

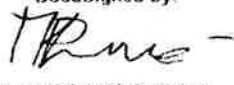
**RESOLUTION OF A MEETING OF TRUSTEES OF THE BLACK SASH TRUST HELD  
VIRTUALLY ON 13 JUNE 2022**

On **13 June 2022** the Trustees of the Black Sash Trust ("the Trustees") have resolved to authorise the Black Sash Trust to institute an urgent review application to challenge the Regulations (GN R 2042, *Government Gazette* 46271 of 22 April 2022) promulgated by the Department of Social Development empowering the COVID Social Relief of Distress grant under the Social Assistance Act no 13 of 2004, in the High Court of South Africa (Gauteng Division, Pretoria).

The Trustees further appoint the **Centre for Applied Legal Studies** to act as the Black Sash Trust's attorneys of record in these proceedings, in order to obtain information or documents from any party (government or otherwise) and negotiate, or settle any matter with such party.

Finally, the Trustees authorise **Rachel Bukasa** to depose to the Founding Affidavit and all other documents necessary in that application on behalf of the Black Sash Trust. Rachel Bukasa remains authorised to represent the Black Sash Trust in the application and to do all things necessary in the application, including taking all steps necessary to bring this matter to conclusion, including taking the matter on appeal.

**SIGNED BY** Round Robin, **ON** 13 June 2022.

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**NOLUNDI LUWAYA**  
**CHAIRPERSON OF THE BLACK SASH TRUST**

Trustees Nolundi Luwaya (Chairperson), Mieke Krynauw, Janeen de Klerk, Mareshini Naidoo and Matilda Smith. Patron: Maria (Mary) Burton, National Director: Rachel Bukasa

**BLACKSASH**  
MAKING HUMAN RIGHTS REAL

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**JANEEN DE KLERK**  
**TRUSTEE OF THE BLACK SASH TRUST**

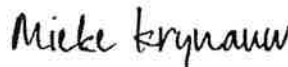
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**MALESHNI NAIDOO**  
**TRUSTEE OF THE BLACK SASH TRUST**

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**MATILDA SMITH**  
**TRUSTEE OF THE BLACK SASH TRUST**

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**MIEKE KRYNAUW**  
**TRUSTEE OF THE BLACK SASH TRUST**

Trustees Nolundi Luwaya (Chairperson), Mieke Krynauw, Janeen de Klerk, Maleshini Naidoo and Matilda Smith. Patron: Maria (Mary) Burton, National Director: Rachel Bukasa

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REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

<i>Regulation Gazette</i>	<b>No. 11428</b>	<i>Regulasiekoerant</i>
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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF SOCIAL DEVELOPMENT**

NO. R. 2042

22 April 2022

**SOCIAL ASSISTANCE ACT, 2004: REGULATIONS RELATING TO COVID-19 SOCIAL RELIEF OF DISTRESS ISSUED IN TERMS OF SECTION 32, READ WITH SECTION 13, 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.**

I, **Ms Lindiwe Zulu, MP**, the Minister of Social Development, in terms of section 32, read with section 13, of the Social Assistance Act, 2004 (Act No. 13 of 2004), as amended, hereby issue Regulations, as set out in the Schedule.

.....  
**MS LINDIWE ZULU, MP****MINISTER OF SOCIAL DEVELOPMENT****DATE: 22/04/2022**

**ISAZISO SIKAHULUMENI****UMNYANGO WEZOKUTHUTHUKISWA KOMPHAKATHI**

**UMTHETHO WOSIZO LWEZENHLALAKAHLE ZOMPHAKATHI, WEZI-2004: IMITHETHONQUBO EPHATHELENE NESIBONELELO SENHLAKAHLE SOKULEKELELA ABAKHAHLAMENZWE I-COVID-19 OSHICILELWE NGOKWESIGABA SA-32 OFUNDWA KANYE NESIGABA SE-13, SOMTHETHO WOSIZO LWEZENHLALAKAHLE ZOMPHAKATHI, WEZI-2004 (UMTHETHO INO. 13 WEZI-2004), NJENGOBA UCHITSHIYELWE NGOKUVUMELANA NONQONGQOSHE WEZEZIMALI, WAKHA IMITHETHONQUBO EKUSHEDULI.**

Mina, Nksz. Lindiwe Zulu, iLungu lePhalamende, uNgqongqoshe wezokuThuthukiswa koMphakathi, ngokwesigaba sa-32, ofundwa kanye nesigaba se-13, soMthetho Wosizo Lwezenhlalakahle, wezi-2004 (uMthetho iNo. 13 wezi-2004), njengoba uchitshiyelwe, ngikhipha iMithethonqubo, njengoba ibekiwe kwisheduli.



.....  
**NKSZ. LINDIWE ZULU, ILUNGA LEPHALAMENDE**  
**UNGQONGQOSHE WOKUTHUTHUKISWA KOMPHAKATHI**  
**USUKU: 22/04/2022**



## SCHEDULE

### Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act or the 2008 Regulations, bears the same meaning, unless the context indicate otherwise or defined in these Regulations, and—

**“asylum seeker”** means a person referred to in section 1 of the Refugees Act, 1998 (Act No. 130 of 1998);

**“electronic platform”** means an electronic platform as designed and determined by the Agency and the Department for the application for the Covid-19 Social Relief of Distress and any appeal related thereto;

**“insufficient means”** means that a person is not in receipt of income or financial support;

**“Covid-19 Social Relief of Distress”** means the social relief of distress contemplated in regulation 2;

**“the Act”** means the Social Assistance Act, 2004 (Act No. 13 of 2004), as amended;

**“the 2008 Regulations”** means the Regulations relating to the application for and payment of social assistance and the requirements or conditions in respect of eligibility for social assistance, published by Government Notice No. R. 898 of 2008, as amended.

## ISHEDULI

### Izincanzelo

1. Kule Mithethonqubo noma yiliphi igama noma isisho esinikezwe incazelo eMthethweni noma kwiMithethonqubo ka-2008, linencazelo efanayo, ngaphandle uma ingqikithi isho okuhlukile noma ichazwe kule Mithethonqubo, futhi—

**“ocela ukukhoseliswa”** kuchazwa umuntu okukhulunywa ngaye esigabeni soku-1 soMthetho wababaleki, 1998 (uMthetho No. 130 we-1998);

**“inkundla yobuchwepheshe bokuxhumana”** ichaza inkundla yobuchwepheshe bokuxhumana ekhanywe futhi yanqunywa yisiKhungo kanye noMnyango ukuze kufakwe izicelo zesibonelelo senhlalakahle sokulekelela abakhahlanyezwe i-Covid-19 kanye nanoma yisiphi isikhalo esihlobene nalokho;

**“izindlela ezinganele zokuziphilisa”** kuchaza ukuthi umuntu akasebenzi noma akanalo uxhaso lwezimali;

**“Isibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19”** kuchaza isibonelelo senhlalakahle sokulekelela Abakhahlanyezwe ehlongozwe kumthethonqubo 2

**“uMthetho”** uchaza uMthetho Wosizo Lwezenhlalakahle, wezi-2004 (uMthetho No. 13 wezi-2004), njengoba uchitshiyelwe

**“iMithethonqubo ka-2008”** ichaza iMithethonqubo ephathelene nokufaka isicelo kanye nokukhokhwa kwemali yosizo lwezenhlalakahle kanye nezidingo noma izimo maqondana nokufanelekela ukuthola usizo lwezenhlalakahle, eshicilelwe yiSaziso sikaHulumeni No. R. 898 ka-2008, njengoba kuchitshiyelwe.

### Persons eligible for Covid-19 Social Relief of Distress

2.(1) Subject to section 5, read with section 13 of the Act, a person in need of temporary assistance, may qualify for the social relief of distress called the Covid-19 Social Relief of Distress if he or she is a person with insufficient means.

(2) For the purpose of subregulation (1), the person with insufficient means must in addition be-

- (a) a person who is-
  - (i) a South African citizen; or
  - (ii) a permanent resident; or
  - (iii) a refugee; or
  - (iv) a holder of a special permit under the Special Angolan Dispensation, the Lesotho Exemption Permit Dispensation or the Zimbabwe Exemption Permit Dispensation; or
  - (v) an asylum seeker, whose section 22 permit or visa is valid; and
- (b) registered on the Department of Home Affairs database or registered on the Agency’s social grant database with a unique system generated identifying number for people without identity documents; and
- (c) between the ages of 18 and 60; and
- (d) currently residing within the borders of South Africa;
- (e) not a resident in a government funded or subsidised institution; and
- (f) not unreasonably refuse to accept employment or educational opportunities.

(3) For the purpose of validating insufficient means, the Agency may use-

- (a) a declaration from the applicant attesting to such; and
- (b) a screening questionnaire; and
- (c) a proxy means test consisting of-
  - (i) checks against databases that may indicate income or alternative financial assistance; and
  - (ii) verification of insufficient means with banks.

(4) If the results from the bank verification referred in subregulation (3)(c)(ii) contradicts the results from the data checks referred to in subregulation (3)(c)(i), the results from the bank verification must be used to make the final determination.

(5) The income threshold for insufficient means, contemplated in this regulation, is R350 per person per month.

(6) If a person has more than one bank account, the criteria for insufficient means is deemed to have been met if all the bank accounts, assessed individually, are below the income threshold referred to in subregulation (3).

(7) A person is not entitled to a social grant for himself or herself and Covid-19 Social Relief of Distress simultaneously.

(8) If a person has received both the Covid-19 Social Relief of Distress and a social grant for himself or herself for the same period, the value paid for

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the Covid-19 Social Relief of Distress must be recovered from any payment from a social grant t, including an arrear payment.

(9) The amount of social relief of distress paid to a person or a representative of a household affected by a disaster in terms of regulation 9(5) of the 2008 Regulations, may not be recovered from the Covid-19 Social Relief of Distress.

(10) The Agency may determine the most suitable method for disbursing the Covid-19 Social Relief of Distress and may amend such method from time to time, as required.

(11) All payments in terms of this regulation are subject to available funds for the Covid-19 Social Relief of Distress and the Agency may limit disbursements when funds are depleted.

### **Abantu abafanelekela usizo lweSibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19**

2.(1) Ngokuya ngesigaba sesi-5, funda nesigaba se- 13 soMthetho, umuntu odinga usizo lwesikhashana, angase afanelekele usizo lwezenhlalakahle olubizwa ngesibonelelo senhlalakahle sokulekelela **abakhahlanyezwe i-Covid-19** i-Covid-19 uma engumuntu ongenayo indlela eyanele yokuthola imali.

(2) Ngenhloso yesigatshana somthethonqubo (1), umuntu onendlela enganele kumele abe-

- (a) umuntu -
  - (i) isakhamuzi saseNingizimu Afrika; noma
  - (ii) isakhamuzi unomphela; noma
  - (iii) umbaleki; noma
  - (iv) ophethe iphemithi eyisipesheli ngaphansi koHlelo Olukhethekile Lase-Angola, Ukunikezwa Kwemvume Yokukhululeka kwabase Lesotho noma Ukunikezwa Kwemvume Yokukhululeka kwabase Zimbabwe; noma
  - (v) ocela ukukhoseliswa, onemvume yesigaba 22 noma i-visa esebenzayo; futhi
- (b) obhaliswe kusizindalwazi soMnyango Wezasekhaya noma obhaliswe kusizindalwazi sesiKhungo sesibonelelo sikahulumeni ngohlelo oluyingqayizivele olunikeza izinombolo ezikhomba abantu abangenabo omazisi; futhi
- (c) abaphakathi kweminyaka eyi-18 nengama-60; futhi
- (d) abahlala ngaphakathi kwemingcele yeNingizimu Afrika;
- (e) ongeyena umhlali esikhungweni esixhaswe nguhulumeni noma esilekelelwa nguhulumeni; futhi
- (f) ongenqabi ngokungafanele ukwamukela umsebenzi noma amathuba emfundo.

(3) Ngenhloso yokuqinisekisa ukungasebenzi, IsiKhungo singasebenzisa-

- (a) isiqinisekiso ngonogoqela ephepheni ovela kumfakisicelo efakazela lokho; kanye
- (b) nohlu lwemibuzo lokuhlola; kanye
- (c) umbambeli osho ukuhlolwa okuhlanganisa—
  - (i) ukuhlola ngokuqhathanisa nesizindalwazi esingabonisa imali engenayo noma olunye usizo lwezezimali; futhi

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- (ii) ukuqinisekiswa kwezindlela ezinganele zokuziphilisa emabhange.
- (4) Uma imiphumela yokuqinisekiswa kwebhange okukhulunywe ngakho kusigatshana somthethonqubo (3)(c)(ii) iphikisana nemiphumela yokuhlolwa kwemininingwane okukhulunywe ngakho kwisigatshana somthethonqubo (3)(c)(i), imiphumela yokuqinisekiswa kwebhange kufanele kusetshenziselwe ukwenza isinqumo sokugcina.
- (5) Imali yoxhaso yezindlela ezinganele zokuziphilisa, ehlongozwe kulo mthethonqubo, ingu-R350 umuntu ngamunye ngenyanga.
- (6) Uma umuntu enama-akhawunti asebhange angaphezu kweyodwa, imibandela yezindlela ezinganele zokuziphilisa ithathwa ngokuthi ifinyelelwe uma wonke ama-akhawunti asebhange, ahlolwa ngawodwana, engaphansi komkhawulo wemali engenayo okukhulunywe ngawo kusigatshana somthethonqubo (3).
- (7) Umuntu akanalungelo lokuthola isibonelelo sikahulumeni kanye neSibonelelo Senhlalakahle sokulekelela abakhahlanyezwe i-Covid-19.
- (8) Uma umuntu ethole kokubili Isibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 kanye nesibonelelo sikahulumeni sakhe ngesikhathi esifanayo, inani elikhokhelwe Isibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 kufanele libuyiswe kunoma iyiphi inkokhelo yesibonelelo sikahulumeni, okuhlanganisa inkokhelo esilele emuva.
- (9) Inani losizo lwezenhlalakahle olukhokhelwa umuntu noma omele umndeni ohlaselwe yinhlekelele ngokomthethonqubo 9(5) weMithethonqubo ka-2008, akufanele ithathwe kwisibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19.
- (10) IsiKhungo singase siqume indlela efaneleke kakhulu yokukhokha Isibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 futhi singachibiyela leyo ndlela ngezikhathi ezithile, njengoba kudingeka.
- (11) Zonke izinkokhelo ngokwalo mthethonqubo zingaphansi kwezimali ezitholakalayo zeSibonelelo Senhlalakahle Sokulekelela Abakhahlanyezw i-Covid-19 futhi IsiKhungo singase silinganisele ukukhishwa kwemali lapho izimali seziphelile.

