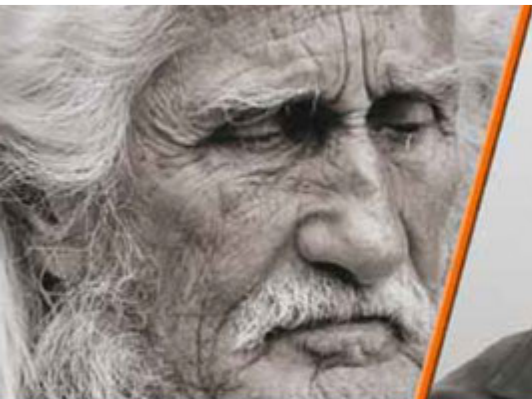


# OLDER PERSONS ACT 13 OF 2006

PROTECT OUR SENIOR CITIZENS!!



OLDER AND PARTIALLY  
BLIND PERSONS



**the doj & cd**

Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA



**STAND TOGETHER FOR RIGHTS**

*Isinyela i Justice*

## **BACKGROUND**

The Older Persons Act, 2006 is intended to protect, promote and maintain the status, rights, well-being and security of older persons. It is an Act that aims at combating the abuse of older persons.

## **WHO QUALIFIES TO BE AN OLDER PERSON IN TERMS OF THE ACT?**

An older person is the person who, in the case of a male, is 65 years of age or older and, in the case of a female, is 60 years of age or older.



## WHAT IS AN ABUSE OF AN OLDER PERSON?

An abuse of an older person occurs where any person, in a relationship where there is an expectation of trust, does something or fails to do something that causes harm or distress or is likely to cause harm or distress to an older person.

## WHAT ARE THE TYPES OF ABUSE THAT AMOUNT TO 'ABUSE OF OLDER PERSONS' IN TERMS OF THE ACT ?

- **Physical abuse**, which means any act or threat of physical violence towards an older person, e.g. pushing, clapping, biting, throttling, stabbing, threats with a fist, threats to kill, etc.
- **Sexual abuse** means any conduct that violates the sexual integrity of an older person, which includes sexual penetration by a genital organ or object, flashing of genital organs, compelling an older person

to watch a sexual act, the use of sexual slurs against an older person such as bitch, whore, sluts, etc.

- **Psychological abuse** means any pattern of degrading or humiliating conduct towards an older person, which includes repeated insults, ridicule or name calling; repeated threats to cause emotional pain; repeated invasion of an older person's privacy, liberty, integrity or security, etc.

- **Economic abuse includes** depriving an older person of economic or financial resource he/ she is entitled to by law, including those that he/she requires out of necessity, e.g. failing to provide money or food to the older person; children with an older person to force him/her to pay for the well-being of your children; employing an older person to take care of your children without a salary; using the old age pension funds, retirement funds or finances of an older person to pay for your expenses without her permission; etc.

Economic abuse also means disposing household effects or property that belongs to an older person, e.g. selling the house, furniture or any other goods of the older person without consent of such older person; spending the retirement funds or inheritance of the older person without consent; etc.

## WHAT ARE THE RIGHTS OF OLDER PERSONS IN TERMS OF THE OLDER PERSONS ACT?

### THE ACT GIVES THE OLDER PERSONS THE RIGHT TO:

- Participate in community life in any position appropriate to his or her interest and capabilities;



- Participate in inter-generational programmes;
- Establish and participate in structures and associations for older persons;
- Participate in activities that enhance his or her income-generating capacity;
- Live in an environment catering for his or her changing capacities; and
- Access opportunities that promote his or her optimal level of social, physical, mental and emotional well being.



PROTECT OUR SENIOR CITIZENS !!

## WHO MUST REPORT THE ABUSE OF OLDER PERSON?

- Any person who suspects that an older person has been abused or suffers from an abuse - related injury.

