

REPUBLIC OF SOUTH AFRICA

VICTIM SUPPORT SERVICES BILL

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. of)*
(The English text is the official text of the Bill)

(MINISTER OF SOCIAL DEVELOPMENT)

[B-2022]

BILL

To provide for the promotion and upholding of the rights of a victim; to prevent secondary victimisation of a victim; to provide for integrated and multi-disciplinary coordination of victim support services; to provide for designation and registration of a facility and service providers; to develop and implement victim support services minimum norms and standards; to provide for the specific roles and responsibilities of organs of state and other relevant stakeholders; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the United Nations Declaration on Human Rights recognises that a person has an inherent dignity that must be protected by law;

RECOGNISING that the Bill of Rights in the Constitution of the Republic of South Africa, 1996, provides that, everyone has the right, amongst other things, to human dignity and equality before the law;

UNDERSTANDING that the President of the Republic of South Africa signed the National Strategic Plan on Gender Based Violence and Femicide in order to deal effectively with the scourge of gender based violence and femicide in the Republic of South Africa;

UNDERSTANDING that gender based violence has been declared as a second pandemic in the Republic of South Africa;

ACCEPTING that there is an alarming rate of gender based violence, femicide, and other crimes against women, LGBTQI+ persons, children, older persons, and persons living with disabilities in the Republic of South Africa;

RECOGNISING the rights of victims by ensuring the provision of effective, integrated and multi-disciplinary support services to victims in the Republic of South Africa;

RECOGNISING that it is necessary to mitigate secondary victimisation of victims;

AND WHEREAS a uniform law to deal effectively with the provision of support services to victims is urgently required.

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

TABLE OF CONTENTS

CHAPTER 1

DEFINITIONS, OBJECTS, APPLICATION AND LIMITATION OF ACT

1. Definitions
2. Objects of Act
3. Application of Act
4. Limitation of Act

CHAPTER 2

RIGHTS OF VICTIM AND SUPPORT SERVICES

5. Rights of victim
6. Screening and assessment of victim
7. Prevention of secondary victimisation
8. Services rendered to victim

CHAPTER 3

ROLES AND RESPONSIBILITIES OF SERVICE PROVIDERS AND ORGANS OF STATE

9. Service providers
10. Minister responsible for social development
11. Minister responsible for health services
12. Minister responsible for police service
13. Minister responsible for justice
14. Minister responsible for correctional services
15. Minister responsible for basic education
16. Minister responsible for higher education

17. Minister responsible for women
18. National Prosecuting Authority
19. Legal Aid South Africa

CHAPTER 4

REGISTRATION OF FACILITY

20. Procedure for registration of facility
21. Requirements for registration of facility
22. Requirements for registration of service providers
23. Provincial register of service providers
24. National register of service providers
25. Disqualification of staff members of service providers
26. Suspension of registration
27. Voluntary deregistration, winding up or dissolution of service provider
28. National norms and standards for facilities
29. Registration of facility as victim empowerment service
30. Notice of enforcement
31. Establishment of Provincial Committee
32. Monitoring of registered facilities
33. Death or injury in facility
34. Management structure of facility
35. Record and strategy of facility

CHAPTER 5

SERVICE FACILITY FOR VICTIMS

36. Department of Social Development facilities
37. Department of Health facilities
38. National Prosecuting Authority facilities
39. South African Police Service facilities
40. Provision of funding for facilities

CHAPTER 6

GENERAL PROVISIONS

41. Regulations
42. Delegation of powers
43. Transitional arrangement
44. Short title and commencement

CHAPTER 1

DEFINITIONS, OBJECTS, APPLICATION AND LIMITATION OF ACT

Definitions

1. In this Act, unless the context indicates otherwise—

“**accreditation**” means the process of certification of victim support service programmes in accordance with the relevant minimum norms and standards;

“**associated professional**” includes a psychologist, a medical practitioner or a forensic expert;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**Department**” means the national department responsible for social development;

“**Director-General**” means the Director-General of the Department;

“**facility**” means a physical structure irrespective of the nature of its construction, which is established by a person and from which victim support services are rendered;

“**Minister**” means the member of the Cabinet responsible for social development;

“**prescribed**” means prescribed by regulation;

“**provincial head of department**” means the accounting officer for a provincial department responsible for social development;

“**relevant department**” means a government department at national, provincial or local sphere of government which is required to perform the functions as contemplated in this Act;

“**secondary victimisation**” means the further victimisation of a victim that occurs through the response of officials, service providers, the community and individuals;