### **Procedure for application for Covid Social Relief of Distress**

- 3.(1)** A person may apply for the Covid-19 Social Relief of Distress if the person complies with the criteria set out in regulation 2.
- (2) An application for the Covid-19 Social Relief of Distress must be lodged on the electronic platform.
- (3) The Agency must, before the end of the month, approve or reject all applications for the Covid-19 Social Relief of Distress received before the 15th of the month
- (4) The applicant for the Covid-19 Social Relief of Distress must be furnished with an electronic receipt or notification of outcome for the application
- (5) If an application for the Covid-19 Social Relief of Distress is approved, the Agency must inform the applicant by electronic communication or any other means of communication of such approval.
- (6) If an application for the Covid-19 Social Relief of Distress is rejected, the Agency must inform the applicant by electronic communication of such rejection and of—

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- (a) the reasons for such rejection;
  - (b) the applicant's right, if he or she disagrees with the Agency's decision, to lodge an appeal with the Independent Tribunal as provided in regulation 6.
- (7) The Agency must keep a register of all applications for the Covid-19 Social Relief of Distress in which the following must, if applicable be recorded:
- (a) Identifying particulars;
  - (b) the date of application;
  - (c) the date on which the application is approved or rejected; and
  - (d) payments made.
- (8) The Agency must ensure that all personal information received for the Covid-19 Social Relief of Distress are processed, stored and protected in terms of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).

### **Inqubo yokufaka isicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19**

3.(1) Umuntu angafaka isicelo seSibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 uma lowo muntu ethobela imibandela ebekwe kumthethonqubo wesi-2.

(2) Isicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 kufanele sifakwe ngenkundla yobuchwepheshe bokuxhumana

(3) IsiKhungo kumele, ngaphambi kokuphela kwenyanga, sivume noma senqabe zonke izicelo Zesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 ezitholwe ngaphambi komhla ziyi-15 enyangueni.

(4) Umfakisicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe-i-Covid-19 kufanele anikezwe irisidi ye-elektronikhi noma isaziso somphumela wesicelo.

(5) Uma isicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 sivunyiwe, IsiKhungo kufanele sazise umfakisicelo ngenkundla yokuxhumana yobuchwepheshe besimanje noma nganoma iyiphi enye indlela yokuxhumana ngokwamukelwa kwesicelo.

(6) Uma isicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 sinqatshwa, IsiKhungo kufanele sazise umfakisicelo ngenkundla yokuxhumana yobuchwepheshe besimanje ngalokho kunqatshwa futhi—

- (a) sinikeze izizathu zokwenqatshwa okunjalo;
- (b) kuyilungelo lomfakisicelo, uma engavumelani nesinqumo sesiKhungo, ukufaka isikhalo kwisiGungu Esizimele-(Independent Tribunal) njengoba kuhlinzekwe kumthethonqubo wesi-6.

(7) IsiKhungo kufanele sigcine irejista yazo zonke izicelo Zesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 lokhu okulandelayo kumele, uma kufanele kubhalwe phansi:

- (a) Ukuhlonza imininingwane;
- (b) usuku lokufaka isicelo;
- (c) usuku lapho isicelo sivunywa noma senqatshwa; kanye nosuku
- (d) izinkokhelo ezenziwe ngalo.

(8) IsiKhungo kufanele siqinisekise ukuthi yonke imininingwane yomuntu siqu etholwe ngesicela Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 iyacutshungulwa, igcinwe futhi ivikelwe ngokoMthetho Wokuvikelwa Kolwazi Lomuntu Siqu, wezi-2013 (uMthetho No.4

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wezi- 2002) kanye noMthetho Wezokuxhumana Ngobucwepheshe besimanje Nokuthengiselana wezi-2002 (uMthetho No. 25 ka-2002).

#### **Date of application and consent by applicant to information sharing**

4.(1) The date on which a complete application for the Covid-19 Social Relief of Distress is submitted, is deemed to be the date on which the application is lodged.

(2) By virtue of application for the Covid-19 Social Relief of Distress, an applicant consents to the Agency or the Independent Tribunal, when necessary, to process, including collecting, verifying, using and disclosing the information of the applicant, including 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 considered necessary.

(3) By virtue of application for the Covid-19 Social Relief of Distress, an applicant consents that any institution listed in subregulation (2)(a) to (d) discloses information requested in terms of subregulation (2) to the Agency or the Independent Tribunal.

#### **Usuku lokufaka isicelo kanye nemvume yomfakisisicelo yokwabelana ngolwazi**

4.(1) Usuku okufakwe ngalo isicelo esiphelele Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19, luthathwa njengosuku isicelo esifakwe ngalo.

(2) Ngenxa yokufaka isicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19, umfakisisicelo uvumela isiKhungo noma isiGungu Esizimele, uma kunesidingo, ukuthi icubungule, okuhlanganisa ukuqoqa, ukuqinisekisa, ukusebenzisa nokudalula ulwazi lomfakisisicelo, kuhlanguanisa nomazisi wakhe, indawo yokuhlala, imithombo yemali engenayo, izibonelelo zomphakathi nanoma yiluphi olunye ulwazi oludingekayo ukuze kuhlolwe isicelo kuleminyango—

- (e) uMnyango Wezasekhaya;
- (f) izikhungo zokubhekelelwa komphakathi;
- (g) izikhungo zezimali; kanye
- (h) noma yisiphi esinye isikhungo sikahulumeni noma esizimele esibhekwa njengesibalulekile.

(3) Ngenxa yokufaka isicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19, umfakisisicelo uvumela noma isiphi isikhungo esisohlwini loMthethonqubo (2)(a) kuya (d) ukuba sidalule ulwazi oluceliwe ngokwesigatshana somthethonqubo (2) kusiKhungo noma kusiGungu Esizimele.

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### Amount and period of payment

5.(1) The monthly amount of the Covid-19 Social Relief of Distress is R350 per person and is payable for the months in the period 1 April 2022 to 31 March 2023.

(2) The Covid-19 Social Relief of Distress may not be paid to a person for a period exceeding three successive months at a time, without confirmation that the person still meets the criteria set out in regulation 2, and may be extended for further periods not exceeding three months at a time.

(3) The payments in terms of these regulations-

- (a) are limited to the amount appropriated for the 2022/2023 financial year to the vote of Social Development for social relief of distress; and
- (b) may only be made in respect of applications, made during the period 1 April 2022 to 31 March 2023, and approved by the Agency.

(4) Notwithstanding subregulation (3), payments may be made in a subsequent period for an application or an appeal lodged within the timeframes provided for in these regulations, and subject to funds being available.

### Inani nesikhathi senkokhelo

5.(1) Imali yanyanga zonke yesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 ingu-R350 kumuntu ngamunye futhi izokhokhwa izinyanga kusukela mhla lu-1 kuMbasa/Ephreli wezi-2022 kuya zingama-31 kuNdasa/Mashi wezi-2023.

(2) Isibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 angeke ikhokhelwe umuntu isikhathi esingaphezu kwezinyanga ezintathu zilandelana ngesikhathi, ngaphandle kwesiqinisekiso sokuthi lowo muntu usahlangabezana nemibandela ebekwe kumthethonqubo wezi-2, futhi kufanelekile ukuba yelulelwe esinye isikhathi esengeziwe kepha ingeqi izinyanga ezintathu ngesikhathi.

(3) Izinkokhelo ngokwale mithethonqubo-

- (a) zilinganiselwe enanini lemali elabelwe unyaka wezimali wezi-2022/2023 evotini Lokuthuthukiswa Komphakathi ukuze kusizwe Abakhahlanyezwe; futhi
- (b) zingenziwa kuphela mayelana nezicelo, ezenziwe phakathi nesikhathi somhla lu-1 kuMbasa/Ephreli wezi-2022 kuya zingama-31 kuNdasa/Mashi wezi-2023, futhi zagunyazwa isikhungo.

(4) Naphezu kwesigatshana somthethonqubo (3), izinkokhelo zingenziwa ngesikhathi esilandelayo zesicelo noma isikhalazo esifakwe phakathi nezikhathi ezishiwo kule mithethonqubo, futhi kuye ngokuthi izimali zitholakala kanjani.

### Appeal against decision of Agency

6. Notwithstanding the regulations governing appeals as contemplated in section 14(3)(b)(iii) and section 18 of the Act, the appeal process for the Covid-19 Social Relief of Distress is as follows:

- (a) If an applicant disagrees with the decision of the Agency in relation to an application for the Covid-19 Social Relief of Distress contemplated in

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- regulation 3(1), the applicant or a person acting on his or her behalf may, within a period not exceeding 90 days of the date of the decision, lodge an appeal on the electronic platform;
- (b) the Minister must appoint such number of persons as members of the Independent Tribunal as may be necessary to consider and decide on the appeals regarding the Covid-19 Social Relief of Distress;
  - (c) when lodging an appeal, the applicant or the person acting on his or her behalf may not submit any evidence or information which was not provided to the Agency at the time of the application;
  - (d) the Independent Tribunal must consider the appeal by reassessing the decision of the Agency against the available information at its disposal and has the powers to either confirm or set aside the decision of the Agency;
  - (e) the Independent Tribunal must finalise the appeal within 90 days from the date on which the appeal was received by the Independent Tribunal and must inform the applicant by electronic communication of the decision and reasons thereof;
  - (f) no appeal will be considered by the Independent Tribunal, if not submitted within the period of 90 days contemplated in paragraph (a).

### **Isikhalazo esiphikisana nesinqumo Sesikhungo**

**6.** Ngaphandle kwemithethonqubo elawula ukudluliswa kwezikhalazo njengoba kuhlangozwe esigabeni 14(3)(b)(iii) kanye nesigaba 18 soMthetho, inqubo yesikhalazo Yesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 imi kanje:

- (a) Uma umfakisicelo engavumelani nesinqumo sesiKhungo maqondana nesicelo Sesibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19 esihlongozwe kumthethonqubo wesi-3(1), umfakisicelo noma umuntu omele yena angakwazi, esikhathini esingeqile izinsuku ezingama-90 zosuku lwesinqumo, ukufaka isikhalazo Enkundleni yobuchwepheshe bokuxhumana;
- (b) uNgqongqoshe kufanele aqoke inani labantu abazoba amalungu esiGungu Esizimele njengoba kungase kudingeke ukuthi kucutshungulwe futhi kuthathwe izinqumo mayelana nezikhalazo eziphathelene neSibonelelo Senhlalakahle Sokulekelela Abakhahlanyezwe i-Covid-19
- (c) lapho ufaka isikhalo, umfakisicelo noma umuntu omele yena angeke akwazi ukulethe ubufakazi noma ulwazi olwalunganikezwanga eSikhungweni ngesikhathi sokufaka isicelo;
- (d) IsiGungu esiZimele kufanele sicubungule isikhalazo ngokubuyekeza isinqumo sesiKhungo ngokubheka ulwazi olutholakalayo esinalo futhi sinamandla okuqinisekisa noma okubekela eceleni isinqumo sesiKhungo;
- (e) IsiGungu esiZimele kufanele siphothule isikhalazo zingakapheli izinsuku ezingama-90 kusukela ngosuku isikhalazo esamukelwe ngalo yisiGungu Esizimele futhi kufanele sazise umfakisicelo ngokundla yobuchwepheshe bokuxhumana besimanje ngesinqumo nezizathu zaso;
- (f) akukho sikhhalazo esiyocutshungulwa yisiGungu Esizimele, uma singathunyelwanga phakathi nesikhathi esiyizinsuku ezingama-90 esihlongozwe endimeni (a).

