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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. R. 1771

22 February 2022

CALL FOR COMMENTS REGARDING REGULATIONS RELATING TO THE APPLICATION FOR AND PAYMENT OF SOCIAL ASSISTANCE AND THE REQUIREMENTS OR CONDITIONS IN RESPECT OF ELIGIBILITY FOR SOCIAL ASSISTANCE IN TERMS OF THE SOCIAL ASSISTANCE ACT, 2004 (ACT 13 OF 2004)

DEPARTMENT OF SOCIAL DEVELOPMENT**SOCIAL ASSISTANCE ACT, 2004 (ACT NO. 13 OF 2004) AS AMENDED****CALL FOR COMMENTS ON THE AMENDMENTS TO THE REGULATIONS TO THE SOCIAL ASSISTANCE ACT, 2004**

I, Lindiwe Zulu, Minister responsible for Social Development, under Section 32(1) and (2) of the Social Assistance Act, 2004 (Act No.13 of 2004) intend to make amendments to the Regulations to the Social Assistance Act, 2004 as set out in the Schedule.

Interested persons or organisations are hereby invited to submit written comments on the draft regulations until 13th March from the date of publication. Comments shall be forwarded to Mr. Brenton van Vrede, Chief Director: Social Assistance by:

(a) Post to:

The Department of Social Development

Private Bag X901,

PRETORIA

0001;

(b) Hand deliver to:

The Department of Social Development

Chief Directorate: Social Assistance

164 Totius Street

Harlequins Office Park

Groenkloof

PRETORIA

0001;

(c) by email to: SAREGS@dsd.gov.za



MS LINDIWE ZULU, MP
MINISTER OF SOCIAL DEVELOPMENT
DATE: 22/02/2022

DEPARTMENT OF SOCIAL DEVELOPMENT**SOCIAL ASSISTANCE ACT, 2004 AS AMENDED****AMENDMENT: REGULATIONS RELATING TO THE APPLICATION FOR AND PAYMENT OF SOCIAL ASSISTANCE AND THE REQUIREMENTS OR CONDITIONS IN RESPECT OF ELIGIBILITY FOR SOCIAL ASSISTANCE.**

The Minister of Social Development has, in terms of section 32 of the Social Assistance Act, 2004 (Act No. 13 of 2004), as amended, and with the concurrence of the Minister of Finance made the regulations in the schedule

SCHEDULE

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R. 898 of in GG 31356 of 22 August 2008, as amended by Government Notice No. R.67 in GG 31824 of 28 January 2009, Government Notice No. R.208 in GG 31955 of 26 February 2009, Government Notice No. R.591 in GG 32254 of 29 May 2009, Government Notice No. R. 1252 in GG 32853 of 31 December 2009, Government Notice No. R. 193 in GG 32917 of 12 March 2010, Government Notice No. R. 232 in GG 34120 of 15 March 2011, Government Notice No. R. 286 in GG 34169 of 31 March 2011, Government Notice No. R 566 in GG 34529 of 15 August 2011, Government Notice No. R 746 in GG 34618 of 19 September 2011, Government Notice No. R 269 in GG 35205 of 30 March 2012, Government Notice No. R 211 in GG 37474 of 28 March 2014, Government Notice No. R621 in GG 39007 of 21 July 2015, Government Notice No. R511 in GG 39978 of 6 May 2016 and Government Notice No. R 39 in GG 44099 of 25 January 2021

Government Notice No. R in GG of 2022

Amendment of regulation 1 of the Regulations

1. Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "Card" with the following definition:

"card" means a pocket-sized card with embedded integrated circuits, which is able to store data, process payment and communicate with a Card Reader;'

2. Regulation 1 of the Regulations is hereby amended by the insertion, before the definition of "life certificate", of the following definition:

"insufficient means" for purposes of social relief of distress means that a person is not in receipt of income or financial support, the determination of which is provided for in the Procedure Manual;

3. Regulation 1 of the Regulations is hereby amended by the substitution for the definition of "means" with the following definition:

"means" for the purposes of the older persons grant, disability grant and war veterans grant means the income and assets of-

- (a) an applicant; or
- (b) an applicant and his or her spouse;

4. Regulation 1 of the Regulations is hereby amended by the insertion, before the definition of "prevention and early intervention programmes", of the following definition:

"procedure manual" refers to the manual for determining the application, eligibility, payment and appeal processes for social relief of distress approved by the Minister;