“service provider” means any registered person providing victim support services to a victim;

“shelter” means a residential facility that accommodates a victim for a period of one day up to 6 months or as the needs arises;

“spiritual harm” means harm resulting from the manipulation, abuse or exploitation of a person by the misuse of power and authority administered under the guise of religion or belief, including harassment or humiliation, which may result in psychological trauma;

“victim” means a person who has suffered physical, emotional, spiritual, or psychological harm because of a crime relating to gender based violence committed against such person, irrespective of whether a perpetrator is identified, apprehended, prosecuted, or convicted;

“victim empowerment” means an approach to facilitate access to a range of services for all people who have individually or collectively suffered harm, trauma including material loss through crime;

“victim support service” means an emphatic, person centred assistance rendered by a person following an incident of victimisation; and

“violence” means an occurrence or incident which leaves a victim emotionally, economically, or physically abused.

Objects of Act

2. The objects of this Act are to—
 - (a) provide a framework within which victim support services must be provided to a victim;

- (b) provide for and protect the rights of a victim;
- (c) direct that all service providers dealing with a victim treat such victim with dignity and respect regardless of such victim's status including social origin, race, gender, culture, sexual orientation, age, religious and personal circumstances;
- (d) make provision for the referral of a victim to the relevant service provider;
- (e) provide a victim with access to victim support services available from the Department and relevant service providers;
- (f) mandate service providers to provide victim support services and outline the roles and responsibilities of service providers;
- (g) criminalise secondary victimisation;
- (h) provide for intersectoral programmes and support services that seek to promote integrated service delivery for victim support and empowerment;
- (i) provide for the registration of a facility for the purposes of rendering victim support services;
- (j) provide for accreditation of victim support service programmes;
- (k) provide for vetting of staff members of a facility; as contemplated in the National Child Protection register, National Register for Sex Offenders , Older Persons Register and such other registers in the manner in which the Minister may prescribe; and
- (l) provide for the development of national norms and standards for facilities.

Application of Act

3. Except where expressly provided for in this Act, this Act applies to victims, service providers, and relevant organs of state.

Limitation of Act

4. In the event of a conflict between a provision of this Act and a provision of another Act of Parliament regarding the provision of support services for victims, this Act shall prevail.

CHAPTER 2

RIGHTS OF VICTIM AND SUPPORT SERVICES

Rights of victim

5. (1) A victim has a right to—
- (a) be attended to promptly and courteously, and be treated with respect, dignity and privacy by all members of relevant department, institution, agency or organisation dealing with or providing a service to victims;
 - (b) be provided with relevant information regarding the services available to a victim;
 - (c) be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse;
 - (d) be provided with assistance and, where relevant, have access to available social, health and counselling services, as well as legal assistance;

- (e) where applicable, apply for compensation and restitution in terms of the Criminal Procedure Act; 1977 (Act No. 51 of 1977) and any other relevant legislation;
- (f) apply for a legal practitioner assigned to the victim by the state and at state expense, subject to the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014), in the event the victim decides to claim for damages and to be informed of this right promptly; and
- (g) exercise the right to remain silent if not ready to testify and to be informed promptly of the consequences of remaining or not remaining silent.

Screening and assessment of victim

6. A social worker, associated professional, police official, service provider or any relevant person must in the prescribed manner—

- (a) calm down and screen the victim to determine what interventions may be appropriate for the victim;
- (b) immediately assess the victim; and
- (c) refer the victim to the relevant service provider for further assistance.

Prevention of secondary victimisation

7. (1) Every relevant organ of state, associated professional, and service provider must implement a code of conduct that directs them and their employees to treat victims in accordance with the rights of victims as set out in this Act and thereby prevent secondary victimisation.

- (2) A person who further victimises a victim by—

- (a) denying a victim access to relevant services;
- (b) withholding information relevant to the needs of a victim;
- (c) harassing and threatening a victim;
- (d) blaming a victim for the ordeal the victim went through; or
- (e) engaging in any conduct that violates the rights of a victim, commits an act of secondary victimisation.

(3) A person who is involved in an act of secondary victimisation as contemplated in this section commits an offence and is liable on conviction to a fine or imprisonment not exceeding a period of 24 months.

Services rendered to victim

8. A service provider, relevant organ of state, or associated professional must provide services to a victim as contemplated in the prescribed guidelines and, where necessary—

- (a) medical assistance and care;
- (b) psychosocial services;
- (c) witness protection services; or
- (d) any other relevant services.