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**Commencement**

7. These Regulations take effect on the date of publication of this notice in the Gazette.

**Ukuqala**

7. Le Mithethonqubo iqala ukusebenza ngosuku lokushicilelwa kwalesi saziso kuGazethi.

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Ref: A Scher / A Dera

**TO: THE MINISTER OF SOCIAL DEVELOPMENT**  
Honourable Minister Lindiwe Zulu  
Care of: Ms Zama Kumalo; Ms Monica Zabo; Ms Lumka Olifant  
By email: [ZamaK@dsd.gov.za](mailto:ZamaK@dsd.gov.za); [MonicaZ@dsd.gov.za](mailto:MonicaZ@dsd.gov.za); [LumkaO@dsd.gov.za](mailto:LumkaO@dsd.gov.za)

**AND TO: THE SOUTH AFRICAN SOCIAL SECURITY AGENCY (SASSA)**  
CEO: Ms Busisiwe Memela-Khambula  
Care of: Ms Paseka Letsatsi  
By email: [PasekaL@sassa.gov.za](mailto:PasekaL@sassa.gov.za); [grantenquiries@sassa.gov.za](mailto:grantenquiries@sassa.gov.za)

26 April 2022

Dear Madams / Sirs

**RE: COVID-19 SOCIAL RELIEF OF DISTRESS GRANT – REGULATIONS IN TERMS OF THE SOCIAL ASSISTANCE ACT 13 OF 2004 GAZETTED ON 22 APRIL 2022**

1. We act on behalf of the Black Sash Trust ("**our client**"), a non-profit organisation established in 1955 and dedicated to protecting socio-economic rights and advocating for social justice in South Africa. The Black Sash Trust has been actively engaged in social security and protection, including ensuring that applicants for social grants receive the grants and benefits to which they are entitled, fully and timeously.
2. We note that in the State of the Nation Address delivered by President Ramaphosa on 10 February 2022, the Honourable President announced that the Covid-19 Social Relief of Distress Grant ("**COVID-19 SRD grant**") has been extended to the end of March 2023.

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3. Our client welcomes this important development as a step in the right direction towards full basic income support for the most vulnerable, and commends the President thereon.
4. We are instructed that the extended COVID-19 SRD grant was previously empowered by:
  - 4.1. The directions issued by Minister Lindiwe Zulu on 30 March 2020 in terms of section 27(2) of the Disaster Management Act 57 of 2002, as amended ("**the Directions**"); and later
  - 4.2. The Regulations issued by Minister Nkosazana Dlamini-Zuma in terms of section 27(2) of the Disaster Management Act 57 of 2002, as amended on 4 April 2022 as GN R 1986 in *Government Gazette* 46195.
5. In this regard we refer to our letters dated 20 August 2020 and 12 October 2020, and our submissions on the draft Regulations in terms of the Social Assistance Act 13 of 2004 of 22 February 2022, and attach those correspondences hereto for your convenience marked as **CALS 1, CALS 2** and **CALS 3** ("**our prior correspondences**").
6. We are further instructed that the extended COVID-19 SRD grant is, as at around 16h30 on Friday 22 April 2022, now empowered by the Regulations in terms of the Social Assistance Act 13 of 2004 as gazetted by Minister Lindiwe Zulu on 22 April 2022 as GN R 2042 in *Government Gazette* 46271 ("**the Regulations**").
7. We note the following in relation to the Regulations:
  - 7.1. Regulation 2(5) stipulates that:

*"The income threshold for insufficient means, contemplated in this regulation, is R350 per person per month."*

We are instructed that the COVID-19 SRD grant was, prior to the Regulations, available to those persons who qualified with an income threshold of below R595 per month. The new, significantly lower threshold was implemented without prior notice, including not having been included in the draft Regulations published as GN



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R 1771 in *Government Gazette* 45947 of 22 February 2022, and is accordingly *inter alia* unfair and retrogressive.

7.2. Regulation 2(4) privileges the results of a “bank verification” of a grant applicant’s means over any other information provided by the applicant for purposes of assessing whether the applicant qualifies as a beneficiary of the COVID-19 SRD grant. We are instructed that this constitutes *inter alia* unfair discrimination on an arbitrary basis.

7.3. Regulation 3(2) provides that:

*“An application for the Covid-19 Social Relief of Distress must be lodged on the electronic platform.”*

We are instructed that an exclusively electronic application system unfairly discriminates against grant applicants who cannot access the online platform. This was highlighted as an issue in our prior correspondences.

7.4. Regulation 6(c) precludes an applicant for a COVID-19 SRD grant from submitting “any evidence or information which was not provided to the Agency at the time of the application” when appealing any refusal of that application. We are instructed that this constitutes *inter alia* an unfair process. This was highlighted as an issue in our prior correspondences.

8. Given that the Regulations provide that applications for the COVID-19 SRD grant must be submitted anew, our client is concerned that the new iteration of the grant unfairly limits the availability of the grant – as outlined in paragraphs 7.1 to 7.4 above – in a manner that is unconstitutional and thus invalid.

8.1. The COVID-19 SRD grant has been a critical intervention that has helped millions of families put food on the table over two years of massive job losses and a humanitarian crisis. The exclusion of the most vulnerable persons from benefiting from this much-needed relief, in the manners identified in paragraphs 7.1 to 7.4 above, is unjustified and violates those individuals’ right to social assistance.

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9. We confirm that our client has no desire to unnecessarily litigate on this matter and trust that, to the extent necessary, our client's concerns will be addressed by the Minister.
10. In the circumstances, we are instructed to demand, as we now do, that the Regulations be amended to address the issues raised in paragraphs 7.1 to 7.4 above.
11. In light of the particularly harsh impact the current state of affairs has on the most impoverished and vulnerable in our society, we ask that these amendments be effected by 6 May 2022.
6. Should the Minister fail to amend the Regulations to cure the unconstitutionality by 6 May 2022, we are instructed to institute litigation challenging the constitutional validity of the Regulations to the extent that the Regulations fail to provide for the right to social assistance in a manner that is fair, adequate and appropriate, as set out above.
7. Please do not hesitate to contact the author on the email address below if you have any queries.
8. All our client's rights remain reserved.

Yours faithfully,

Ariella Scher  
**Attorney: Centre for Applied Legal Studies**  
*[Unsigned due to electronic communication]*

Email: [ariella.scher@wits.ac.za](mailto:ariella.scher@wits.ac.za) / [anesu/dera@wits.ac.za](mailto:anesu/dera@wits.ac.za)

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*[Handwritten signature]*

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Ref: A Scher / A Dera

**TO: THE MINISTER OF SOCIAL DEVELOPMENT**  
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**AND TO: THE SOUTH AFRICAN SOCIAL SECURITY AGENCY (SASSA)**  
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By email: [PasekaL@sassa.gov.za](mailto:PasekaL@sassa.gov.za); [grantenquiries@sassa.gov.za](mailto:grantenquiries@sassa.gov.za)

6 May 2022

Dear Madams / Sirs

**RE: COVID-19 SOCIAL RELIEF OF DISTRESS GRANT – REGULATIONS IN TERMS OF THE SOCIAL ASSISTANCE ACT 13 OF 2004 GAZETTED ON 22 APRIL 2022**

1. We refer to the above matter, and to our letter to the Honourable Minister dated 26 April 2022 which we attach hereto as **CALS 1** for your convenience ("**our letter**").
2. We confirm that we have not received either a confirmation of receipt of or any substantive response to our letter.
3. We are instructed that the Regulations in terms of the Social Assistance Act 13 of 2004 as gazetted on 22 April 2022 as GN R 2042 in *Government Gazette* 46271 ("**the Regulations**"), which empower the Covid-19 Social Relief of Distress Grant to the end of

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March 2023, remain unconstitutional and invalid for the reasons outlined in paragraphs 7.1 to 7.4 of our letter.

4. In the circumstances, and given the demand detailed in paragraphs 10 and 11 of our letter, we confirm that we are instructed to proceed with consultations in preparation for the filing of an urgent application to challenge that unconstitutionality.
6. Please do not hesitate to contact the author on the email address below if you have any queries.
7. All our client's rights remain reserved.

Yours faithfully,

Ariella Scher  
**Attorney: Centre for Applied Legal Studies**  
*[Unsigned due to electronic communication]*

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# President Cyril Ramaphosa: 2022 State of the Nation Address

10 Feb 2022

State of the Nation Address (SoNA) by President Cyril Ramaphosa, Cape Town City Hall, Thursday, 10 February 2022

Speaker of the National Assembly, Ms Nosiviwe Mapisa-Nqakula,  
Chairperson of the National Council of Provinces, Mr Amos Masondo,  
Deputy President David Mabuza,  
Former President Thabo Mbeki,  
Former Deputy President Phumzile Mlambo-Ngcuka,  
Former Deputy President Baleka Mbete,  
Former Speaker of the National Assembly, Mr Max Sisulu,  
Acting Chief Justice Raymond Zondo,  
Mayor of the City of Cape Town, Mr Geordin Hill-Lewis,  
Dean of the Diplomatic Corps, Mr Bene M'Poko,  
Members of the Judiciary,  
Heads of Institutions Supporting Democracy,  
Members of Parliament,  
Fellow South Africans,

This year, for the first time since the dawn of our democracy, the SoNA is not being delivered in the Chamber of the National Assembly.

As we entered this new year, a huge fire engulfed the seat of our democracy.

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We all watched in outrage and sadness as the flames devoured the buildings in which our democratic Constitution was born, in which laws of transformation and progress have been passed, in which the freely-chosen representatives of the people have shaped our young nation.

For many, what happened in Parliament speaks to a broader devastation in our land.

For many, the fire was symbolic of the devastation caused by the COVID-19 pandemic, by rising unemployment and deepening poverty.

It spoke to the devastation of a pandemic that over the past two years has taken the lives of tens of thousands of South Africans, put two million people out of work and brought misery to families.

The fire in Parliament reminded us of the destruction, violence and looting that we witnessed in parts of the country in July last year, of the more than 300 lives lost and many more livelihoods ruined.

As we reflect on the past year, we recall the words of President Thabo Mbeki who reminded us that: "Trying times need courage and resilience. Our strength as a people is not tested during the best of times".

That we are gathered together in the Cape Town City Hall instead of the National Assembly Chamber reflects the extraordinary circumstances of this time.

It reflects the determination of the Presiding Officers of Parliament and indeed all the members of our two houses that the work of this democratic institution should continue without interruption.

There are moments in the life of a nation when old certainties are unsettled and new possibilities emerge.

In these moments, there is both the prospect of great progress and the risk of reversal.

Today, we are faced with such a moment.

The path we choose now will determine the course for future generations.

That is why we are taking steps to strengthen our democracy and reaffirm our commitment to a Constitution that protects us all.

We are working together to revitalise our economy and end the inequality and injustice that impedes our progress.



We are standing together against corruption and to ensure that those who are responsible for state capture are punished for their crimes.

We are rebuilding the State and restoring trust and pride in public institutions.

If there is one thing we all agree on, it is that the present situation – of deep poverty, unemployment and inequality – is unacceptable and unsustainable.

There is agreement among a broad and diverse range of South Africans that fundamental reforms are needed to revive economic growth.

There is a need both to address the immediate crisis and to create conditions for long-lasting stability and development.

To achieve this, South Africa needs a new consensus.

A consensus that is born out of a common understanding of our current challenging situation and a recognition of the need to address the challenges of unemployment, poverty and inequality.

This should be a new consensus which recognises that the State must create an environment in which the private sector can invest and unleash the dynamism of the economy.

But equally, an environment in which South Africans can live a better life and unleash the energy of their capabilities.

This should also be a new consensus which embraces our shared responsibility to one another, and acknowledges that we are all in this together.

As the social partners – government, labour, business and communities – we are working to determine the actions we will take together to build such a consensus.

We have begun discussions on what trade-offs are needed and what contribution we will each need to make.

We have given ourselves 100 days to finalise a comprehensive social compact to grow our economy, create jobs and combat hunger.

This work will build on the foundation of the Economic Reconstruction and Recovery Plan (ERRP), which remains our common programme to rebuild the economy,

We remain focused on the priorities we identified in the SoNA last year:

- overcoming the COVID-19 pandemic,

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- a massive rollout of infrastructure,
- a substantial increase in local production,
- an employment stimulus to create jobs and support livelihoods,
- the rapid expansion of our energy generation capacity.

To be effective, this social compact needs to include every South African and every part of our society.

No one must be left behind.

Fellow South Africans,

When I last addressed the state of our nation, we were deep in the throes of the worst pandemic in more than a century.

Since COVID-19 reached our shores, we have endured successive waves of infection, the emergence of new variants and the devastating cost of nearly 100 000 recorded COVID-19 deaths.

South Africans have responded to this grave threat with courage and resilience, with compassion and restraint.

Over the past two years, we have taken unprecedented actions to strengthen our health system, build laboratory capacity and prevent infections.

The nation owes a great debt of gratitude to the dedicated healthcare workers and other frontline staff who put their health and their lives at risk to care for the ill and vulnerable during this pandemic.

Within weeks of the first reported infection in our country, I announced the establishment of the Solidarity Fund, with the goal of uniting the country in the fight against the pandemic.

In a wave of generosity that swept the country, the fund raised R3.4 billion from more than 300 000 individuals and 3 000 companies and foundations. More than 400 individuals and 100 companies volunteered their time and services.

The fund has played a pivotal role in supporting the national health response and alleviating the humanitarian crisis.

I would like to thank everyone who contributed to the Solidarity Fund and the great many who came together in countless other initiatives to support those affected by the pandemic.



As the trajectory of the pandemic has continued to change, we have had to adapt and evolve.

Our approach has been informed throughout by the best available scientific evidence, and we have stood out both for the quality of our scientists and for their involvement in every step of our response.

During the past year, we have focused on accelerating our vaccine rollout.

So far, we have administered 30 million doses of COVID-19 vaccines. Consequently, nearly 42% of all adults and 60% of everyone over 50 is fully vaccinated.

We are now ready to enter a new phase in our management of the pandemic.

It is our intention to end the national state of disaster as soon as we have finalised other measures under the National Health Act, 2003 (Act 61 Of 2003) and other legislation to contain the pandemic.

Nearly all restrictions on economic and social activity have already been lifted.