Amendment of regulation 9 of the Regulations

5. Regulation 9 of the Regulations is hereby amended by the substitution for regulation 7 of the following regulation:

9. Persons eligible for social relief of distress

- (1) Subject to the provisions of section 5 read with section 13 of the Act, a person in need of temporary assistance may qualify **[qualifies]** for social relief of distress if he or she is: -

[(a) affected by a disaster whether declared or not;

(b) a South African citizen or a permanent resident or a refugee and resides in the Republic who-

(i) is awaiting payment of an approved social grant; or

(ii) the breadwinner-

(aa) has been assessed to be disabled for a period of less than six months;

(bb) of that household has died and an application for social relief of distress is made within 12 months following the death of the breadwinner; [or]

(cc) of that household has been admitted to a public or private institution for a period of at least one month; and [.]

(dd) does not receive any form of maintenance from a person legally obliged to pay maintenance to him or her, or

(iii) a person's household has been affected by a disaster whether or not it has been declared in terms of the Disaster Management Act, 2002 (Act 57 of 2002), provided that

person's household has been determined by the Agency as such based on the needs of the affected community.]

- (a) a person or a representative of a household that has been affected by a disaster whether or not declared in terms of the Disaster Management Act, 2002 (Act 57 of 2002).
 - (b) a South African citizen or a permanent resident or a refugee registered on the Home Affairs database or a person who is a holder of a special permit under the Special Angolan Dispensation, the Lesotho Exemption Permit Dispensation and the Zimbabwe Exemption Permit Dispensation or an asylum seeker whose section 22 permit or visa is valid, and who-
 - (i) is between the ages of 18 and 60; and
 - (ii) has insufficient means; and
 - (iii) does not unreasonably refuse to accept employment or educational opportunities.
 - (c) awaiting payment of an approved social grant.
- (2) Subject to the provisions of sub-regulation (1), a person may qualify for social relief of distress if refusal of the application may cause undue hardship as contained in the Procedure Manual for Social Relief of Distress **[as approved by the Minister]**.
- (3) A person is not entitled to a social grant in respect of himself or herself and social relief of distress simultaneously except in case of a person or household affected by a disaster as contemplated in paragraph 1 (a).
- (4) Where a person has received both social relief of distress and a social grant for the same period, the value paid for social relief of distress must, subject to the provisions of sub-regulation (5), be recovered from any social grant payment, including an arrear payment.

(5) Notwithstanding the provisions of sub-regulations **[(1)]** (3) and (4):

[(a) a person may qualify for social relief of distress if that household has been affected by a disaster as defined in the Disaster Management Act, 2002 (Act 57 of 2002).]

(a) the value of social relief of distress paid to a person or a representative of a household affected by a disaster as contemplated in paragraph 1 (a), may not be recovered from any social grant payment, or other forms of social relief of distress being provided, including an arrear payment.

(b) a list of person's or households affected by a disaster as verified by the Provincial or Local Disaster Management Response Unit will be regarded as the final list for the provision of immediate humanitarian relief.

[Reg. 9 amended by GN R232 of 15 March 2011 (wef 1 December 2010) and substituted by GN R621 of 21 July 2015.]

(6) In respect of sub-regulation (5) (b) a list of households affected by a disaster as verified by the provincial or local office of the Agency will be regarded as the final list of those who are affected for the purpose of disbursing social relief of distress.

(7) The Agency may determine the most suitable method for disbursing social relief of distress and may amend such method from time to time, as required.

(8) The Agency may limit disbursements to the budget made available for this benefit.

Amendment of regulation 11 of the Regulations

6. Regulation 11 of the Regulations is hereby amended by the substitution for regulation 11 of the following regulation:

11. Documents to accompany application for social [grant] assistance

- (7) Notwithstanding sub-regulation (1) to (6), the Agency may allow an application for social assistance to be completed by means of any other form of communication including electronic means and approved in the absence of documentation, where such information can be verified by alternative means.
- (8) By virtue of application for Social Assistance, an applicant grants consent for the Agency or the Independent Tribunal, where relevant, to verify his or her identity, residency, sources of income, social security benefits or any other information required to assess an application with:
- (a) the Department of Home Affairs;
 - (b) Social Security institutions;
 - (c) Financial institutions; and
 - (d) any other government or private institution deemed necessary.