CHAPTER 3

ROLES AND RESPONSIBILITIES OF SERVICE PROVIDERS AND ORGANS OF STATE

Service providers

9. (1) Subject to this Act, service providers must—

- (a) raise awareness in and educate communities about the services available to victims;
- (b) provide within their scope of responsibility, victim support services as contemplated in this Act;
- (c) render relevant support services to victims in an integrated and coordinated manner;
- (d) provide clear, timely and consistent information about relevant support services and assistance available to victims;
- (e) provide care, support, and protection to victims; and
- (f) where appropriate, refer victims to service providers that provide legal assistance.

(2) Every relevant service provider must provide adequate human and financial resources to achieve the objects of this Act in respect of their roles and responsibilities as contemplated in this Act.

Minister responsible for social development

10. (1) The Minister must—

- (a) coordinate and facilitate the support services to be rendered to victims in terms of this Act;
- (b) deliver services and ensure that such services are rendered in compliance with the prescribed minimum norms and standards;
- (c) provide statutory social work services to the victim;

- (d) provide a victim with information regarding services available to the victim;
- (e) provide psychosocial services; and
- (f) provide support to a victim with court processes.

(2) The Minister must provide accessible services to the victims.

(3) The Minister may prescribe services which include the following:

- (a) A toll-free number for the reporting of complaints of victimisation by a person;
- (b) acknowledgement of receipt of a complaint with a reference number to each victim who has provided contact details; and
- (c) the manner for analysing a complaint and the referral to an appropriate service provider.

(4) The Minister, in consultation with Ministers responsible for justice, international relations, home affairs, education, correctional services, health and safety and security must in the prescribed manner—

- (a) develop capacity within all spheres of government to establish, maintain and develop programmes for victims;
- (b) establish and maintain a system for accreditation of programmes for victim support; and
- (c) ensure the availability of resources to implement victim support service programmes.

(5) The system for accreditation referred to in subsection (4)(b) must contain—

- (a) criteria for the evaluation of victim support service programmes to ensure that they comply with the minimum norms and standards;

- (b) criteria for the evaluation of the content of victim support service programmes to ensure that they reflect a meaningful and adequate response to the harm caused by the offence committed, to achieve the object of victim support service;
- (c) mechanisms to monitor victim support service programmes and victim support service providers in respect of their ability to render quality service in achieving the object of victim support service and their ability to promote compliance with victim support service; and
- (d) measures for the removal of victim support service programmes and victim support service providers from the system, where appropriate.

(6) The Minister must prescribe a system for accreditation of victim support service programmes, the establishment of a committee for accreditation of victim support service programmes, the quality assurance of victim support service programmes, the procedure for accreditation of victim support service programmes and the withdrawal of such accreditation.

(7) The Minister must issue a prescribed certificate of accreditation to each victim support service programme that is accredited in terms of this section.

(8) A certificate of accreditation referred to in subsection (7) is valid for a maximum period of five years from the date of accreditation.

(9) The accreditation committee contemplated in subsection (6) must accredit victim support service programmes.

(10) The Minister, in consultation with Ministers responsible for justice, education, correctional services, health, safety and security, and the non-governmental sector must—

- (a) create a policy framework to develop the capacity within all spheres of government and non-governmental sector to establish, maintain and develop programmes for victim support services;
- (b) establish and maintain a system for accreditation, as prescribed, of programmes for victim support services; and
- (c) ensure the availability of resources to implement victim support service programmes as prescribed.

(11) The system for accreditation referred to in subsection 10(b) must contain—

- (a) criteria for the evaluation of victim support service programmes to ensure that they comply with the minimum norms and standards;
- (b) criteria for evaluation of the content of victim support service programmes to ensure that they reflect a meaningful and adequate response to the harm caused by the offence committed, to achieve the object of victim support service;
- (c) mechanisms to monitor victim support service programmes and victim support service providers in respect of their ability to render quality service in achieving the object of victim support service and their ability to promote compliance with victim support service; and
- (d) measures for removal of victim support service programmes and victim support service providers from the system, where appropriate.

(12) The Minister must issue a prescribed certificate of accreditation to each victim support service programme that is offered by a victim support service provider.

(13) A certificate of accreditation referred to in subsection (12) is valid for a maximum period of five years from the date of accreditation.

(14) Programmes or services including psychosocial services rendered by other relevant departments must be accredited by the Department.

Minister responsible for health services

11. (1) The Minister responsible for health services must provide—
- (a) professional, accessible, medical and psychological services to victims including victims admitted in support service facilities;
 - (b) Post Exposure Prophylaxis to victims in terms of section 28 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007); and
 - (c) for the carrying out of tests to establish the possibility of sexually transmitted infections and pregnancy.