Vaccines have proven to be the best defence we have against illness and death from COVID-19.

If we all get vaccinated, continue to observe basic health measures and remain ever vigilant, we will be able to get on with our lives even with the virus in our midst.

The state of the nation is linked inextricably to the state of our economy.

In addition to the divides of race, geography and education, COVID-19 has exacerbated the divide between those who are employed and unemployed.

Last year, our unemployment rate reached its highest recorded level.

Unemployment has been caused by low growth, which has in turn resulted from a long-term decline in investment.

In the last year, we have benefited from a clear and stable macroeconomic framework, strong commodity prices and a better-than-expected recovery.

However, we have been held back by an unreliable electricity supply, inefficient network industries and the high cost of doing business.

We have been taking extraordinary measures to enable businesses to grow and create jobs alongside expanded public employment and social protection.



We all know that government does not create jobs. Business creates jobs.

Around 80% of all the people employed in South Africa are employed in the private sector.

The key task of government is to create the conditions that will enable the private sector – both big and small – to emerge, to grow, to access new markets, to create new products, and to hire more employees.

The problems in the South African economy are deep and they are structural.

When electricity supply cannot be guaranteed, when railways and ports are inefficient, when innovation is held back by a scarcity of broadband spectrum, when water quality deteriorates, companies are reluctant to invest and the economy cannot function properly.

With a view to addressing these challenges we are accelerating the implementation of far-reaching structural reforms to modernise and transform these industries, unlock investment, reduce costs and increase competitiveness and growth.

The electricity crisis is one of the greatest threats to economic and social progress.

In the last few days, we have once again been reminded of the fragility of our electricity system.

Load shedding continues to have a huge impact on the lives of all South Africans, disrupting business activities, and placing additional strains on families and communities.

Due to our aging power stations, poor maintenance, policy missteps and the ruinous effects of state capture, our country has a shortfall of around 4000 MW of electricity.

During the past year, we have taken firm steps to bring additional generation capacity online as quickly as possible to close the shortfall.

As a result, several new energy generation projects will be coming online over the next few years. This includes:

- Over 500 MW from the remaining projects in Bid Window 4 of the renewable energy programme, which are at advanced stages of construction.
- 2 600 MW from Bid Window 5 of the renewable energy programme, for which the preferred bidders were announced last year,
- up to 800 MW from those risk mitigation power projects that are ready to proceed,
- 2 600 MW from Bid Window 6 of the renewal energy programme, which will soon be opened,

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- 3,000 MW of gas power and 500 MW of battery storage, for which requests for proposals will be released later this year,
- an estimated 4 000 MW from embedded generation projects in the mining sector,
- approximately 1 400 MW currently in the process of being secured by various municipalities.

In addition to closing the energy supply shortfall, we are implementing fundamental changes to the structure of the electricity sector.

Eskom has established a separate transmission subsidiary, and is on track to complete its unbundling by December 2022.

The utility has continued with its intensive maintenance programme, to reverse many years of neglected maintenance and underperformance of existing plants.

To regulate all of these reforms, Cabinet yesterday approved amendments to the Electricity Regulation Act, 2006 (Act of 2006) for public comment.

These far-reaching amendments will enable a competitive market for electricity generation and the establishment of an independent state-owned transmission company.

Our economy cannot grow without efficient ports and railways.

Over several years, the functioning of our ports has declined relative to ports in other parts of the world and on the African continent. This constrains economic activity.

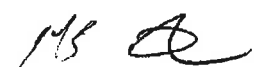
The agricultural sector, for example, relies heavily on efficient, well-run ports to export their produce to overseas markets.

Fresh produce cannot wait for days and even weeks stuck in a terminal.

This hurts businesses and compromises our country's reputation as an exporter of quality fresh produce.

Transnet is addressing these challenges and is currently focused on improving operational efficiencies at the ports through procuring additional equipment and implementing new systems to reduce congestion.

Transnet will ask for proposals from private partners for the Durban and Ngqura Container Terminals within the next few months, which will enable partnerships to be in place at both terminals by October 2022.



Transnet will start the process of providing third-party access to its freight rail network from April 2022 by making slots available on the container corridor between Durban and City Deep in Gauteng.

Transnet has developed partnerships with the private sector to address cable theft and vandalism on the freight rail network through advanced technologies and additional security personnel.

This collaborative effort is already showing results in reduced disruptions to rail operations.

The poor state of passenger rail in South Africa has a direct and detrimental impact on the lives of our people.

We are therefore working hard to rehabilitate the passenger rail network in 10 priority corridors.

The Southern Line in Cape Town and the Mabopane Line in Pretoria have been re-opened to be followed by the remaining lines in the next year.

One of the greatest constraints on the technological development of our economy has been the unacceptable delay in the migration of broadcasting from analogue to digital.

The switch-off of analogue transmission has been completed in a number of provinces.

As I announced in the SoNA last year, the other provinces will move to digital signal by the end of March 2022.

As part of this process, government will continue to subsidise low-income households so that they can access a set-top box and make the switch to digital TV.

Our communications regulator, ICASA, will commence with the auctioning of the high frequency communications spectrum in about three weeks from now.

This will unlock new spectrum for mobile telecommunications for the first time in over a decade.

In addition, we will facilitate the rapid deployment of broadband infrastructure across all municipalities by establishing a standard model for the granting of municipal permissions.

These reforms will revolutionise the country's technological development, making faster broadband accessible to more people and reducing the costs of digital communications.





The world over, the ability to attract skilled immigrants is the hallmark of a modern, thriving economy.

We are therefore streamlining and modernising the visa application process to make it easier to travel to South Africa for tourism, business and work.

As we committed last year, the eVisa system has now been launched in 14 countries, including China, India, Kenya and Nigeria.

The revised Critical Skills List has been published for the first time since 2014, following detailed technical work and extensive consultations with business and labour. The updated list reflects the skills that are in shortage today, to ensure that our immigration policy matches the demands of our economy.

A comprehensive review of the work visa system is currently underway, led by a former Director-General of Home Affairs, Mr Mavuso Msimang.

This review is exploring the possibility of new visa categories that could enable economic growth, such as a start-up Visa and a remote working visa.

Water is the country's most precious natural resource.

It is vital to life, to development and to economic growth.

That is why we have prioritised institutional reforms in this area to ensure future water security, investment in water resources and maintenance of existing assets.

We have embarked on the process of institutional reform in capacitating the Department of Water and Sanitation (DWS) and reviewing water boards in as far as their mandates are concerned and ensuring that they serve municipalities in terms of the District Development Model (DDM).

These reforms are being championed by the Minister of Water and Sanitation, who has visited every water source in the country.

A comprehensive turnaround plan is being implemented to streamline the process for water use license applications. The target is to clear the backlog of applications by June 2022 and to process 80% of all applications within 90 days during the next financial year.

Legislation has been prepared for the establishment of the National Water Resources Infrastructure Agency, and will be published for public comment within the next month.



The water quality monitoring system has been reinstated to improve enforcement of water standards at municipal level, and enable the DWS to intervene where water and sanitation services are failing.

We will review the policy and regulatory framework for industrial hemp and cannabis to realise the huge potential for investment and job creation.

While structural reforms are necessary for us to revive economic growth, they are not enough on their own.

This year, we are undertaking far-reaching measures to unleash the potential of small businesses, micro businesses and informal businesses.

These are the businesses that create the most jobs and provide the most opportunities for poor people to earn a living.

We have started discussions with social partners as part of the social compact process to review labour market regulations for smaller businesses to enable them to hire more people, while continuing to protect workers' rights.

A new, redesigned loan guarantee scheme is being introduced to enable small businesses to bounce back from the pandemic and civic unrest.

This new bounce-back scheme incorporates the lessons from the previous loan guarantee scheme.

It will involve development finance institutions and non-bank SME providers in offering finance, expand the types of financing available and adjust eligibility criteria to encourage greater uptake.

The National Treasury is working with industry stakeholders to finalise the scheme and will provide details soon.

We are reviewing the Business Act, 1991 (Act 71 of 1991) – alongside a broader review of legislation that affects small, medium and small-enterprises (SMMEs) – to reduce the regulatory burden on informal businesses.

There are too many regulations in this country that are unduly complicated, costly and difficult to comply with. This prevents companies from growing and creating jobs.

We are, therefore, working to improve the business environment for companies of all sizes through a dedicated capacity in The Presidency to reduce red tape.

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If we are to make progress in cutting unnecessary bureaucratic delays for businesses, we need dedicated capacity with the means to make changes.

I have therefore appointed Mr Sipho Nkosi to head up a team in my office to cut red tape across government.

Mr Nkosi has extensive experience in business, including as the CEO of Exxaro Resources, and is currently the chairperson of the Small Business Institute.

The red tape team will identify priority reforms for the year ahead, including mechanisms to ensure government departments pay suppliers within the required 30 days.

The team will also work with other departments and agencies to unblock specific obstacles to investment and business growth. It will support current initiatives to simplify processes relating to property registration, cross-border trade and construction permits.

Infrastructure is central to our economic reconstruction and recovery.

Through innovative funding and improved technical capabilities, we have prioritised infrastructure projects to support economic growth and better livelihoods, especially in energy, roads and water management.

The Infrastructure Fund is at the centre of this effort, with a R100 billion allocation from the fiscus over 10 years.

The fund is now working with state entities to prepare a pipeline of projects with an investment value of approximately R96 billion in student accommodation, social housing, telecommunications, water and sanitation and transport.

Several catalytic projects to the value of R21 billion are expected to start construction this year. Of this, R2.6 billion is contributed by government and the balance from the private sector and developmental finance institutions.

Government will make an initial investment of R1.8 billion in bulk infrastructure, which will unlock seven private sector projects to the value of R133 billion.

For millions of South Africans in rural areas, roads and bridges provide access to markets, employment opportunities and social services.

Yet, many children still have to brave overflowing rivers to reach schools and motorists have to battle impassable roads to reach the next town.

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We are therefore upscaling the Welisizwe Rural Bridges Programme to deliver 95 bridges a year from the current 14.

Our South African National Defence Force (SANDF) is the implementing agent of the Welisizwe programme, and has demonstrated the expertise of SANDF engineers in bridge construction.

Earlier this week, I was in Thakgalane village Limpopo to launch a new road that is going to make a huge difference in the lives of neighbouring communities. This road was constructed using block paving and other materials, which is a method that enables us to build durable roads faster and more cost-effectively.

The rural roads programme will use labour intensive methods to construct or upgrade 685 kilometres of rural road over the next three years. This social enterprise programme includes access roads in Limpopo and Eastern Cape, gravel to surface upgrades in the Free State and North West, and capacity and connectivity improvements in the Western Cape.

Government has initiated the process of delivering the uMzimvubu Water Project.

The project is made of the Ntabelanga Dam and Lalini Dam, irrigation infrastructure and hydro-electric plant, Ntabelanga water treatment works and bulk distribution infrastructure to reticulate to the neighboring communities.

The closing date for the first of the two-stage procurement process is scheduled to close later this month, with the preferred bidder likely to be announced in September 2022.

Government is introducing an innovative social infrastructure delivery mechanism to address issues that afflict the delivery of school infrastructure.

The mechanism will address the speed, financing and funding, quality of delivery, mass employment and maintenance.

The new delivery mechanism will introduce a Special Purpose Vehicle, working with prominent Development Finance Institutions and the private sector, to deliver school education infrastructure.

This approach is being piloted in schools in the Northern Cape and Eastern Cape.

Over the past year, government has built on its successful Hydrogen SA strategy to make major strides in positioning South Africa as a global leader in this new market.

This includes the development of a Hydrogen Society Roadmap for the next 10 years as well as a Green Hydrogen Strategy for the Northern Cape, supporting the development of a green

hydrogen pipeline worth around R270 billion.

The damage caused by the theft of scrap metal and cable on our infrastructure like electricity, trains and other vital services is enormous. We will take decisive steps this year both through improved law enforcement and by considering further measures to address the sale or export of such scrap metal.

An important pillar of our ERRP is to revitalise our manufacturing base and create globally competitive export industries.

In the past year, we launched new master plans in the steel industry, furniture and global business services.

Through these plans, business, government and labour are working together to increase production and create more jobs in the sector.

In the clothing industry, a number of retailers have announced ambitious localisation sourcing plans.

One of these retailers, Foschini, kindly made the suit that I am wearing today at its new formal wear factory, Prestige Epping.

Five years ago, more than 80% of all Foschini Group merchandise came from the East. Today, nearly half of the merchandise is locally made.

The genuine leather shoes I am wearing were made by members of the National Union of Leather and Allied Workers from Bolton Footwear in Cape Town and Dick Whittington Shoes in Pietermaritzburg.

Nearly four years ago, we set ourselves a target of mobilising R1.2 trillion in new investment over five years.

By the time of the third South Africa Investment Conference in November 2020, we had reached R776 billion in investment commitments.

Next month, on the 24th of March, we will be holding the fourth South Africa Investment Conference in Johannesburg.

We will showcase the many investment opportunities available as South Africa continues its recovery from the COVID-19 pandemic, and report back on the progress of previous commitments.

Following the resolutions of the African Union Summit over the past weekend, trading can now begin under the African Continental Free Trade Area agreement

South African companies are poised to play a key role in taking up the opportunities that this presents for preferential access to other African markets.

The Free Trade agreement is about Africa taking charge of its destiny and growing its economies faster.

We will continue to pursue Africa's health sovereignty, working with other African countries and international partners to support the strengthening of the continent's capacity to respond to pandemics.