## WHERE THE REPORT MUST BE MADE?

The report must be immediately made to:

- The police or
- The Director-General: Department of Social Development. The report may also be made to the social worker who will then assist in taking action against the abuser.

Failure to report an abuse of an older person amounts to a crime punishable by the law.

## WHAT IS THE IMMEDIATE RELIEF AVAILABLE TO THE OLDER PERSON AFTER THE MATTER HAS BEEN REPORTED TO THE POLICE?

- Upon receipt of report from the social worker, the police official may issue the alleged abuser with a written notice calling upon him/ her to leave the home or place of residence of the older person or stop entering such place or having contact with the older person until the matter is dealt with by the court.





- On the court date, the magistrate will consider all issues raised in the written notice, and may thereafter make the police eviction a court order.
- The magistrate may also grant a maintenance order against the abuser, where necessary.

### WHAT HAPPENS IF THE ABUSER FAILS TO OBEY THE COURT ORDER ISSUED IN TERMS OF THE WRITTEN NOTICE?

- Failure to obey the court order is an offence.
- When found guilty, the abuser may be required to pay a fine or be sent to jail for a period of not more than 5 years.

### WHAT IS THE PROCEDURE OF BRINGING THE ALLEGED ABUSER OF OLDER PERSON BEFORE MAGISTRATE?

- Any social worker or health care giver may provide sworn statement of alleged abuse to the public prosecutor.
- If the prosecutor is satisfied with the report, he or she will request the clerk of the court to summon the alleged abuser.
- A magistrate may issue a warrant authorising social worker or health care provide to take a police official with him or her for purposes of investigation should there be access restrictions at the place where alleged abuse older person resides.

## **WHAT HAPPENS TO A PERSON WHO DELIBERATELY PREVENTS THE CASE FROM BEING TAKEN TO COURT?**

- It is an offence to prevent a social worker or health care giver from performing his/ her duties.

## WHAT HAPPENS DURING THE ENQUIRY IN COURT?

- A magistrate must enquire the correctness or otherwise of the allegations contained in the summons.
- The proceedings may be held in an open or closed court. A closed court refers to proceedings held in the presence of few people selected by the magistrate. However, public members are allowed to be present in an open court.
- If it appears to the magistrate that any allegation in the summons is correct, the magistrate may :
  - Authorise the person concerned to accommodate or care for the older person under such conditions as imposed by the magistrate; or
  - Prohibit that person from accommodating or caring for any

older person for such period, but not exceeding ten years, as may be determined by the magistrate.

- It is an offence to fail to obey the order of the court.

## **WHAT HAPPENS WHEN THE ALLEGED ABUSER IS FOUND GUILTY OF ABUSE OF OLDER PERSONS?**

- 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.
- The particulars of the convicted abuser will be entered into the National Register of Older Persons, which is kept by Department of Social Development.
- 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.

- The registered person is also prevented from providing any community-based care and support services to older persons.
- The victim may be removed from home to a place of safety by the Department of Social Development, where necessary.



## USEFUL CONTACT NUMBERS

Department of Justice and Constitutional Development (DoJ&CD)

Tel: (012) 315 1111

Department of Social Development (DSD)

Tel: (012) 312 7500

Department of Women, Children and People with Disabilities (DWCPD)

Tel: (012) 359 001/0013

South African Police Service (SAPS)

Tel: 10111

Commission for Gender Equality (CGE)

Tel: (011) 403 7182

## **South African Older Persons' Forum**

**Tel: (021) 422 5286**

## **South African Human Rights Commission**

**Tel: (011) 484 8300**

## **FAMSA-National**

**Tel: (011) 833 2057**

## **LIFE LINE**

**Tel: (011) 728 1347/ 0861 322 322**

## **Stop Women Abuse**

**Tel: 0800 150 150**









**Chief Directorate: Promotion of the Rights of Vulnerable Groups**  
**Department of Justice and Constitutional Development**

**Tel: (012) 315 1111**

**Fax: (012) 315 1851**