(2) The Minister responsible for health services must provide a victim with information, regarding—

- (a) Post Exposure Prophylaxis in order to prevent HIV infection;
- (b) an application by a victim or an interested person for HIV testing of the alleged sex offender, in terms of section 30 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007); and
- (c) any other health services available to the victim.

Minister responsible for police service

12. (1) The Minister responsible for police service must implement National Instructions and where applicable, provide—

- (a) a victim friendly area solely used for victims at each police station;
- (b) the case number to the relevant victim;
- (c) the name and contact details of the investigating officer assigned to the case;
- (d) a copy of the victim's statement when requested;
- (e) the notification of the arrest of any suspect;
- (f) the notification if a suspect is released from custody, and whether on bail, warning or not being charged;
- (g) information about services available to victims;
- (h) where a person has been charged, the court dates and place;
- (i) the name of the prosecutor responsible for the case; and
- (j) the general progress made in the case.

(2) A police official must, where the case is not referred to the National Prosecuting Authority within 30 days of it being reported by the victim, provide a notification to the victim, indicating reasons, including where relevant—

- (a) why the conduct reported by the victim does not constitute a crime;
- (b) steps taken towards investigating the case against the perpetrator; or
- (c) whether there is not enough evidence to merit referral for prosecution.

Minister responsible for justice

13. The Minister responsible for justice must, where applicable—

- (a) provide a victim friendly court environment in the prescribed manner;
- (b) provide witness fees for court preparation purposes;

- (c) provide intermediary services for adult victims if necessary;
- (d) raise awareness to victims about the availability of audio visual testimony facilities; and
- (e) coordinate plans and programmes for the—
 - (i) development;
 - (ii) management;
 - (iii) implementation;
 - (iv) monitoring;
 - (v) evaluation; and
 - (vi) review,of the impact, of the Service Charter for Victims of Crime in South Africa, 2004.

Minister responsible for correctional services

- 14.** The Minister responsible for correctional services may—
- (a) upon request by a victim, provide the victim with the name and location of the prison where the perpetrator is incarcerated;
 - (b) if the victim requests to be notified of the placement consideration in terms of the Correctional Services Act, 1998 (Act No. 111 of 1998), notify the victim in writing, of the scheduled dates of the placement consideration of the inmate;
 - (c) afford the victim an adequate opportunity to make written or oral representations during parole hearing;
 - (d) provide information relating to the consideration of parole for the perpetrator;
 - (e) notify the victim of the official date of the release of the perpetrator; and

- (f) review the rehabilitation programmes of offenders taking into consideration the possibility of reoffending by the offender.

Minister responsible for basic education

15. The Minister responsible for basic education must as prescribed develop policies and guidelines aimed at providing services to learners who are victims and victims of bullying at school.

Minister responsible for higher education

16. The Minister responsible for higher education must as prescribed develop policies and guidelines aimed at providing services to learners who are victims of bullying at institutions of higher learning and who may be victims.

Minister responsible for women

- 17.** The Minister responsible for women must—
- (a) develop guidelines to reduce gender based violence; and
 - (b) provide for the implementation of gender mainstreaming by relevant departments, and monitoring thereof.

National Prosecuting Authority

18. The National Prosecuting Authority must—

- (a) notify the victim of a decision to prosecute, or not to prosecute, and the reasons therefor should the latter apply;
- (b) where a case is enrolled, notify the victim of—
 - (i) the court case number and the charges against the accused person;
 - (ii) whether bail has been granted by a court to an accused;
 - (iii) the first appearance and all subsequent court dates;
 - (iv) the date of handing down the court judgment;
 - (v) the outcome of the case;
 - (vi) the date of the sentencing hearing; and
 - (vii) the sentence imposed;
- (c) consult the victim before the relevant criminal proceedings;
- (d) inform a victim about court processes and the victim's right to attend court proceedings, unless the court otherwise orders or the court processes require the victim not to be present in court;
- (e) assist the victim by providing relevant court preparation services if the victim is to appear as a witness; and
- (f) where appropriate, present the evidence of the victim, including the impact that the crime had on the victim, at the trial court adjudicating the relevant criminal case.

Legal Aid South Africa

- 19.** Legal Aid South Africa may—
 - (a) render or make available legal aid and legal advice to victims in civil proceedings;

- (b) provide legal representation to a victim in civil proceedings where the requirements for legal representation at state expense are met; and
- (c) provide education and information concerning the legal rights and obligations, as envisaged in the Constitution and its enabling Act.