We will increase our efforts to develop Africa's ability to manufacture vaccines.

We have made significant progress here in South Africa.

We now have two South African companies – Aspen and Biovac – with contracts to produce COVID-19 vaccines. Two additional vaccine projects have also been announced.

In addition, we have full local production capability for ventilators, hand sanitisers, medical-grade face masks and gloves and therapeutic drugs and anaesthetics.

This production capability worth many billions of rand of production annually, has been put in place in less than two years.

South African products have been exported to other African countries, securing them vital supplies and expanding jobs for young South Africans.

While we help existing industries to grow, we are also nurturing new opportunities for growth and jobs.

Government and the private sector have worked closely together to grow the global business services sector from a small group of companies to one of the world's leading players.

The global business services sector is on track to create 500 000 new jobs over the next few years.

The hemp and cannabis sector has the potential to create more than 130 000 new jobs.

We are therefore streamlining the regulatory processes so that the hemp and cannabis sector can thrive like it is in other countries such as Lesotho.



Our people in the Eastern Cape, KwaZulu-Natal and elsewhere are ready to farm with this age-old commodity and bring it to market in new and innovative forms.

The social economy, including early childhood development, nursing, social work and community services, has significant potential not only to create jobs, but to provide vital services that communities need.

Some of the country's mature industries also have a lot to offer in revamping the industrial and manufacturing potential of our country.

The agriculture sector has significant potential for job creation in crops such as citrus, table and dried grapes, subtropical fruit, avocados, berries and nuts.

Masterplans in the sugar and poultry industries are contributing significantly to increased investment, improved production and transformation.

To attract investors into the mining minerals needed in the new global economy, we will soon be finalising our mining exploration strategy.

We will continue to support the development of the upstream gas industry, as it holds huge potential for job creation and broader economic development.

We will ensure that this is done in strict accordance with the environmental and other laws of our country, and that where there are differences, we work together to resolve them in the interest of our country and its people.

We live in one of the regions of the world that is most affected by climate change.

We frequently experience droughts, floods and other extreme weather events associated with global warming. Recently floods have affected a number of provinces, including KwaZulu-Natal, Gauteng and the Eastern Cape.

These have already caused enormous damage to infrastructure and livelihoods.

In the last year, we have made important strides in the fight against climate change, and, at the same time, securing our economic competitiveness.

For the first time, our climate targets are compatible with limiting warming to 1.5°C.

This is the goal that all countries agreed to as part of the Paris Climate Agreement, and is essential to prevent the worst effects of climate change.

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Since I established the Presidential Climate Commission a little more than a year ago, it has done much work to support a just transition to a sustainable, inclusive, resilient and low-carbon economy.

At the international climate conference in Glasgow last November, South Africa struck a historic R131 billion deal with the European Union, France, Germany, United Kingdom and the United States.

This first-of-its-kind partnership will involve repurposing and repowering some of the coal plants that are reaching the end of their lives, and creating new livelihoods for workers and communities most impacted by this change.

To ensure that South Africa is able to derive the full benefit of this and other partnerships, I have appointed Mr Daniel Mminele, a former Deputy Governor of the Reserve Bank, as Head of the Presidential Climate Finance Task Team to lead the mobilisation of funds for our just transition.

Properly managed, the energy transition will benefit all.

Renewable energy production will make electricity cheaper and more dependable, and will allow our industries to remain globally competitive.

Investments in electric vehicles and hydrogen will equip South Africa to meet the global clean energy future.

We will be able to expand our mining industry in strategic minerals that are crucial for clean energy, like platinum, vanadium, cobalt, copper, manganese and lithium.

We also have a unique opportunity in green hydrogen, given our world-class solar and wind resources and local technology and expertise.

All of these measures – from structural reforms to support for SMMEs, investments in infrastructure and the emergence of new sectors – will drive a turnaround in economic growth driven by the private sector growth over the coming years.

We know, however, that even with the best business environment and much faster rates of economic growth, it will take time for the private sector to create enough jobs for the millions of South Africans who need them.

Our intent is to leave no one behind.

That is why we are expanding public and social employment.



The first two phases of the Presidential Employment Stimulus programmes, which we launched in October 2020 have supported over 850 000 opportunities.

More than 80 per cent of participants were young people, and over 60% were women.

It has supported young women like Tracy Nkosi from Springs, who was employed as an education assistant at Welgedag Primary School, and who says this opportunity has motivated her to further her studies in the educational sphere.

It has also supported Mama Nosipho Cekwana from Impendle in KwaZulu-Natal who used her farming input voucher to buy maize, manure and supplements for her livestock.

The total number of direct beneficiaries will soon rise to over one million South Africans.

This includes over half a million young people appointed as education assistants, making it the largest youth employment programme ever undertaken in our history.

The employment stimulus will also enable the Department of Home Affairs to recruit 10 000 unemployed young people for the digitisation of paper records, enhancing their skills and contributing to the modernisation of citizen services.

The Social Employment Fund will create a further 50 000 work opportunities using the capability of organisations beyond government, in areas such as urban agriculture, early childhood development, public art and tackling gender-based violence.

In addition to expanding public employment, we are providing support to young people to prepare them for work and link them to opportunities.

To encourage hiring by smaller businesses, we will be increasing the value and expanding the criteria for participation in the Employment Tax Incentive.

For several years, this has been an effective way to encourage companies to hire new work seekers. The changes to the incentive will make it easier for small businesses in particular to hire young people.

The Minister of Finance will announce the details of these changes in the budget.

We call on companies to support this effort, take up the incentive and give young people a place in the world of work.

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The SAYouth.mobi platform for young work seekers to access opportunities and support now has more than 2.3 million young South Africans registered.

Of these over 600 000 have been placed into employment opportunities.

A revitalised National Youth Service will recruit its first cohort of 50 000 young people during the next year, creating opportunities for young people to contribute to their communities, develop their skills and grow their employability.

The Department of Higher Education and Training will place 10,000 unemployed TVET graduates in workplaces from April 2022.

In preparing this SoNA, I was assisted by two young South Africans who are working as interns in The Presidency, Ms Naledi Malatji and Ms Kearabetswe Mabatle.

They told me about the pain felt by young people who find themselves with a qualification, but are unemployed because of lack of experience.

This forces many into jobs that have little or nothing to do with what they studied.

All of the measures I have outlined are essential to provide young people with the work experience that they need to take their first step into the labour market.

We are calling on the private sector to support these measures – and, wherever possible, to drop experience as a hiring requirement – to give as many young people as possible their first job.

As we work to grow the economy and create jobs, we will expand support to poor families to ensure that no person in this country has to endure the pain and indignity of hunger.

Our social protection system is among the greatest achievements of the democratic government, reaching more than 18 million people every month.

Without this support, millions more people would live in dire poverty.

Since the onset of COVID-19, the Social Relief of Distress Grant has provided support to more than 10 million unemployed people who were most vulnerable to the impact of the pandemic.

Some people used that money to start businesses.

Mr Thando Makhubu from Soweto received the R350 grant for seven months last year, and saved it to open an ice-cream store that now employs four people.



Mr Lindokuhle Msomi, an unemployed TV producer from KwaMashu Hostel, saved the R350 grant he received for nine months to start a fast food stall and to support his family.

As much as it has had a substantial impact, we must recognise that we face extreme fiscal constraints.

A fiscal crisis would hurt the poor worst of all through the deterioration of the basic services on which they rely.

Mindful of the proven benefits of the grant, we will extend the R350 grant for one further year, to the end of March 2023.

During this time, we will engage in broad consultations and detailed technical work to identify the best options to replace this grant.

Any future support must pass the test of affordability, and must not come at the expense of basic services or at the risk of unsustainable spending.

It remains our ambition to establish a minimum level of support for those in greatest need.

Expanding access to land is vital for our efforts to reduce hunger and provide people with meaningful livelihoods.

We are moving ahead with land reform in terms of the Constitution, and anticipate the approval of the Expropriation Bill during this year.

The establishment of the Agriculture and Land Reform Development Agency will be finalised this year.

The Department of Public Works and Infrastructure will finalise the transfer of 14 000 hectares of state land to the Housing Development Agency.

We have enough arable land to support millions of thriving small-scale farmers in poultry, livestock, fruit and vegetables.

Through the Presidential Employment Stimulus and the Solidarity Fund, over 100 000 farmers have already received input vouchers to expand their production.

This scheme has proven to be effective and impactful.

The agriculture sector has also recognised the importance of supporting small-scale farmers and integrating them into value chains.



Through the sugar master plan, the industry has provided R225 million to over 12 000 small-scale sugar cane growers as part of a R1 billion commitment to support black farmers.

We will be expanding the provision of input vouchers and calling on other sectors to join this effort, so that we can collectively reach up to 250 000 small-scale farmers this year.

None of our efforts to revive our economy will succeed if we do not tackle the scourge of corruption once and for all.

Since the beginning of the year, I have been provided with the first two parts of the report of the Commission of Inquiry into State Capture headed by Acting Chief Justice Raymond Zondo.

While the definitive conclusion has yet to be delivered at the end of this month, the first two parts of the report make it plain that there was indeed 'state capture'.

This means that public institutions and state-owned enterprises (SOEs) were infiltrated by a criminal network intent on looting public money for private gain.

The reports have detailed the devastating effects of this criminal activity on South African Airways, Transnet, Denel, South African Revenue Service (SARS) and Government Communications.

State capture had a direct and very concrete negative impact on the lives of all South Africans, but especially the poorest and most vulnerable members of our society.

It has weakened the ability of the State to deliver services and to meet the expectations and constitutional rights of people.

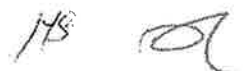
We must now do everything in our power to ensure that it never happens again.

My responsibility is to ensure that the commission report is properly and carefully considered and then acted upon.

By no later than 30 June, I will present a plan of action in response to the commission's recommendations.

We will, as the commission's first report recommends, strengthen the system to protect whistle-blowers, who are a vital safeguard in the fight against corruption and who take huge personal risk in reporting wrongdoing.

We are doing a detailed review of all applicable legislation and a comparative study of other jurisdictions to strengthen whistle-blower protection.



The relevant law enforcement agencies are taking the necessary steps to address the immediate concern about the safety of whistle blowers.

Many individuals and companies that the commission has found were responsible for state capture must now be held to account.

I have every confidence that the National Prosecuting Authority (NPA) will carry out the further investigations that the commission has recommended, and that it will bring the members of the criminal network that infiltrated government and captured the State swiftly to justice.

The Investigating Directorate in the NPA is now poised to deliver on its crucial mandate, and a dedicated team has been established to pursue these cases.

We will be appointing a new head of the Investigating Directorate following the departure of Adv Hermione Cronje from that position.

An amendment to the State Capture Commission regulations in June 2020, empowered the sharing of information between the Commission and law enforcement agencies.

This amendment also permitted the employment of the State Capture Commission personnel by law enforcement agencies.

These empowering provisions has geared the Investigating Directorate to more effectively pursue the investigations emanating from the commission.

We have gratefully acknowledged the offer of support from the private sector to assist in providing those skills which we lack in government to enable investigation and prosecution of crime.

To ensure that the prosecuting authority remains true to its constitutional obligation and to ensure transparency, we are developing a framework for private sector cooperation that will be managed through National Treasury.

There are also discussions underway with the Judiciary for the creation of special court rolls for state capture and corruption cases.

While we have taken decisive steps to end the era of state capture, we know that the fight against corruption is far from over.

Even as the country was suffering the devastation of the COVID-19 pandemic, companies and individuals were conspiring with public officials to defraud the government of billions of rand in COVID-related contracts.

Handwritten signature or initials in black ink, appearing to be 'MS' followed by a stylized flourish.

As soon as evidence emerged of this corruption we acted.

We withdrew certain emergency procurement regulations, set up a fusion centre that brought together various law enforcement agencies, published the details of all COVID-related contracts online and instituted the most extensive investigation that the Special Investigating Unit (SIU) has undertaken since its formation.

In December, the SIU submitted its final report on its investigation into COVID-related contracts.

As a result, 45 matters, with a combined value of R2.1 billion, have been enrolled with the Special Tribunal.

The SIU has referred 224 government officials for disciplinary action and referred 386 cases for possible prosecution to the NPA.

The Presidency has set up mechanisms to monitor implementation of the recommendations of the SIU and ensure that government departments and entities act against those who have violated regulations and broken the law.

The fight against corruption will take on a new intensity thanks to the outcomes of the State Capture Commission, the strengthening of law enforcement agencies and the implementation of new anti-corruption practices in the public service.

SOEs play a vital role in our economy.

From water and roads, to energy and ports, to defence and aviation, these strategic assets are necessary to keep our country running.

It is essential that we reverse their decline, and position them to contribute positively.

We have therefore embarked on several immediate measures to restore these companies to health, at the same time as we undertake far-reaching reforms that will make our SOEs more efficient, competitive, accountable and sustainable.

The Presidential SOE Council, which I appointed in 2020, has recommended that government adopt a centralised shareholder model for its key commercial state-owned companies. This would separate the State's ownership functions from its policy-making and regulatory functions, minimise the scope for political interference, introduce greater professionalism and manage state assets in a way that protects shareholder value.

As part of this, preparatory work has begun for the establishment of a state-owned holding company to house strategic SOEs and to exercise coordinated shareholder oversight.

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To ensure that SOEs are effectively fulfilling their responsibilities, the Presidential SOE Council is preparing recommendations on SOEs to be retained, consolidated or disposed of.

Any recommendations would be subject to extensive consultation with all stakeholders.

