his or her suspicion.
- 2) A person is not liable in respect of any notification given in good faith in terms of subsection (a) above.
- 3) A person who fails to comply with subsection (a) above is guilty of an offence
- 4) On receipt of a notification in terms of subsection (a) above:
 - a) the Director-General, social worker, police official or manager must, within 48 hours, investigate the matter and if the suspicion is substantiated by the investigation, section 25(4) applies with the necessary changes; and
 - b) The police official must inform the Director-General of the alleged abuse or, if he or she is satisfied that it will be in the best interests of the older person if the alleged offender is removed from the home or place where the older person resides, act in terms of section 27.

What are the duties of a police official to whom a report has been made by the Director-General or the social worker concerned?

- 1) A police official to whom a report has been made or who is satisfied that it will be in the best interests of the older person if the alleged offender is removed from the home or place where the older person resides, must issue a written notice which:
 - a) Specifies the names, surname, residential address, occupation and status of the alleged offender;
 - b) calls upon the alleged offender to leave the home or place where the older person resides and refrain from entering such home or place or having



- contact with the older person until the court hearing specified in paragraph c) (below)
- c) calls upon the alleged offender to appear at a magistrates' court having jurisdiction; on a date and at a time specified in the written notice to advance reasons why he or she should not be permanently prohibited from entering the home or place where the older person resides: Provided that the date so specified must be the first court day after the day upon which the notice is issued; and
 - d) Contains a certificate under the hand of the police official that he or she has handed the original of such written notice to the alleged offender and that he or she has explained to the alleged offender the importance thereof.
- 2) The police official must immediately, without delay forward a duplicate original of the written notice to the clerk of the magistrates' court concerned
- 3) The mere production (being only this and nothing else) to the magistrates' court of the duplicate original is prima facie proof (accepted as correct until proved otherwise) of the issue of the original thereof to the alleged offender and that such original was handed to the offender.
- 4) Section 55 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) apply, with, the necessary changes, to a written notice handed to an alleged offender.
- 5) A magistrates' court before which an alleged offender to whom a written notice in terms of subsection (1) has been issued, appears, may summarily inquire into the circumstances which gave rise to the issuing of the notice.
- 6) The magistrates' court may, after having considered the circumstances which gave rise to the issuing of the written notice and after having heard the alleged offender may:
- a) issue an order prohibiting the alleged offender from entering the home or place where the older person resides or from having any contact with the older person, or both from entering such home or place and having contact with the older person;
 - b) order that the alleged offender may enter the home or the place where the older person resides or have contact with the older person upon such conditions as would ensure that the best interests of the older person are served;
 - c) order that the alleged offender will be responsible for the maintenance of his or her family during the period contemplated in paragraph 6(a); or
 - d) Make such other order with regard to the matter as the court deems fit.
- 7) Misuse of a power referred to in subsection (1) by a police official constitutes grounds for disciplinary proceedings contemplated in section 40 of the South African Police Service Act, 1995 (Act No. 68 of 1993), against such police official.
- 8) A person is guilty of an offence if that person:
- a) has been issued with a written notice by a police official as contemplated in subsection (1) and:
 - i. refuses to leave the home or place where the older person resides; or
 - ii. has contact with the older person in contravention of the written notice;



- b) Contravenes or fails to comply with an order of the magistrates' court issued in terms of subsection 6) (above) or with any condition contained in such order.

What is the procedure for bringing an alleged abuser of an older person before a magistrate?

- 1) If a social worker or a health care provider submits or makes a written statement under oath or affirmation 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 abuses an older person, that public prosecutor may, subject to subsection 2) (below), request the clerk of that court to issue a summons informing such first-mentioned person of the allegations against him or her and calling upon him or her to appear, at a time and place specified therein, before a magistrate within that area.
- 2) *A public prosecutor may not in terms of subsection 1) (above) request a clerk of the court to issue a summons unless he or she has obtained from the social worker or health care provider a report on the alleged abuse of the older person concerned.*
- 3) If on the grounds of a statement under oath or affirmation referred to in subsection 1) (above) the magistrate has reason to suspect that a social worker or health care provider will be prevented or prohibited from going into or entering upon the place where the older person concerned resides to make the necessary investigation for the purposes of a report referred to in subsection 2) (above), or if such social worker or health care provider has been prevented or prohibited from doing so, the magistrate concerned may on the application of the public prosecutor issue a warrant authorising the social worker or health care provider to go into or enter upon that place to make such investigation.
- 4) A magistrate may in a warrant issued by him or her in terms of subsection 3) (above) authorise the social worker or health care provider to take a police official with him or her for the purposes of an investigation referred to in the said subsection.
- 5) The Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies, with the necessary changes, 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, in respect of summonses issued in terms of his section.
- 6) A person is guilty of an offence if that person:
 - a) *obstructs or hinders a social worker or a health care provider in the performance of his or her functions* in terms of this section; or
 - b) *refuses to furnish to a social worker or a health care provider any information in connection with the alleged abuse of an older person at his or her disposal which such officer requires for the purposes of an investigation referred to in subsection (3):*
 - c) Provided that:



- i. the law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a court of law applies in relation to the questioning of a person for purposes of that investigation: Provided further that such a person may not refuse to answer any question on the ground that the answer would tend to expose him or her to a criminal charge; and
 - ii. evidence regarding any questions and answers for purposes of an investigation referred to in subsection (3) is not admissible in any criminal proceedings, except in criminal proceedings where the person concerned stands trial on a charge contemplated in section 319(3) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).”; and
- 7) *In every investigative or court proceedings, as the case may be, an older person may:*
- a) *in addition to legal assistance, be assisted by a social worker, an intermediary or any suitable person; and*
 - b) *Be allowed to testify or cross-examine through an intermediary or in camera, in the language the older person understands.*

What happens during the enquiry in court?