CHAPTER 4

REGISTRATION OF FACILITY AND SERVICE PROVIDERS

Procedure for registration of facility

20. (1) No person may establish or manage any facility that renders physical, psychological, spiritual, or social services unless such facility is registered in terms of this section.

(2) Any person who desires to establish or manage a facility contemplated in subsection (1) must apply in the prescribed manner to the provincial head of department for the registration of such facility.

(3) The provincial head of department may—

- (a) after consideration of an application contemplated in subsection (2) and such other information as the provincial head of department may obtain; and
- (b) upon being satisfied that such facility is or will be managed and maintained in such a way that the reception, and services to victims complies with the prescribed requirements, grant the application for registration, and issue a registration certificate.

(4) The provincial head of department may grant a conditional registration on any conditions for a maximum period of 12 months and must specify those conditions to the applicant in the prescribed manner.

(5) The conditional registration contemplated in subsection (4) may be extended only for a maximum period of 12 months under the same conditions.

(6) The provincial head of department may at any time after three months' notice, and after consideration of any representation received during such period, amend or cancel a registration certificate issued in terms of subsection (3) or (4).

(7) A registration certificate granted by the provincial head of department is valid for a period of five years, and is renewable every five years on application by the owner or manager of a facility six months prior to the expiry date.

(8) The provincial head of department may refuse an application for registration in terms of subsection (2) or (7) if, after consideration of such application, the provincial head of department is not satisfied that such facility is or will be managed and maintained in the manner contemplated in subsection (3).

(9) If a re-registration application is refused or if such registration is cancelled, the provincial head of department and the owner or manager of the facility concerned must take reasonable steps to ensure that all victims admitted in the facility concerned are admitted in another registered facility or with persons who, in the opinion of a social worker, are fit and proper persons for accommodating such victims.

(10) The amendment or cancellation of a registration certificate contemplated in this section must be effected by notice in writing addressed to the holder thereof and comes into operation on a date specified in the notice, which date

may not be earlier than three months after the date of the notice, unless the provincial head of department and the holder of the registration certificate agree otherwise.

(11) A registration certificate issued under subsection (3) or (4) is not transferable.

(12) The holder of a registration certificate issued under subsection (3) or (4) may, after three months' written notice, surrender such registration certificate to the provincial head of department.

(13) Whenever a registration certificate is refused or cancelled under subsection (8) or (9) or surrendered under subsection (12), the powers and duties conferred or imposed under this Act on the holder thereof must devolve upon the provincial head of department.

(14) A person who contravenes or fails to comply with this section, or any condition imposed thereunder, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Requirements for registration of facility

21. A facility may be registered as such only when it complies with the structural, safety, health, and any other requirements of the municipality where the facility is situated.

Requirements for registration of service providers

22. A service provider must comply with the prescribed requirements for registration purposes.

Provincial register of service providers

- 23.** The provincial heads of departments must—
- (a) compile and maintain a register containing the details as prescribed of all service providers in their respective provinces; and
 - (b) must submit the register contemplated in paragraph (a) to the Director-General annually by 31 March.

National register of service providers

24. (1) The Director-General must keep a consolidated register of each service provider in the Republic of South Africa.

- (2) The register referred to in sub-section (1) must contain the—
- (a) name;
 - (b) registration number;
 - (c) physical, postal and electronic mail address;
 - (d) contact numbers;
 - (e) working hours;
 - (f) current status of accreditation or registration of each service provider; and
 - (g) whether or not such service provider has been suspended or its registration previously cancelled.

Disqualification of staff members of service providers

25. (1) A person may not be registered as a service provider if that person is found to be unsuitable to work with children by a competent court, and whose details appear in the—

- (a) National Child Protection Register as contemplated in the Children's Act, 2005 (Act No. 38 of 2005);
- (b) National Register for Sex Offenders as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
- (c) register of persons convicted of abuse of older persons or any crime or offence related to the abuse of older persons as contemplated in section 31 of the Older Persons Act, 2006 (Act No.13 of 2006); or
- (d) in terms of any other legislation is not a fit and proper person to operate or serve in any capacity of a service provider.

(2) All persons working with victims, for a service provider, must be vetted in terms of subsection (1) by the service provider and their criminal record must be verified by that service provider.

(3) All social workers, including other social service professionals, providing services to the service provider must be registered with the South African Council for Social Service Professions and must comply with the relevant legislation.