Amendment of regulation 14 of the Regulations

7. Regulation 14 of the Regulations is hereby amended by the substitution for regulation 14 of the following regulation:

14. Procedure to be followed in application for social relief of distress

- (1) An application for social relief of distress must be made on the relevant form, manually or electronically and be **[-]** completed and signed by the applicant or his or her procurator.

- [(a) completed by the applicant in the presence of a designated officer, or with the assistance of the designated officer; and]**
[(b) signed, certified or confirmed by the applicant in the presence of the designated officer].
- (2) The Agency must approve or reject the application for social relief of distress **[immediately]** within a reasonable timeframe as provided for in the Procedure Manual.
- (3) (a) The **[designated officer]** Agency must inform the applicant for social relief of distress that if the documentation required in terms of regulation 15(1) is not available when the application is made, such documentation must be produced before any subsequent payments are made.
- (b) The applicant for social relief of distress must be furnished with an [a] electronic receipt or notification of outcome for the application for social relief of distress **[which must be dated and stamped with the official stamp of the Agency stamp]** and must contain the name of the applicant **[,] [the designated officer]** and the date of the application.
- (4) Where an application for social relief of distress is approved, the Agency must inform the applicant **[in writing]** by electronic communication or any other means of communication of such approval **[,] and** the amount or form of relief **[and date on which such approval is]** granted.
- (5) Where an application for social relief of distress is rejected, the Agency must inform the applicant by electronic communication or any other means of communication **[in writing]** of such rejection and of-
- (a) the reasons for such rejection; and
[(b) the applicant's right to request the Agency to reconsider its decision; and]
- (b) his or her right to, if he or she disagrees with the decision of the Agency, lodge an appeal electronically, or by any other means of communication as determined in the procedure manual, with the

Independent Tribunal within a period of 90 days of the decision being made by the Agency.

[(c) the applicant's right, if he or she disagrees with the reconsidered decision, to lodge an appeal in writing with the Independent Tribunal; and

(d) the mechanism and procedure to lodge such an appeal.]

[(6) With regard to the extension of social relief of distress, the Agency may request a social worker or any other designated person to investigate the circumstances of an applicant and to submit to the Agency a written report containing a recommendation whether social relief of distress should be extended.]

(7) The Agency must keep a register of all applications for social relief of distress that are received in which the following must be recorded, where applicable:

- (a) identifying particulars;
- (b) the date of application;
- (c) the date on which social relief of distress is granted for the first time;
- (d) the form of social relief of distress granted, whether in cash or in any other form and the value thereof; and
- (e) the date to which social relief of distress is extended.

(8) The Agency must ensure that all personal information and biometrics received are processed, stored and protected in terms of the Protection of Personal Information Act 2013 (Act 4 of 2013) and the Electronic Communications and Transactions Act 2002 (Act 25 of 2002).

[Reg. 14 substituted by GN R621 of 21 July 2015.]

14A. Appeal against decision of agency in relation to social relief of distress

- (1) Notwithstanding the existing regulations governing appeals as contemplated in section 14(3)(b)(iii) and section 18 of the Social Assistance Act and its Regulations, the appeals process for social relief of distress will be governed as follows:
- (a) The Minister must appoint such number of persons as members of the Independent Tribunal as may be necessary to consider social relief of distress appeal applications as contemplated in regulation 14(5)(b);
 - (b) When lodging an appeal as contemplated in regulation 14(5)(b) the applicant or procurator must not be allowed to submit any evidence or information which was not provided to the Agency at the time of the application for social relief of distress;
 - (c) The Independent Tribunal shall consider a social relief of distress appeal application by reassessing the decision of the Agency against the latest available information at its disposal and has the powers to either confirm or set aside the decision of the Agency;
 - (d) The Independent Tribunal must finalise a social relief of distress appeal as contemplated above within a period of 90 days from the date on which the appeal was received by the Independent Tribunal and communicate such decision and reasons thereof to the applicant;
 - (e) No application for a social relief of distress appeal shall be considered by the Independent Tribunal if not submitted within the prescribed period of 90 days from the date of rejection of such application by the Agency.