We are taking steps to safeguard our democracy, protect our economic infrastructure and build safer communities for all.

Earlier this week, we released the report of the expert panel into the civil unrest in July last year.

The report paints a deeply disturbing picture of the capabilities of our security services and the structures that exist to coordinate their work.

The report concludes that government's initial handling of the July 2021 events was inept, police operational planning was poor, there was poor coordination between the state security and intelligence services, and police are not always embedded in the communities they serve.

The expert panel said that if the violence has exposed anything it was the poverty and inequality that is the root cause of the desperation of the people of South Africa.

The expert panel found that Cabinet must take overall responsibility for the events of July 2021.

This is a responsibility that we acknowledge and accept.

We will, as recommended by the panel, develop and drive a national response plan to address the weaknesses that the panel has identified.

We will begin immediately by filling critical vacancies and addressing positions affected by suspensions in the State Security Agency and Crime Intelligence.

We will soon be announcing leadership changes in a number of security agencies to strengthen our security structures.

The staffing of the public order policing unit of the South African Police Service will be brought to an appropriate level, with appropriate training courses in place.

The ongoing damage to and theft of economic infrastructure has damaged confidence and severely constrained economic growth, investment and job creation.



At the same time, we need to confront the criminal gangs that invade construction sites and other business places to extort money from companies.

This requires a focused and coordinated response.

Government has therefore established specialised multi-disciplinary units to address economic sabotage, extortion at construction sites and vandalism of infrastructure.

We will make resources available to recruit and train an additional 12 000 new police personnel to ensure that the South African Police Service urgently gets the capacity it needs.

Another area of immediate attention will be the re-establishment of community policing forums to improve relations and coordination between local police and residents of the areas they serve.

It is clear from the observations of the expert panel that we need to take a more inclusive approach to assessing the threats to our country's security and determining the necessary responses.

I am calling on all South Africans through their various formations to participate in developing our National Security Strategy.

I will be approaching Parliament's presiding officers to request that Parliament plays a key role in facilitating inclusive processes of consultation.

The security services have been tasked by the National Security Council to urgently develop implementation plans that address the range of recommendations made by the expert panel.

These measures will go a long way to address the serious concerns about the breakdown of law and order in society.

This year, we are intensifying the fight against gender-based violence and femicide through implementation of the National Strategic Plan on Gender-Based Violence and Femicide, and other measures to promote the empowerment of women.

Earlier this month, I signed into law three new pieces of legislation, which has strengthened the criminal justice system, promoting accountability across the State and supporting survivors.

The implementation of this legislation will go a long way to ensuring that cases are successfully prosecuted, that survivors are protected and that there are more effective deterrents in place.





We have made significant progress in reducing the backlog in DNA processing, reducing it from 210 000 exhibits in April 2021 to around 58 000 at present.

However, the fight against gender-based violence will never be won unless, as society, we mobilise all formations and all citizens behind a sustained programme of social action.

As the COVID-19 pandemic has starkly demonstrated, a nation's health is inextricably linked with its economic progress and social development.

We will therefore continue with the work underway to ensure universal health coverage for everyone in South Africa, regardless of their ability to pay.

While public hearings on the National Health (NHI) Bill are continuing in Parliament, much progress is being made in preparing for the introduction of NHI.

More than 59 million people are registered in the Health Patient Registration System.

By September 2021, more than 56 000 additional health workers had been recruited and more than 46 000 community health workers integrated into the public health system.

For the last two years, the education of our children and young people has been severely disrupted.

As we return to normal educational activity, we will work harder to ensure that all learners and students get the quality education they need and deserve.

Fellow South Africans,

Government must work for the people.

That is why our foremost priority is to build a capable, ethical and developmental state.

We will soon be finalising a framework for the professionalisation of the public service.

This will include tighter measures for recruitment of public servants, continuous professional development through the National School of Government and partnerships between state bodies, professional associations and universities.

Lifestyle audits are already being implemented across the Public Service.

This year, we will continue with the implementation of the DDM.

This model brings all three spheres of government together with other social partners in every district to grow inclusive local economies and improve the lives of citizens.

In particular, the DDM facilitates integrated planning and budgeting across spheres of government and improves integration of national projects at a district level.

While there are many parts of the state that require much work, there are institutions that continue to serve the people of this country effectively and efficiently.

One such institution is the SARS, which will be 25 years old this year.

While SARS was badly damaged by state capture, it has made remarkable progress in restoring its integrity, credibility and performance.

Since its formation, SARS has collected some R16 trillion for the country's social and economic development. This revenue has enabled government to improve the lives of millions through the provision of healthcare, education, social grants and other basic services.

A capable state is not only about the quality of public servants and the efficiency of institutions.

It is also, fundamentally, about how citizens are empowered to participate.

We must work together to ensure that platforms like schools governing bodies and community policing forums are more active and inclusive.

A vibrant civil society is crucial for a capable state and for development.

We will therefore be working with social partners to convene the long-awaited social sector summit.

This summit will seek to improve the interface between the state and civil society and address the challenges that non-governmental organisations and community-based organisations face.

Our country has suffered several damaging blows in recent times.

A confluence of forces, many of them outside of our control, has brought us to where we are now.

We face steep and daunting challenges.

Indeed, we are engaged in a battle for the soul of this country.

But there can be no doubt that we will win.



I ask every South African to rally together in our fight against corruption, in our fight to create jobs, in our fight to achieve a more just and equal society.

We have faced many crises in our past, and we have overcome them.

We have been confronted with difficult choices, and we have made them.

In trying times, we have shown courage and resilience

Time and time again, we have pulled ourselves back from the brink of despair and inspired hope, renewal and progress.

Now, we must do so again.

Let us forge a new consensus to confront a new reality, a consensus that unites us behind our shared determination to reform our economy and rebuild our institutions.

Let us get to work.

Let us rebuild our country.

And let us leave no one behind.

I thank you.

**Issued by:** The Presidency

**More from:** The Presidency

**More on:** State of the Nation address

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## TRANSLATIONS

English

Afrikaans

isiNdebele

isiXhosa

isiZulu

Sesotho

Sepedi

MS 

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## DEPARTMENT OF CO-OPERATIVE GOVERNANCE

NO. R. 1986

4 April 2022

## DISASTER MANAGEMENT ACT, 2002: AMENDMENT OF REGULATIONS ISSUED IN TERMS OF SECTION 27(2)

I, Dr Nkosazana Dlamini Zuma, Minister of Cooperative Governance and Traditional Affairs, designated under section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002), having declared a national state of disaster published by Government Notice No. 313 of 15 March 2020, and extended by Government Notices Nos. 646 of 5 June 2020, 765 of 13 July 2020, 889 of 15 August 2020, 995 of 14 September 2020, 1090 of 14 October 2020, 1225 of 14 November 2020, No. 1341 of 11 December 2020, No. R. 15 of 13 January 2021, No. R. 86 of 11 February 2021, No. R. 193 of 11 March 2021, No. 333 of 14 April 2021, No. R. 424 of 14 May 2021, No. R. 476 of 30 May 2021, No. R. 493 of 11 June 2021, No. R. 511 of 12 July 2021, No. R. 733 of 12 August 2021, No. R. 867 of 12 September 2021, No. R. 1031 of 13 October 2021, No. R. 1501 of 13 November 2021, No. R. 1598 of 10 December 2021, No. R. 1672 of 14 January 2022, No. R. 1758 of 14 February 2022 and No. R. 1875 of 14 March 2022 hereby in terms of section 27(2) of the Disaster Management Act, 2002, after consultation with the relevant Cabinet members, make the Regulations in the Schedule.

*NC Zuma*

DR NKOSAZANA DLAMINI ZUMA, MP  
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS  
DATE: 04.04.2022.

## SCHEDULE

## Definitions

1. In these Regulations, "the Regulations" means the regulations published by Government Notice No. R. 480 of 29 April 2020 as amended by Government Notices Nos. R. 608 of 28 May 2020, R. 714 of 25 June 2020, R. 763 of 12 July 2020, R. 846 of 31 July 2020, R. 891 of 17 August 2020, No. 999 of 18 September 2020, No. 1011 of 20 September 2020, No. 1053 of 1 October 2020, No. 1104 of 21 October 2020, No. 1199 of 11 November 2020, No. 1290 of 3 December 2020, No. 1346 of 15 December 2020, No. 1370 of 17 December 2020, No. 1421 of 24 December 2020, No. 1423 of 29 December 2020, No. 1435 of 29 December 2020, No. R. 11 of 11 January 2021, No. R. 69 of 1 February 2021, No. R. 92 of 13 February 2021, No. R. 93 of 13 February 2021, No. R. 152 of 28 February 2021, No. R. 284 of 30 March 2021, No. 376 of 22 April 2021, No. R. 477 of 30 May 2021, No. R. 530 of 15 June 2021, No. R. 532 of 17 June 2021, No. R. 565 of 27 June 2021, No. R. 567 of 29 June 2021, No. R. 610 of 11 July 2021, No. R. 612 of 14 July 2021 and No. R. 614 of 14 July 2021, No. R. 651 of 25 July 2021, No. 669 of 30 July 2021, No. R. 869 of 12 September 2021; No. R. 953 of 26 September 2021; No. R. 960 of 30 September 2021, No. R. 1024 of 11 October 2021, No. R. 1633 of 17 December 2021, No. R. 1646 of 21 December 2021, No. R. 1659 of 30 December 2021, No. R. 1715 of 1 February 2022, No. R. 1759 of 15 February 2022, and

No. R 1915 of 22 March 2022

#### Amendment of the Classification of the Regulations

2. The Classification of the Regulations is hereby amended by the substitution for Chapter 8 of the following Chapter:

- 88. Definitions
- 89. Establishment of COVID-19 Vaccine Injury No-Fault Compensation Scheme;
- 90. Administration of the Scheme
- 91. Financial management and oversight of the Scheme
- 91A. Governance and Oversight
- 92. Adjudication Panel and Appeal Panel
- 93. Eligibility
- 94. Compensation
- 95. Submission of claims and procedure
- 96. Effect of submission of claims on right to claim damages in court proceedings
- 97. Causality determination
- 98. Adjudication of claims
- 99. Appeal
- 100. Duration and termination of Scheme
- 101. Condonation
- 102. Contact details of Scheme."

#### Amendment of regulation 67 of the Regulations

3. Regulation 67 of the Regulations is hereby substituted by the following regulation:

##### "Mandatory protocols when in a public place

67. (1) For the purposes of these Regulations, a 'face mask' means a cloth face mask or a homemade item that covers the nose and mouth, or another appropriate item to cover the nose and mouth.

(2) The wearing of a face mask is mandatory for every person when in an indoor public place, excluding a child under the age of six years.

(3) No person will be allowed to—

- (a) use, operate, perform any service on any form of public transport; or
- (b) enter or be in a building, place or premises, including government buildings, places or premises, used by the public to obtain goods or services,

if he or she is not wearing a face mask.

(4) (a) All persons in an open public space need not wear a face mask but must maintain a distance of at least one metre from another person.

(b) The school environment is excluded from the requirement of maintaining a distance of at least one metre from another person.

(5) An employer may not allow any employee to perform any duties or enter the employment premises if the employee is not wearing a face mask while performing his or her duties.

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**Substitution of regulation 69 of the Regulations**

4. Regulation 69 of the Regulations is hereby substituted of the following regulation:

**"Gatherings**

69. (1) All gatherings, including faith-based or religious, social, political and cultural, gatherings at restaurants, bars, *shebeens* and taverns; gatherings at conferencing, exhibitions, dining, gyms, fitness centres, casinos and entertainment facilities, gatherings at venues hosting auctions including agricultural auctions, sporting activities, including both professional and non-professional matches, by recognised sporting bodies, where persons who are—

- (a) fully vaccinated and in possession of a valid vaccination certificate; or
- (b) unvaccinated but in possession of a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of the gathering.

are allowed at up to 50% of the capacity of the venue. Provided that entry to the venue is conditional upon production of a valid certificate as referred to in paragraph (a) or (b) and subject to strict adherence to all health protocols and social distancing measures.

(2) All gatherings, including faith-based or religious, social, political and cultural, gatherings at restaurants, bars, *shebeens* and taverns; gatherings at conferencing, exhibitions, dining, gyms, fitness centres, casinos and entertainment facilities, gatherings at venues hosting auctions including agricultural auctions, sporting activities, including both professional and non-professional matches, by recognised sporting bodies, where persons who are—

- (a) not fully vaccinated or in possession of a valid vaccination certificate; or
- (b) unvaccinated and not in possession of a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of the gathering,

are allowed but limited to 1000 persons or less for indoor venues and 2000 persons or less for outdoor venues and if the venue is too small to hold the prescribed number of persons observing a distance of at least one metre from each other, then not more than 50 percent of the capacity of the venue may be used, subject to strict adherence to all health protocols and social distancing measures.

(3) An owner or operator of any indoor or outdoor facility where gatherings are held must display the certificate of occupancy which sets out the maximum number of persons the facility may hold.

(4) Gatherings at a workplace for work purposes are allowed, subject to strict adherence to all health protocols and social distancing measures.

(5) Hotels, lodges, bed and breakfasts, timeshare facilities, resorts and guest houses are allowed full capacity of the available rooms for accommodation, with patrons wearing face masks and observing a distance of at least one metre from each other when in common spaces."



**Amendment of regulation 75 of the Regulations**

5. Regulation 75 of the regulations is hereby substituted of the following regulation:

**"Partial re-opening of borders**

75. (1) (a) The 21 land borders which are fully operational, will remain as such and the 32 land borders which were closed, will remain closed.