Suspension of registration

26. (1) Where the provincial head of social development in the relevant province finds that a service provider contravened any provision of this Act; or term or condition of a registration certificate issued under this Act, such provincial head may—

- (a) order the service provider by written notice to rectify the contravention within 90 days; or
- (b) give the service provider the opportunity to make representation within the 90 days for consideration.

(2) Failure by the service provider to rectify the contravention will result in the suspension of the registration of the service provider until it remedies the defects and reapplies for registration.

(3) The written notice contemplated in subsection (1) (a) must set out—

- (a) the name of the service provider to which the order applies;
- (b) the provisions and conditions that were not complied with and details of the non-compliance;
- (c) the steps that the service provider must take to remedy the situation;
- (d) the timeframe within which those steps must be taken; and
- (e) any other prescribed information.

(4) The suspended service provider must address the application for re-registration to the provincial head of social development who must—

- (a) re-instate the registration of a service provider, if the service provider has rectified the cause of the suspension within the period stipulated in the written notice to rectify such; or
- (b) provide written reasons for the refusal of registration, or renewal of

registration.

Voluntary deregistration, winding up or dissolution of service provider

27. (1) A service provider may voluntarily deregister by sending to the provincial head of social development a prescribed written notice—(a) (i) stating its intention to deregister voluntarily and the reasons therefor; and (ii) specify a date at least two months after the date of the notice, on which the deregistration is to take effect; and (b) send a copy of the prescribed reports for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

(2) If a service provider resolves to wind up, dissolve itself or is being wound up in terms of any law, it must, prior to the winding up or dissolution process or the relevant order of court, send to the relevant provincial head of social development a— written notice—

(a) (i) stating this fact; and (ii) containing certified copies of all relevant documents confirming the winding up or dissolution; and (b) send copies of the prescribed reports for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

(3) Upon receipt from a service provider of the written notice of voluntary deregistration, winding up or dissolution, the provincial head of social development must—

- (a) cancel the service provider's certificate of registration, and send the provincial amended register within 30 days thereof to the Director-General who will amend the national register; and
- (b) notify the service provider in writing of deregistration and confirm the date on which the amendment was made to the register.

National norms and standards for facilities

28. (1) The Minister must within 12 months of the coming into effect of this Act and after consultation with the members of the Executive Counsel of the relevant provincial departments, prescribe national norms and standards for facilities for victims.

(2) The national norms and standards must provide for the requirements in respect of the—

- (a) structural construction;
- (b) size;
- (c) safety;
- (d) hygiene;
- (e) security; and
- (f) relevant building regulations of the local municipality.

Registration of facility as victim empowerment service

29. (1) A person who is qualified as contemplated in section 20 or any other law to render services to victims, may in the prescribed manner apply to establish, register, and operate a facility provided that the facility—

(a) is managed and maintained in accordance with any condition subject to which the facility is registered; and

(b) complies with the national norms and standards and any other requirements as may be prescribed.

(2) Any person operating a facility existing at the time of coming into operation of this Act must, in the manner prescribed apply to the provincial head of department for registration of such a facility as a victim empowerment service.

(3) The provincial head of department must, when satisfied that the facility complies with the requirements for registration as a victim empowerment service; within 30 days issue the prescribed certificate to the service provider operating such facility.

(4) Notwithstanding any prescribed period in any other law or certificate, a facility registered as a victim empowerment service shall be regarded as having being registered only for a period of five years after the coming into effect of this Act or from the date upon which it is so registered thereafter, and must in all instances re-apply to the provincial head of department for registration in the prescribed manner.

(5) The provincial head of department may after consultation with the Director-General consider an application contemplated in subsection (3) and such other information as obtained.

(6) The provincial head of department must grant the application for registration and issue a registration certificate if he or she is satisfied that such facility is or will be managed in accordance with the prescribed requirements, and is satisfied that the reception, assessment, care and support of victims complies with the prescribed requirements.

Notice of enforcement

30. (1) Whenever a provincial head of social development is informed of the existence of an unregistered facility, such provincial head may in the prescribed manner and by way of written notice, instruct a person operating or owning an unregistered facility to—

- (a) declare and account for all victims accommodated or served at such facility;
- (b) stop operating that facility; and
- (c) apply for registration in terms of section 29 within a prescribed period which must be specified in the written notice.

(2) A person operating a registered facility other than in accordance with the provisions of this Act, may be reported to the relevant provincial committee for victim support services.

Establishment of Provincial Committee

31. The members of Executive Council of Provincial Departments must by notice in the *Gazette* establish a provincial committee for victim support services in a prescribed manner.