- 1) The magistrate must enquire the correctness or otherwise of the allegations contained in the summons.
- 2) The public prosecutor or any other person designated by the magistrate for the purpose must 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 and he or she, or his or her legal representative, may cross-examine any witnesses called in terms of subsection 2) (above) and may call witnesses and must be given the opportunity to advance reasons why an order should not be issued under subsection 10) (below).
- 4) Subject to anything to the contrary/opposite as contained in this Act, the law relating to criminal trials in magistrates’ courts applies with the necessary changes in respect of subpoenas, 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 in court, and the payment of allowances to witnesses.
- 5) The magistrate holding the enquiry may determine whether or not the proceedings must be conducted in an open court room or behind closed doors.
- 6) Section 159(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in so far as it relates to the conduct of a criminal trial in the absence of an accused, applies with the necessary changes in respect of an enquiry held in terms of this section.
- 7) Section 108 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), applies with the necessary changes in respect of any proceedings in connection with an enquiry held in terms of this section.
- 8) The report from a social worker or health care provider must be submitted to the magistrate holding the enquiry, who may direct the district surgeon, a



- psychiatrist or a clinical psychologist to examine the older person concerned and to furnish the magistrate with a report on the findings of such examination.
- 9) The contents of a report submitted or furnished in terms of subsection 8) (above) must be disclosed to the person against whom the allegations were made, and if he or she so desires, he or she or his or her legal representative must be given an opportunity to cross-examine the person who made the report, in relation to any matter arising out of the report, and to disprove any allegation made 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 is correct, the magistrate may:
 - a) authorise the person concerned to accommodate or care for the older person concerned under such conditions as the magistrate may impose; or
 - b) Prohibit that person from accommodating or caring for any older person for such period, but not exceeding 10 years, as may be determined by the magistrate.
 - 11) Any person who contravenes or fails to comply with any condition imposed in terms of subsection 10) (a) (above) or who contravenes or fails to comply with subsection 10) b) (above) is guilty of an offence.

What happens when the alleged abuser is found guilty of abuse of an older person?

- 1) The convicted abuser may be sentenced to pay a fine or go to jail for a period not exceeding 5 years, or to pay fine and also go to jail for the same crime.
- 2) The particulars of the convicted abuser will be entered into the National Register of Older Persons, which is kept by Department of Social Development.
- 3) The Act prohibits any person whose name appears in the Register from operating or be employed at any place that gives access to older persons.
- 4) The registered person is also prevented from providing any community-based care and support services to older persons.
- 5) The victim may be removed from home to a place of safety by the Department

What are the further consequences for a person convicted of older person abuse?

- If a court, after having convicted a person of any crime or offence, finds that the convicted person has abused an older person in the commission of such crime or offence, such finding must be regarded as an aggravating circumstance for sentencing purposes.
- A court clerk or registrar must, upon a court convicting a person as contemplated in subsection (4), immediately, without delay provide the Minister with the details of the offender, conviction and sentence for the purposes of reporting in the National Register of Older Persons, which is kept by Department of Social Development



What are the penalties for offenders?

A. Penalties for offenders: a fine or to imprisonment for a period not exceeding one year, or to both, for contraventions of the following:

Any person convicted of an offence in terms of sections: 12(2), 13(5), 14(4), 18(1), 18(8), 18(9), 18A(4), 19(4), 22(5)(a), (b) or (c), or 28(6)(a) or (b) of the Older persons Act 13 of 2006 is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment. See the relevant sections below:

Section 12 (2)

A person who renders a community-based care and support service that has not been registered in terms of section 13 (Registration of community-based care and support services) is guilty of an offence.

Section 14(4)

Any person who (provides home based care who) contravenes or fails to comply with any provision of this section is guilty of an offence.

Section 18.1

Operating an unregistered residential facility

Section 18.8

If the registration of a residential facility has been cancelled in terms of subsection 5 (cancellation of a registration by the Minister), or if the operator of a residential facility wishes to close down such facility for any reason, he or she must take reasonable steps to ensure that on the closing down of such facility the older persons concerned are accommodated in another registered residential facility or with persons who, in the opinion of a social worker, are fit and proper persons for accommodating the older person or older persons.