(b) The Cabinet member responsible for Home Affairs may, from the date of commencement of this amendment to the Regulations, issue directions regarding the opening and closing of any further Ports of Entry.

(2) Traveling to and from the Republic from neighbouring countries is allowed: Provided that travellers who are—

(a) fully vaccinated must upon arrival at the land border produce a valid vaccination certificate; and

(b) unvaccinated must upon arrival at the land border, provide a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of travel.

(3) (a) International air travel is restricted to the following airports—

- (i) OR Tambo International Airport;
- (ii) King Shaka International Airport;
- (iii) Cape Town International Airport;
- (iv) Lanseria International Airport; and
- (v) Kruger Mpumalanga International Airport.

(b) All international travellers arriving at the Ports of Entry listed in paragraph (a) who are—

(i) fully vaccinated must upon arrival at the Port of Entry, produce a valid vaccination certificate; and

(ii) unvaccinated must upon arrival at the Port of Entry, provide a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of travel."

(c) Outbound travellers from South Africa must comply with the requirements of the country of destination.

(4) All commercial seaports will remain open and small crafts, and all passenger ships, including cruise ships, will be allowed entry into seaports, in-line with all health and border law enforcement protocols."

**Substitution of Chapter 8 of the Regulations**

6. Chapter 8 of the Regulations is hereby substituted of the following Chapter:

**"CHAPTER 8  
COVID-19 VACCINE INJURY NO-FAULT COMPENSATION SCHEME**

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### Definitions

88. For the purposes of this Chapter, unless the context otherwise indicates—

'**AEFI**' means any untoward medical occurrence that may present after vaccination, whether or not it has a causal relationship to the administration of the vaccine concerned;

'**claim**' means a claim made in terms of regulation 95;

'**claimant**' means a person who makes a claim in terms of regulation 95;

'**COVID-19 Vaccine Injury**' means a serious injury as referred to in regulation 93(1) and specified as contemplated in regulation 93(3);

'**dependant**' means the spouse of the deceased person; the permanent life partner of the deceased person; the child of the deceased person; a person to whom the deceased person is legally liable for maintenance; or a person who is factually dependent upon the deceased person for maintenance;

'**NISEC**' means the National Immunisation Safety Expert Committee, a non-statutory, standing, advisory committee of independent experts, appointed by the Cabinet member responsible for Health;

'**Promotion of Administrative Justice Act, 2000**' means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

'**Public Finance Management Act, 1999**' means the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

'**the Scheme**' means the COVID-19 Vaccine Injury No-Fault Compensation Scheme established by regulation 89.

### Establishment of the COVID-19 Vaccine Injury No-Fault Compensation Scheme

89. (1) A COVID-19 Vaccine Injury No-Fault Compensation Scheme is hereby established in terms of section 27(2)(c), (m) and (n) of the Act.

(2) The Scheme is an essential part of the COVID-19 vaccination roll-out, which is a critical component of the national plan and response to alleviate, contain and minimise the effects of the disaster, and ultimately to end the national state of disaster.

(3) The purpose of the Scheme is to provide expeditious and easy access to compensation, for persons who suffer from a COVID-19 Vaccine Injury caused by the administration of an approved COVID-19 vaccine, which was administered at an authorised facility within the Republic, as specified in directions issued by the Cabinet member responsible for Health in terms of regulation 93(3), without having to establish fault.

(4) In order to ensure the effective and efficient administration of the Scheme in a manner that ensures fairness in the assessment and administration of claims, and respects the constitutional rights of claimants, the Cabinet member responsible for Health must issue directions in consultation with the Cabinet member responsible for Finance in respect of—

- (a) the requirements relating to the administration of the Scheme;
- (b) the policy in respect of the administration of the Scheme;
- (c) the reporting of a COVID-19 Vaccine Injury;
- (d) the claims system;





- (e) the eligibility requirements of the Scheme;
- (f) the size of the Adjudication Panel, and the Appeal Panel;
- (g) the qualifications for appointment of members of the Adjudication Panel, and members of the Appeal Panel; and
- (h) any other matter relevant to the effective, efficient and fair administration of the Scheme.

#### **Administration of the Scheme**

90. (1) The National Department of Health is responsible for the administration of the Scheme and its funds.

(2) The Director-General of the National Department of Health must establish administration of the scheme and its funding arrangements, in consultation with the National Treasury.

#### **Financial management and oversight of the Scheme**

91. (1) The funds of the Scheme consist of—
- (a) funds appropriated by an Act of Parliament to the vote of Health or from contingencies in terms of appropriation legislation or the Public Finance Management Act; and
  - (b) funds donated to the Scheme in accordance with existing donor procedures and requirements.

(2) The Cabinet member responsible for Finance may, in consultation with the Cabinet member responsible for Health, issue directions in respect of the requirements relating to the financial management and oversight of the Scheme that are in accordance with the Public Finance Management Act, 1999.

(3) The funds identified for the Scheme may not be utilised for purposes other than payment of compensation in terms of the Scheme; the implementation and administration of the Scheme; and as provided in regulation 100(3).

#### **Governance and Oversight**

91A. The Director General of Health, as the accounting officer, is responsible for overseeing the implementation of the Scheme in terms of this Chapter and the directions issued in terms hereof, and to provide advice to the Cabinet member responsible for Health and the Cabinet member responsible for Finance in respect of the implementation of the Scheme.

#### **Establishment of the Adjudication Panel and Appeal Panel**

92. (1) The functionaries of the claims adjudication process of the Scheme hereby established are—

- (a) the Adjudication Panel; and
- (b) the Appeal Panel.

(2) (a) The Adjudication Panel shall comprise of at least 3, but no more than 5 members.

(b) The Cabinet member responsible for Health must appoint the members of the Adjudication Panel, following a nomination process, and subject to the criteria set out in directions and the call for nominations, relating to qualifications, expertise and experience.

(c) The members of the Adjudication panel must between them have appropriate medical expertise, financial expertise, and expertise in the adjudication of compensation of injuries.

(3) (a) The Appeal Panel shall comprise of 3 or more permanent members and 2 additional members, who may be appointed if additional expertise is required, who all may be appointed by the Cabinet member responsible for Health following a nomination process, and subject to the criteria set out in the directions and the call for nominations, relating to qualifications, expertise and experience.

(b) The Appeal Panel must be chaired by an advocate or attorney with at least 15 years' experience.

(c) At least one of the permanent members of the Appeal Panel must have medical expertise and at least one of the permanent members of the Appeal Panel must have expertise in finance or in the assessment of damages.

(4) (a) The members of the Adjudication Panel and Appeal Panel must be independent from each other and possess appropriate expertise to fulfil their functions in respect of the implementation of the Scheme.

(b) The members of the Adjudication Panel and the permanent and additional members of the Appeal Panel are appointed for the period, and on the terms and conditions, determined in writing by the Cabinet member responsible for Health.

(c) The Director-General of the National Department of Health must provide necessary administrative support to the Adjudication Panel and Appeal Panel.

(d) The Adjudication Panel and Appeal Panel shall take their decisions independently in terms of these Regulation and the Directions thereunder, and no person shall interfere with their decisions.

(5) The Adjudication Panel and Appeal Panel must take decisions and make assessments in accordance with—

(a) the requirements contained in regulation 93 and the directions issued in terms of regulation 93(3); and

(b) the directions issued in terms of regulation 94.

(6) The Adjudication Panel must further comply with regulation 98 in the adjudication of claims.

(7) The Appeal Panel must further comply with regulation 99 in the adjudication of appeals.

### Eligibility

93. (1) A person—
- (a) who was vaccinated with a COVID-19 vaccine that was procured and distributed by the National Government and administered as part of the national vaccination programme as specified in directions as contemplated in subregulation (3)(c); and

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- (b) who suffers from or has suffered from a serious COVID-19 Vaccine Injury as specified in directions as contemplated in subregulation (3); and
  - (c) whose serious COVID-19 vaccine injury is determined by NISEC to be causally related to the administration of the COVID-19 vaccine concerned,
- is eligible for compensation from the Scheme subject to the provisions of regulation 94 and the directions issued in terms of these regulations, and in particular directions contemplated in subregulation (3) and regulation 94.

(2) A dependant of a deceased person, whose death was caused by a COVID-19 Vaccine Injury, where the requirements of subregulations 93(1)(a) to (c) are met, is eligible for compensation from the Scheme, subject to the provisions of regulation 94 and the directions issued in terms of these regulations, and in particular directions contemplated in subregulation (3) and regulation 94.

(3) The Cabinet member responsible for Health, in consultation with the Cabinet member responsible for Finance, must issue directions specifying—

- (a) the types of injury that constitute a COVID-19 Vaccine Injury that is covered by the Scheme;
- (b) the types of loss or damage covered;
- (c) the specific approved vaccines to be covered, which must be registered or otherwise approved by the South African Health Products Regulatory Authority and initially procured and distributed by the National Government;
- (d) authorised sites in the Republic where COVID-19 vaccinations are officially administered;
- (e) the duration of the COVID-19 Vaccine Injury after the administering of the vaccination that the Scheme will cover; and
- (f) the period in respect of which claims for compensation may be submitted to the Scheme.

(4) A person who has submitted a claim for compensation under the Compensation for Occupational Injuries and Diseases Act, 130 of 1993 for an AEFI arising from vaccination is not eligible for compensation under the Scheme.

### Compensation

94. (1) The Cabinet member responsible for Health, in consultation with the Cabinet member responsible for Finance, must issue directions specifying the compensation that will be provided under the Scheme.

(2) Such compensation shall—

- (a) be a capped amount to be outlined in the directions, in respect of the type of injury listed under a COVID-19 Vaccine Injury; and
- (b) make provision for lump sum compensation payments.

(3) The categories of compensation which may be awarded are for:

- (a) death;
- (b) permanent disability; and
- (c) temporary disability.

(4) Compensation in terms of the Scheme shall only include those types of compensation specified in terms of directions.

**Submission of claims and procedure**

95. (1) Any person who maintains that he or she meets the requirements for claiming compensation from the Scheme in terms of regulation 93(1) or regulation 93(2) must report the AEFI in the manner and within the time period set by the directions, so as to allow for a causality determination by NISEC in terms of regulation 97.

(2) Where a person seeks to claim from the Scheme without complying with regulation 95(1), the Scheme must direct the person's attention to the provisions of regulation 95(1) and provide the details of the process to report the AEFI.

(3) Following the communication of a causality determination by NISEC in terms of regulation 97, a claim to the Scheme must be submitted by an eligible person, or a person duly authorised to act on behalf of an eligible person, to the Scheme and must be submitted in the manner and within the time period set by the directions.

(4) The Cabinet member responsible for Health must, after consultation with the Director General of the National Department of Health, issue directions specifying—

- (a) procedures for instituting and submitting claims to the Scheme, including the form to be used for submitting claims;
- (b) procedures for claims to be adjudicated by the adjudication panel, including the period in which a claim must be adjudicated; and
- (c) procedures for appealing any decision of the adjudication panel or any determination of NISEC, including the periods in which a claim must be appealed and in which the appeal must be decided.

**Effect of submission of claims on right to claim damages in court proceedings**

96. (1) Any person who elects to submit a claim to the Scheme in terms of these Regulations thereby agrees to follow and abide by the procedure for the adjudication and appeal of claims set out in these regulations

(2) Any person who elects to submit a claim to the Scheme in terms of these regulations and is awarded compensation from the Scheme thereby abandons their right to institute a damages claim in a Court against any party arising from harm, loss or damage allegedly caused by a COVID-19 Vaccine Injury.

(3) The provisions of this regulation shall not affect the right of any claimant to review an adverse decision in the High Court in terms of the Promotion of Administrative Justice Act, 2000.

(4) The Cabinet member responsible for Health must ensure that the form for submitting a claim contemplated in regulation 95(4)(a) explains in plain language the effect of regulations 96(1) to 96(3).

**Causality determination**

97. (1) NISEC must determine the causality between the administration of a COVID-19 vaccine and the injury allegedly caused by the COVID-19 vaccine.

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(2) To determine causality, NISEC must apply the World Health Organisation Methodology for Causality assessment of adverse events following immunisation, as may be published from time to time by the World Health Organisation.

(3) (a) The determination on causality on an AEFI and relevant information by NISEC must be communicated to the person concerned in terms of the directions.

(b) In the event of NISEC finding causality, the Scheme must refer the claim to the Adjudication Panel for adjudication in terms of regulation 98.

(c) If NISEC makes a determination of non-causality, the claimant may refer the matter to the Appeal Panel in terms of regulation 99(1)(a).

#### Adjudication of claims

98. A claim contemplated in regulation 97(3)(a) will be adjudicated by the designated members of the Adjudication Panel, who must determine compensation in accordance with regulation 94 and the directions issued by the Cabinet member responsible for Health.

#### Appeals

99. (1) A claimant who is dissatisfied by—  
 (a) a determination of non-causality by NISEC as contemplated by regulation 97(3)(b); or  
 (b) a decision of the adjudication panel as contemplated by regulation 98, may appeal such decision to the Appeal Panel within the specified period.

(2) The Appeal Panel hearing an appeal in terms of subregulation (1) may—  
 (a) confirm, vary or set aside the determination of NISEC or the decision of the Adjudication Panel, whichever is applicable;  
 (b) where it deems it is necessary for the proper adjudication of an appeal, call for and receive new information or evidence relevant to the claim; and  
 (c) where it deems it is necessary for the proper adjudication of an appeal, appoint appropriately qualified persons (if already not part of the panel) to assist in the determination of the claim.