Monitoring of registered facilities

32. (1) The relevant provincial committee for victim support services must monitor the registered facility to ensure compliance with the national norms and standards.

(2) The chairperson of the relevant provincial committee for victim support services must in the prescribed manner, nominate members from the provincial committee for victim support services to serve as a monitoring and enforcement sub-committee of the committee.

(3) The sub-committee of the relevant provincial committee for victim support services may serve for the duration of the term of office of the committee.

(4) A member of the provincial committee for victim support services, social worker in the employ of the Department or a provincial department, or a police official may upon request of the Director-General or a provincial head of the department, at any time—

- (a) enter any premises operated as a facility for the purposes of conducting an investigation in the prescribed manner;
- (b) interview any victim cared for or accommodated in such facility;
- (c) direct any person who has possession or custody of any record or document relating to such a facility, to submit such record or document for inspection;
- (d) submit a report in the prescribed manner and within 72 hours of such inspection, to the Director-General or the provincial head of department, as the case may be, on the findings of the inspection;

- (e) provide the manager of the facility with a report on the findings of the inspection;
and
- (f) issue any enforcement notice as directed by the Director-General or the provincial head of department.

(5) A person commits an offence if that person—

- (a) obstructs or hinders a social worker, a member of the provincial committee for victim support services or a police official in the performance of their functions in terms of subsection (3); or
- (b) refuses to give a social worker, a member of the provincial committee for victim support services or a police official access to a victim cared for or accommodated in a facility referred to in subsection (1), and if found guilty is liable to a fine or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

Death or injury in facility

33. (1) In the event of a death or injury of a victim in a facility the manager of such a facility must immediately report such incident to—

- (a) a police official in the relevant area;
- (b) the relevant provincial head of department; and
- (c) the victim's next of kin.

(2) Where the Minister, Director-General, member of the Executive Council responsible for social development or provincial head of department deems it necessary after receiving the report contemplated in subsection (1), cause an investigation to be conducted into the circumstances of such an incident, to take

appropriate action including cancellation, suspension or amending the registration certificate of the relevant facility.

(3) The manager of such a facility must within 48 hours provide the Director-General or the provincial head of department, as the case may be, with a full report of the incident as prescribed.

Management structure of facility

34. (1) The Minister may prescribe the management and control structure of a facility.

(2) A management structure of a facility may have members as prescribed.

(3) The members of the management structure referred to in subsection (2) must ensure that a facility—

- (a) provides the services referred to in this Act;
- (b) maintains a satisfactory level of quality service;
- (c) provides opportunities for the training of staff; and
- (d) applies principles of sound financial management and functions effectively.

Record and strategy of facility

35. A provincial head of social development must—

- (a) maintain a record of—
 - (i) all facilities in the province;
 - (ii) the types of facilities; and

- (iii) the number of each type of facility;
- (b) develop and implement a provincial strategy for the provision of facilities which must include facilitating the establishment and operation of sufficient facilities in that province; and
- (c) prioritising those types of facilities most urgently required.

CHAPTER 5

SERVICE FACILITIES FOR VICTIMS

Department of Social Development facilities

36. (1) To enable the Department to provide adequate victim support services, the establishment of Social Development facilities must be reported to the Director-General.

(2) Department of Social Development facilities must render the following support services to a victim referred to it by a social worker, associate professional or a relevant provincial head, as the case may be—

- (a) Assessment by a multi-disciplinary team;
- (b) 24-hour care and support services to victims of crime for a period of 6 months;
- (c) counselling services; and
- (d) skills development.

(3) A shelter must immediately render within its available resources, psychosocial services to any victim who is referred to it or otherwise comes to its attention.

(4) A white door safe space of hope is a facility that must render care and support services for a period of 24 hours up to 72 hours to a victim.

Department of Health facilities

37. (1) Whenever the Department of Health designates health facilities to provide services to victims, such must be reported to the Director-General, to enable the Department to provide adequate victim support services.

(2) Designated health facilities must provide trauma counselling by social workers, psychologists, psychiatrists, professional nurses, social auxiliary workers and lay counsellors.

National Prosecuting Authority facilities

38. (1) Whenever National Prosecuting Authority facilities are established, such must be reported to the Director-General, to enable the Department to provide adequate victim support services.

(2) National Prosecuting Authority facilities must coordinate services that include medical examination and intervention, evidence collection and preservation, counselling, victim support, and awareness campaigns.

South African Police Service facilities

39. The South African Police Service must provide a private room where a victim may be interviewed, and a statement taken in a confidential, respectful, and dignified manner.