Amendment of regulation 15 of the Regulations

8. Regulation 15 of the Regulations is hereby amended by the substitution for regulation 15 of the following regulation:

15. Documents to accompany application for social relief of distress

(1) The following documents or certified copies thereof must, subject to regulation 14(3)(a), accompany an application for social relief of distress, where applicable-

(a) the identity document or birth certificate or any other document acceptable to the Agency, which proves the identity of-

- (i) the applicant;
- (ii) his or her spouse; and
- (iii) children dependent on the applicant;

(b) proof of spousal relationship;

(c) **[proof of]** for the purposes of insufficient means, **[by way of]** a declaration of **[assets and income]** insufficient means and an assessment provided for in the procedure manual;

[(d) proof of admission of the breadwinner to a public or private institution;

(e) proof of temporary medical disability; or]

[(f)](d) alternative proof to what is **[that]** contemplated in paragraphs (a),(b), and (c) **[(c),(d) and (e)]** as may be approved by the Agency; and

[(g)](e) in the case of a disaster, the list of households affected by a disaster as verified by the Provincial or Local Disaster Management Response Unit.

[Subreg. (1) substituted by GN R621 of 21 July 2015.]

(2) The Agency may **[, in exceptional circumstances, such as when the prescribed document is lost, stolen or destroyed,]** allow an application for social relief of distress to be completed by means of any other form of communication including electronic means **[, attested to]** and approved in the absence of **[the required]** documentation where such information can be verified by alternative means.

Amendment of regulation 16 of the Regulations

9. Regulation 16 of the Regulations is hereby amended by the substitution for regulation 16 of the following regulation:

16. Determination of amount and period of social relief of distress

(1) Subject to the provisions of the Act, the value of social relief of distress may, in the case of-

(a) a single person, contemplated in regulation 9 (1) (c), not exceed the maximum amount payable per month in respect of an older person's grant;

(b) a person in a spousal relationship, contemplated in regulation 9 (1) (c), where both spouses living together apply, not exceed the maximum amount payable per month in respect of an older person's grant for each spouse;

(c) a child, contemplated in regulation 9 (1) (c), not exceed the maximum amount payable per month in respect of a child support grant for the child concerned: Provided that in the case of a child awaiting the payment of an approved care dependency grant, the amount must not exceed the maximum amount of the care dependency grant payable per month for the child concerned: Provided further that in the case of a foster parent awaiting the payment of an approved foster child grant, the amount must not exceed the maximum amount of the foster child grant payable per month for the child concerned;

(d) a disaster-

(i) a once off payment for each affected household which may not exceed the amount payable per month for an older person's grant, for each affected household; or

(ii) an amount determined by the Agency to provide humanitarian relief to the displaced person.

(e) insufficient means, not be below or above the value and duration prescribed by the Minister.

- (2) Social relief of distress **[must]** may be issued monthly but may not be paid for a period exceeding three successive months, without confirmation that the person is still in need of assistance.
- (3) Social relief of distress may, at the end of the period contemplated in sub-regulation (2), and on confirmation that the person is still in need of assistance, **[recommendation of a social service professional [worker] or any other person designated by the Agency,]** be extended for **[a]** further periods not exceeding three months.
- [(4) Subsequent applications for social relief of distress within one calendar year from the date of application must be supported by a report from a social service professional worker].**
- [(5)] (4)** The Agency may provide non-financial assistance or relief to eligible applicants for social relief of distress.
- [Reg. 16 substituted by GN R621 of 21 July 2015.]**

[16A. Exceptional circumstances under which social relief of distress may be provided

- (1) Notwithstanding the provisions of regulation 6(1)(d), regulation 9(2) and (3) and regulation 16(1)(c) and (4) of the Regulations, social relief of distress may be provided to a child where-**
- (a) the prevailing economic circumstances in the Republic warrants the provision of social relief of distress; or**
- (b) failure to provide such social relief of distress would cause undue hardship to the child.**
- Subreg. (1) substituted by GN R208 of 26 February 2009 (wef 1 November 2008).**
- (2). The provisions of subregulation (1) only apply in respect of the amount of R500 million appropriated to the Department of Social Development for social relief of distress as part of the 2008/2009 Adjusted Estimates of National Expenditure.**

(3). Upon the amount of money contemplated in subregulation (2) being exhausted, the provisions of regulation 16A will cease to apply.

Reg. 16A inserted by GN R67 of 28 January 2009 (wef 1 November 2008).]

Amendment of regulation 17 of the Regulations

10. Regulation 17 of the Regulations is hereby amended by the substitution for regulation 17 of the following regulation:

17. Date of application for social relief of distress

The date on which **[an]** a complete application for social relief of distress is **[signed]** submitted **[before a designated officer]** is deemed to be the date on which the application is **[made]** lodged.

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