Section 22(5)

A person is guilty of an offence, if that person:

Obstructs or hinders a social worker or designated person in the performance of his or her functions in terms of subsection 1 (a social worker in the employ of the State may at any time, and any social worker or person designated by the Director-General);

- a) Obstructs or hinders a social worker or designated person in the performance of his or her functions in terms of subsection (1);
- b) refuses to give a social worker or designated person access to an older person cared for or accommodated in a residential facility referred to in subsection
- c) Refuses or fails to comply with a direction in terms of subsection (l) (d).

Section 28.6)

A person is guilty of an offence if that person-

- a) obstructs or hinders a social worker or a health care provider in the performance of his or her functions in terms of this section; or



- b) Refuses to furnish to a social worker or a health care provider any information in connection with the alleged abuse of an older person at his or her disposal which such officer requires for the purposes of an investigation referred to in subsection (3).

B. Penalties for offenders: a fine or to imprisonment for a period not exceeding five years, or to both, for contraventions of the following:

Any person convicted of an offence in terms of sections: 21(8), 26(3), 27(8)(a) or (b), 29(11) or 30(1) of the Older persons Act 13 of 2006 is liable to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment. See the relevant sections below:

Section 21 Admission to residential facilities (Older persons Act 13 of 2006)

Subsection 21

- 1) No person may unfairly discriminate directly or indirectly against an older person applying for admission to a residential facility on one or more grounds referred to in section 9(3) of the Constitution.
- 2) If a person is refused admission to a residential facility, the manager of that residential facility must, on the request of that person, give reasons in writing for such refusal to the person.
- 3)
 - a) An older person may not be admitted to a residential facility without his or her consent, unless his or her mental condition renders him or her incapable of giving such consent, in which case a person authorised to give such consent in terms of any law or in terms of a court order may give the required consent.
 - b) In the absence of a person contemplated in:
 - i. Paragraph (a). The required consent may be given by the spouse or partner of the older person concerned or, in the absence of such spouse or partner, an adult child or sibling of the older person, in the specific order as listed; or
 - ii. Paragraph (a) or subparagraph (i), the required consent may be given by the Minister.
 - c) The consent contemplated in paragraph (h)(i) or (ii) may only be given after a medical practitioner registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), has certified that any delay in the admission of the older person might result in his or her death or irreversible damage to his or her health.
- 4) The operator of a residential facility must take all reasonable steps to obtain the older person's consent.
- 5) Notwithstanding subsection (3), an older person who is capable of understanding must be informed of the intended admission even if his or her mental condition renders him or her incapable of giving the required consent in terms of that subsection.
- 6) *The operator of a residential facility into which an older person is admitted as a result of consent given in terms of subsection (3) (b) must notify the Director General of the admission within 48 hours after such admission.*



- 7) On receipt of the notice referred to in subsection (6), the Director-General may constitute such a multidisciplinary team as may be prescribed in order to assess and to confirm or reject the admission contemplated in that subsection.
- 8) *Any person who contravenes this section is guilty of an offence.*

Section 26 Notification of abuse of older persons

- 1) Subsection 26 (1) Any person who suspects that an older person has been abused or suffers from an abuse-related injury must immediately notify the Director-General or a police official of his or her suspicion.
- 2) A person is not liable in respect of any notification given in good faith in terms of subsection (1).
- 3) *A person who fails to comply with section 26(1) is guilty of an offence.*

Section 27 Written notice to alleged offender

Subsection (8)

A person is guilty of an offence if that person:

- a) Has been issued with a written notice contemplated in subsection (1) and-
 - i. Refuses to leave the home or place where the older person resides; or
 - ii. has contact with the older person in contravention of the written notice;
- b) Contravenes or fails to comply with an order of the magistrates' court issued in terms of subsection 6 (below) or with any condition contained in such order.

S27 Subsection (6)

The magistrates' court may, after having considered the circumstances which gave rise to the issuing of the written notice and after having heard the alleged offender:

- a) Issue an order prohibiting the alleged offender from entering the home or place where the older person resides or from having any contact with the older person, or both from entering such home or place and having contact with the older person, for such period of time as the court deems fit;
- b) Order that the alleged offender may enter the home or the place where the older person resides or have contact with the older person upon such conditions as would ensure that the best interests of the older person are served;
- c) Order that the alleged offender will be responsible for the maintenance of his or her family during the period contemplated in paragraph (a); or
- d) Make such other order with regard to the matter as the court deems fit.

Subsection (10)

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 is correct, the magistrate may:

- a) Authorise the person concerned to accommodate or care for the older person concerned under such conditions as the magistrate may impose; or
- b) Prohibit that person from accommodating or caring for any older person for such period, but not exceeding 10 years, as may be determined by the magistrate.



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Subsection (11) Any person who contravenes or fails to comply with any condition imposed in terms of subsection (10) a) or who contravenes or fails to comply with subsection (10) b) Is guilty of an offence.

Section 30 Prohibition of abuse of older persons and special measure to combat abuse of older persons

Subsection (1)

Any person who abuses an older person is guilty of an offence.



Sources:



Older Persons Act No. 13 of 2006

Older Persons Amendment Act No. 01 of 2025

Domestic Violence Act 116 of 1998

Domestic Violence Amendment Act 14 of 2021