



NEDLAC REPORT ON THE VICTIMS SUPPORT SERVICES BILL

12 MAY 2023

1. BACKGROUND

- 1.1. The Department of Social Development (DSD) presented the Victims Support Service (VSS) Bill to the Development Chamber meeting on 22 September 2020.
- 1.2. At this meeting, the Government indicated that the Bill was gazetted for public comment and the closing date to receive comments was 07 October 2020. It would then consider the public comment prior to tabling the Bills to Nedlac for engagement.
- 1.3. In September 2022, the Department of Social Development indicated that it was ready to table the VSS Bill at Nedlac for engagement by social partners and a six-aside task team consisting of Government, Business, Labour and Community constituencies was set up.
- 1.4. The Department of Social Development tabled the VSS Bill at the task team on 14 November 2022.
- 1.5. This Nedlac Report outlines the agreed amendments and recommendations arising from the task team engagements on the VSS Bill.

2. PURPOSE OF THE VICTIMS SUPPORT SERVICES BILL

- 2.1. The Bill seeks to:
 - 2.1.1. Provide a framework to guide the provision of integrated and multi-disciplinary services aimed at addressing the needs of victims of violent crimes.

- 2.1.2. Improve the efficiency, effectiveness and better coordination of all services offered by the various Government Departments in the Justice, Crime Prevention and Security, and Social Clusters.
- 2.1.3. Address the gaps identified in existing legislation relating to victim support services. For example, the Domestic Violence Act is silent on the role of DSD and the management and registration of shelter services for victims of violent crimes.
- 2.1.4. Provide mechanisms to monitor the quality of services rendered within the VSS sector in addressing the scourge of violent crimes.

3. PROCESS AT NEDLAC

- 3.1. The Task Team convened five (5) meetings on the following dates:
 - 3.1.1. 14 November 2022
 - 3.1.2. 16 March 2023
 - 3.1.3. 30 March 2023
 - 3.1.4. 06 April 2023
 - 3.1.5. 20 April 2023
- 3.2. The task team agreed that the Bill would be engaged chapter by chapter and they should strive to reach a consensus on the issues.
- 3.3. The Victims Support Services Bill will accompany this report as **Annexure A**.
- 3.4. At the end of the process, there were areas in which agreement was reached by social partners on the proposals presented by Government, as well as areas where social partners proposed changes. Social partners also provided recommendations on additional issues for further consideration by Government. The section below outlines the sections in the Bill where amendments were proposed by social partners and agreed upon by Government. The following section sets out recommendations for further consideration.

4. SECTIONS WHERE AMENDMENTS WERE AGREED UPON

[text*] denotes deletion and _____ denotes insertion]

4.1. The task team agreed on the Bill as follows:

CHAPTERS AS PER THE BILL	Views of social partners	Amendments Agreed to at Nedlac
Chapter 1 – Definitions, Objects, Application, and Limitations of Act	The social partners were concerned that the definition did not include all professionals and community-based volunteers who provide support to victims of violence. Therefore, this should be added to the definition	The definition of “ associated professional ” would be expanded to include all professionals who provide support to victims, community-based volunteers and or practitioners offering this service under strict guidance from a skilled professional.
Chapter 2- Rights of Victim and Support Services	<p>It was agreed that regarding the screening and assessment of victims, professionals or police officers dealing with the screening of victims should be accredited and trained as this was where secondary victimisation occurred.</p> <p>This consideration should be applicable throughout the Bill where reference is made to “police officials”.</p>	<ul style="list-style-type: none"> • Section 6 on the Screening and Assessment of Victim should be amended to read as follows: “A social worker, associated professional, accredited specialist or trained police official, service provider or any relevant person must in the prescribed manner— <ul style="list-style-type: none"> (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.” • Section 7 on the Prevention of secondary victimisation should

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		<p>be aligned to consider changes made in Section 6 which provide for the accredited specialist or trained police officials conducting the screening and assessment of victims.</p>
<p>Chapter 3- Roles and Responsibilities of Service Providers and Organs of State</p>	<p>In respected to Section 9 - Service providers, it was agreed that government must commit to capacitate communities about services available to victims in general especially on this Act.</p> <p>It was agreed that the Civil Society should be added as one of the stakeholders that would be consulted when the Minister of Social Development is executing his/her roles as prescribed in the Bill.</p> <p>It was agreed that the Department of Women, Youth and Persons with Disabilities should be part of the consultations when the Minister of Social Development was executing his/her roles as prescribed in the Bill.</p>	<p>It was agreed that:</p> <p>Section 10 on Minister responsible for social development should be amended as follows:</p> <ul style="list-style-type: none"> - "(4)The Minister, in consultation with Ministers responsible for justice, international relations, home affairs, education, correctional services, health and safety and security and Civil Society, 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." - "(10) The Minister, in consultation with Ministers responsible for justice, education, correctional

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		<p>services, health, safety and security, <u>Department of Women, Youth and Persons with Disabilities</u> and the non-governmental sector must—</p> <p>(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;</p> <p>(b) establish and maintain a system for accreditation, as prescribed, of programmes for victim support services; and</p> <p>(c) ensure the availability of resources to implement victim support service programmes as prescribed.”</p>
<p>Chapter 4 - Registration of Facility and Service Providers</p>	<p>It was agreed that the validity period for the registration certificate of a facility to provide support to the victims should be for a period of six years, be renewable every six years on application by the owner for such renewal six months prior to the expiry date.</p> <p>In section 34 - Management structure of facility - Government would find space</p>	<p>It was agreed that:</p> <p>(a) Section 20 on the Procedure for registration of facility and validity of registration certificates should be amended as follows:</p> <p>“(7) A registration certificate granted by the provincial head of department is valid for a period of [five] six years, and is renewable every (five) six years on application by the owner or</p>