Provision of funding for facilities

40. The member of the Executive Council responsible for the relevant departments may, from money appropriated by the relevant provincial legislature, provide and fund facilities for victims in the respective province.

CHAPTER 6 GENERAL PROVISIONS

Regulations

- 41.** (1) The Minister may make regulations regarding—
- (a) the manner in which a victim may be assessed for admission to a facility;
 - (b) the information to be obtained from the South African Police Service regarding the victim;
 - (c) the manner in which information may be provided to the victim with regard to the criminal or civil case;
 - (d) the procedure and conduct of meetings of the national committee for victim support services and the national coordinating sub-committee for victim support services;

- (e) the establishment of the national, provincial and local committee for victim support services and the respective sub-committees;
- (f) the selection and appointment of members of the national, provincial and local committee for victim support services and the respective sub-committees;
- (g) the registration of service providers that provide victim support services;
- (h) the procedure to be followed in connection with the lodging and consideration for registration, renewal or suspension of a facility;
- (i) the format in which the annual report on the service provider's register must be published;
- (j) the format that the annual report must conform to, for submission by the provincial heads of department on the service provider register;
- (k) the annual reports to be submitted by a service provider;
- (l) the manner in which the registration of a service provider may be cancelled or suspended;
- (m) the voluntary deregistration of the service provider;
- (n) the norms and standards in respect of the delivery of any service to a victim;
- (o) the norms and standards in respect of registration, renewal of registration or accreditation, and suspension and cancellation of registration or of a service provider or facility;
- (p) the norms and standards in respect of accreditation;
- (q) the establishment of and composition of an appeal tribunal to consider and adjudicate on appeals lodged by victims or service providers regarding any decision taken or act performed in terms of this Act;
- (r) any form required to be completed in terms of this Act;

- (s) the minimum requirements that the different types of facilities must comply with;
- (t) management and control structure of a facility;
- (u) the procedure to be followed with regard to the management of a victim if a facility is closed down;
- (v) the prevention strategies and programmes; and
- (w) any other matter which the Minister deems necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) Any regulation made under subsection (1)—

- (a) which may result in expenditure for the State, must be made in consultation with the Minister of Finance;
- (b) which may impact on the mandate of another organ of state must be made in consultation with the respective executive authority, member of the Executive Council responsible for social development or provincial head of department responsible for that organ of state as the case may be; and
- (c) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

Delegation of powers

42. (1) The Minister may—

- (a) delegate to the Director-General any power conferred on the Minister by this Act, except the power to make regulations; or

(b) authorise the Director-General to perform any duty imposed on the Minister by this Act.

(2) The Director-General may—

(a) delegate to any employee of the Department any power delegated to the Director-General in terms of subsection (1) of this Act; or

(b) authorise that employee to perform any duty that the Director-General is authorised to perform in terms of this Act.

(3) The member of the Executive Council responsible for social development may—

(a) delegate to the provincial head of department any power conferred on the member of the Executive Council responsible for social development by this Act; or

(b) authorise the provincial head of department to perform any duty imposed on the member of the Executive Council responsible for social development by this Act.

(4) The provincial head of department may—

(a) delegate to any employee of the provincial department any power delegated to the provincial head of department in terms of this Act; or

(b) authorise that employee to perform any duty the provincial head of department is authorised to perform in terms of this Act.

(5) A delegation in terms of subsections (1), (2), (3) and (4) above—

(a) is subject to any limitations, conditions, and directions which the Minister, Director-General, member of the Executive Council responsible for social development or the relevant provincial head of department may impose;

- (b) must be in writing; and
- (c) does not divest the Minister, Director-General, member of the Executive Council responsible for social development or the relevant provincial head of department of the responsibility concerning the exercise of the power or the performance of the duty.

(6) Any person to whom any power has been delegated or who has been authorised to perform a duty under this section must exercise that power or perform that duty subject to such conditions as the person who effected the delegation or granted the authorisation considers necessary.

Transitional arrangement

43. (1) A service provider which exists at the time of commencement of this Act, and which provided services to victims, and intends to continue to operate and provide such services after the commencement of this Act, may continue to render such services, and apply for accreditation within 12 months of this Act coming into operation.

(2) Any new facility may be registered as a victim empowerment facility, only after lodging the prescribed application with the provincial head of department and after satisfying the prescribed requirements.

Short title and commencement

44. This Act is called the Victim Support Services Act, 2022, and comes into operation on a date determined by the President by proclamation in the *Gazette*.