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	<p>under definitions in relation to reference to the Non-Governmental Organisation (NGO) Legislation and other regulations, regarding the prescription, management and control structure of a facility.</p>	<p>manager of a facility six months prior to the expiry date.”</p> <p>(b) Section 32 on Monitoring of registered facilities was agreed with the provision that a notice period should be added for monitoring of facilities providing victim support services and reasons for such monitoring. Furthermore, an opportunity for facilities to respond on the notice for investigation to prior to the physical investigation would be added.</p>
<p>Chapter 5 - Service Facilities for Victims</p>	<p>It should be mandatory that:</p> <ul style="list-style-type: none"> - When a shelter cannot provide the victim with the support they need, it must refer them to a relevant service provider. - The victims be interviewed and their statement to be taken in a private room to maintain confidentiality and their dignity. - The Executive Council responsible for the relevant departments provide and fund facilities for victims in the respective provinces. 	<p>It was agreed that:</p> <p>(a) Section 36 (3) on Department of Social Development facilities should be amended as follows:</p> <p>-“(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. <u>Alternatively, it must refer the victim to a relevant and available service provider.</u>”</p>

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		<p>(b) Section 39 on South African Police Service facilities should be amended as follows:</p> <ul style="list-style-type: none"> - “The South African Police Service must provide a private room where a victim must [may] be interviewed and a statement taken in a confidential, respectful, and dignified manner.” <p>(c) Section 40 on the Provision of funding for facilities:</p> <ul style="list-style-type: none"> - “The member of the Executive Council responsible for the relevant departments [may] must, from money appropriated by the relevant provincial legislature, provide and fund facilities for victims in the respective province.”
Chapter 6 - General Provisions	<ul style="list-style-type: none"> - The social partners were of the view that the relevant delegated employee should be a trained and competent person who is duly capacitated to deal with a matter presented by the victim/s. - It was agreed that the addition of the “relevant” in section 41 will cover the issue of trained and 	<p>It was agreed that the following section would be amended as follows</p> <ul style="list-style-type: none"> - Section 41 – Regulations - “(4) The provincial head of department may— <ul style="list-style-type: none"> (a) delegate to any relevant employee of the provincial department any power delegated to the provincial head of department in terms of this Act; or

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	<p>competent delegation, and Government committed that the provincial head would only delegate to employees who would be able to deal with issues the victim/s table.</p>	<p>(b) authorise that employee to perform any duty the provincial head of department is authorised to perform in terms of this Act.</p>

5. RECOMMENDATIONS

- 5.1. The task team deliberated and agreed with the provisions proposed by Government on Chapter 3, Section 19 in relation to the roles and responsibilities of Service Providers and Organs of State, which include Legal Aid South Africa.
- 5.2. It was, however, recommended that Government should consider making it mandatory for Legal Aid South Africa to undertake its responsibilities which are stipulated in this section of the Bill, rather than it being discretionary. As such, the usage of the word “may”, should be replaced with “must”. Government stated that it could not respond to changing “may” to must, given that legally, the word “may” covers the notion that the Legal Aid South Africa’s services would be provided within the available resources. If such change is to be made, the VSS would need to be aligned with other pieces of legislation and this would therefore need to be further engaged in Parliament. It was therefore agreed that the Bill should have a limitations section or an addition to the definitions regarding the limitations of the prescripts.
- 5.3. Government to submit the revised Bill to the Chamber, after having incorporated the amendments proposed by social partners prior to tabling it in Parliament.
- 5.4. Social partners proposed that Government should monitor the service delivery by the South African Police Service and relevant organisations in relation to supporting the victims, and provide regular feedback at the Development

Chamber. It was therefore agreed that Government would present a report on the implementation of the Bill at the Development Chamber to ascertain if it was being implemented effectively and identify any bottlenecks which may be encountered.

6. CONCLUSION

- 6.1. This Report, therefore, concludes considerations at Nedlac on the Victims Support Services Bill. It will be submitted to the relevant Ministers and Portfolio Committee in terms of Section 8 of the Nedlac Act. No 35 of 1994.

ANNEXURE 1

LIST OF TASK TEAM MEMBERS

BUSINESS:	LABOUR	GOVERNMENT	COMMUNITY	SECRETARIAT
Janhi De Villiers Sanelisiwe Jantjies Siobhan Leyden Tsakane Muavha Andile Kuzwayo	Patricia Nyman Kedibone Mdolo Matthew Parks Boitumelo Molete	Luyanda Mtshotshisa Siza Magangoe Buti Kolwane Anthony Makwiramiti Civil Legodu Linton Mchunu Sibusiso Malope	Jimmy Gotyana Wilhemina Moleko Lulama Makhubela (late) Bongiwe Zuma Thobekile Thwala Siphelele Gavu	Nolwazi Mthembu- Makaula Busisiwe Milisi- Mngese Bongani Mahlalela