(3) Any decision of the Appeal Panel is final and binding, but may be reviewed under the Promotion of Administrative Justice Act, 2000.

#### Duration and termination of Scheme

100. (1) This Chapter, the directions issued in terms hereof, and the existence of the Scheme—

(a) will not cease to operate or cease to be of force and effect merely because the national state of disaster comes to an end; and  
 (b) will continue to operate and be of force and effect until a notice is published by the Cabinet member responsible for Health, in consultation with the Cabinet member responsible for Finance, in the *Gazette* terminating the Scheme.

(2) The Scheme shall not be terminated until—

- (a) the period prescribed in the directions for the submissions of claims to the Scheme has expired; and
- (b) all claims lodged with the Scheme within the period prescribed in the directions have been finalised.

(3) Any funds which remain in the Scheme immediately before it is terminated shall be deposited into the National Revenue Fund, or shall otherwise be dealt with in terms of an Act of Parliament.

#### Condonation

101. (1) A person who-

- (a) is affected by a vaccine injury which manifested on or before the date of publication of this amendment to the Regulations; and
- (b) contends that he or she has been unfairly precluded from obtaining compensation from the Scheme by virtue of these amendments to the Regulations,

may apply to the Appeal Panel for condonation in order to have his or her claim fairly dealt with and adjudicated.

(2) The Appeal Panel may grant condonation to a person envisaged in subregulation (1) where it is of the view that to do so would be justified in all the circumstances and would promote the aims of the Scheme.

(3) In cases other than those envisaged in sub-regulations (1) and (2) above, the Appeal Panel may grant condonation for a failure to comply with a time period set by these Regulations or the Directions issued thereunder where:

- (a) good cause has been shown for the failure to comply with the time period;
- (b) granting condonation would not preclude a proper assessment of the claim, including the question of causality; and
- (c) granting condonation would promote the aims of the Scheme.

#### Contact details of Scheme

102. The contact details of the Scheme are as follows:

The Director General  
National Department of Health  
A B Xuma Building  
128 Voortrekker Rd  
Raslouw AH  
PRETORIA  
0157  
eMail: dg@health.gov.za  
Tel (012) 395 8402".

#### Transitional provisions

7. (1) The regulations and directions specified in sub-regulation (2) will—

- (a) not cease to operate or cease to be of force and effect merely because the national state of disaster is terminated; and

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- (b) continue to operate and be of force and effect until one month after the national state of disaster is terminated, whereupon the regulations and directions concerned will automatically lapse.

(2) The regulations and directions specified in sub-regulation (1) are as follows:

- (a) Regulation 67;  
(b) regulations 69;  
(c) regulations 75;  
(d) directions, as amended, issued in terms of Regulation 4(5) and (10), which provide for Social Relief of Distress Grant; and  
(e) directions, as amended, issued in terms of Regulation 4(7)(b), which provide for the extension of the validity period of a learner's license, driving licence card, license disc, professional driving permit and registration of a motor vehicle.

(3) The Regulations in Chapter 8 and the Directions in terms thereof, which provide for the COVID-19 Vaccine Injury No-Fault Compensation Scheme will—

- (a) not cease to operate or cease to be of force and effect merely because the national state of disaster is terminated; and  
(b) continue to operate and be of force and effect until terminated in terms of Regulation 100 of Chapter 8.

#### Commencement

8. (1) Subject to sub-regulation (2), the amendments to the Regulations will come into operation on publication in the *Gazette*.

(2) The amendments to Chapter 8 of the Regulations shall be deemed to have come into operation on 22 April 2021.

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REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

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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 13<sup>th</sup> 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](mailto:SAREGS@dsd.gov.za)



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

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**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

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### 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;

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**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.

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### **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

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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.

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### 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.

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- (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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## Submission

to the

**Minister of Social Development**

on the

**Amendments to the Regulations relating to the Application for and Payment of  
Social Assistance and the Requirements or Conditions in respect of Eligibility for  
Social Assistance made in terms of the Social Assistance Act, 2004**

March 2022

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Faculty of Commerce, Law and Management  
University of the Witwatersrand



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## INTRODUCTION

### *About the Centre for Applied Legal Studies*

1. The Centre for Applied Legal Studies ("**CALS**") welcomes the opportunity to submit comments on the draft Amendments to the Regulations made in terms of the Social Assistance Act, 2004 ("**the draft Regulations**") in response to the call by the Minister of Social Development ("**the Minister**"). In the event that the Minister hosts public hearings on the Amendment to the Regulations, CALS hereby requests that it be placed on the roll to make oral submissions.
2. CALS is a human rights organisation and registered law clinic based at the School of Law at the University of the Witwatersrand. CALS is committed to the protection of human rights through the empowerment of individuals and communities and the pursuit of systemic change.
3. CALS' vision is a country and continent where human rights are respected, protected and fulfilled by the state, corporations, individuals and other repositories of power; the dismantling of systemic harm; and a rigorous dedication to justice. It fulfils this mandate by –
  - challenging and reforming systems within Africa which perpetuate harm, inequality and human rights violations;
  - providing professional legal representation to survivors of human rights abuses; and
  - using a combination of strategic litigation, advocacy and research, to challenge systems of power and act on behalf of vulnerable persons and communities.
4. CALS operates across a range of human rights issues, namely basic services, business and human rights, environmental justice, gender justice, and the rule of

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law, and adopts a gendered and intersectional approach to interpreting, implementing and – where necessary – promoting the development of the law.

#### **PURPOSE OF THESE COMMENTS: THE RIGHT APPLICANTS FOR AN SRD GRANT TO A FAIR APPEAL PROCESS**

5. The draft Regulations provide for the manner in which an application for the Social Relief of Distress ("**SRD**") grant is to be made and processed, including an appeal of the decision on such an application, in furtherance of the constitutional right of access to social security,

*"including, if they are unable to support themselves and their dependants, appropriate social assistance"* (Constitution of the Republic of South Africa, 1996 ("**the Constitution**") s 27(1)(c)).

6. It is trite that applicants for social assistance are vulnerable persons, often without access to necessary information and documentation. These issues are exacerbated when one considers the context in which applications for an SRD grant are made. The ongoing COVID-19 pandemic provides ample evidence of this.
7. The Department of Social Development and the institutions which administer social assistance play an oversized role in South African society, impacting the lives of millions of vulnerable persons. The successful performance of this role is contingent on the protection of those persons, including ensuring that applicants, beneficiaries and recipients of social assistance are in no way prejudiced as a consequence of their substantial need.
8. CALS accordingly seeks to ensure that the draft Regulations adequately protect vulnerable persons from such exploitation, and affords such persons a fair opportunity in which to apply for a much needed grant in times of exacerbated distress.

#### **COMMENT ON THE SUBSTANCE OF THE DRAFT AMENDMENTS TO THE REGULATIONS**

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9. CALS' comments on the draft Regulations focus on the process and time period for appealing a decision on an application for an SRD grant.

**The documents and information permitted to be submitted when appealing a decision on an application for an SRD grant**

10. Draft Regulation 14A(1)(b) states that –

*“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.”*

11. CALS is advised by its client the Black Sash Trust that applicants for the COVID-19 SRD grant continue to be rejected solely due to information used and relied upon by the South African Social Security Agency (“**SASSA**”) on the databases of the UIF, SARS and NSFAS, which information is either outdated or incorrect. This is compounded by applicants being barred from submitting new evidence or additional documentation in the appeal application.
12. It is manifest that many applicants' employment status has changed over the course of the COVID-19 pandemic and continues to be unstable and affected by the economic downturn resulting from the pandemic. This is indeed one of the many reasons that receiving the COVID-19 SRD grant is crucial for those applicants. It is critical that rejected applicants be permitted, and encouraged, to provide additional documentation to ensure that SASSA has the most up-to-date information on file to ensure that eligible applicants receive this vital grant.
13. CALS accordingly submits that an applicant for an SRD grant who is appealing a refusal to grant them an SRD grant should be permitted to submit evidence which was not provided to SASSA at the time of the initial application for the following reasons:



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- 13.1. In times of exacerbated distress and vulnerability which give rise to the need for an SRD grant, an applicant may reasonably have neglected to submit relevant documents or information during the initial application stage;
- 13.2. In such times, updated documentation may not be readily available to applicants when applying on an urgent basis for an SRD grant; and/or
- 13.3. There may be a change in the applicant's circumstances between the initial application and the appeal stage, which change is relevant to the determination of their qualification for the SRD grant. The applicant should be permitted to submit further documents to prove this.

**The time period during which an appeal against a decision on an application for an SRD grant is permitted**

14. Draft Regulation 14A(1)(e) states that –

*"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."*

15. CALS commends the extension of the period for lodging an appeal against a decision on an application for an SRD grant to 90 days.
16. CALS nevertheless submits that, given the uncertainty and exacerbated distress under which applicants for an SRD grant may be operating, it is necessary to allow for an extension of the time period for lodging such an appeal in the event that a reasonable explanation for applicant's delay is provided to the Independent Tribunal.

**CONCLUSION**

17. In summary, CALS calls on the Minister to amend the draft Regulations as follows:
  - That applicants lodging an appeal against the refusal of their application for an SRD grant be allowed and indeed encouraged to submit additional

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documentation at the appeal stage to ensure that SASSA has the most up-to-date information on file to ensure that eligible applicants receive this vital grant; and

- That the time period for lodging an appeal against a decision on an application for an SRD grant may be extended by the Independent Tribunal if it is satisfied that there is a reasonable explanation for the applicant's delay.

**ENDS.**



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**BLACKSASH**  
**MAKING HUMAN RIGHTS REAL**

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**CALL FOR COMMENTS ON THE  
AMENDMENTS TO THE REGULATIONS TO  
THE  
SOCIAL ASSISTANCE ACT 2004**

**COMMENT BY BLACK SASH  
13 March 2022**

Trustees: Yasmin Turton (Chairperson), Sibongile (Bongi) Mkhabela, Mieke Krynauw, Janeen de Klerk, Maleshini Naidoo, Nolundi Luwaya and Matilda Smith. Patron: Maria (Mary) Burton, National Director: Rachel Bukasa

Trust Registration Number: IT 1179/85 ☺ Non-profit Organisation Registration number: 006-214 ☺ Public Benefit Organisation Registration number: 930005962  
BBBEE (Socio-economic development beneficiary certificate)

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## AMENDMENTS TO THE REGULATIONS TO THE SOCIAL ASSISTANCE ACT, 2004

### ABOUT THE BLACK SASH TRUST

1. The Black Sash Trust ("Black Sash") is a non-party political and non-profit organization registered as a trust in terms of the laws of South Africa. Black Sash's vision is a South Africa, in which human rights are recognised in law, respected, and implemented in practice, where government is accountable to its people, meets basic needs in a participatory and dignified manner, and where the Constitution is protected, promoted and fulfilled by all.
2. Black Sash works towards the realisation of socio-economic rights that seeks to reduce poverty and inequality, with an emphasis on social security and social protection for the most vulnerable, particularly women, youth, and children. To this end, strong, vibrant, and active civic engagement is promoted, made possible by enabling organisations of civil society that include community-based organisations, non-governmental organisations coalitions and social movements.
3. The Black Sash appreciates the opportunity to comment on the amendments to the regulations of the South African Social Security SASSA Act 9 of 2004 by the Department of Social Development (DSD).

### RATIONALE FOR SUBMISSION


4. Our submission is informed by our ongoing work with the DSD and the South African Social Security Agency - (SASSA) to ensure the constitutional right to social security and social protection, with emphasis on social assistance through advocacy, community-based monitoring, research and education and training.
5. The right to social security, particularly social assistance, is set out in section 27 of the Constitution<sup>1</sup>. Social assistance is a crucial lifeline which government provides to protect the poor and vulnerable. Currently more than 18 million people or a third of the South African population receives social grants.
6. Black Sash works to ensure that the right to social assistance is delivered in an unhindered manner to all those who qualify in South Africa through a corrupt-free, effective and efficient national social grant system, where all those eligible in South Africa receive the full cash value of the grant timeously.

### 7. REGULATION 1 DEFINITIONS

#### 7.1 Definition of "card"

Black Sash emphasises the importance of ensuring that there are processes in place to ensure the safety and security of the cards and compliance with the Protection of Personal Information Act (POPIA), (Act No 4 of 2013) to ensure that social grant recipients are not made more vulnerable.

<sup>1</sup> The Constitution of the Republic of South Africa, Section 27.1.c, 1996 <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf>

5/7/16  


**7.2 Definition of “insufficient means”**

Black Sash notes that the procedure manual will be used to determine the eligibility. We are not able to comment because we have not had the opportunity to fully consider the procedure manual and reserve the right to comment.

**7.3 Insertion of Procedure Manual**

The Black Sash notes that DSD and SASSA are in the process of developing the procedure manual, which is meant to guide implementation of the amended Regulations on Social Relief of Distress, including the R350 Covid Social Relief of Distress (SRD) Grant.

We acknowledge the invitation to participate in the consultation session on the procedure manual and look forward to the engagement in anticipation of our comments being favourably received. Black Sash recommends that the consultation process on the content of the Procedure Manual be made mandatory to ensure transparency through a public consultation process.

Black Sash begs the question why the discretionary powers of the Minister which form the substance of the regulations in terms of application, eligibility, payment, and appeal processes is guided by a Procedure Manual, rather than be included in the regulations?

The Procedure Manual is deemed to be used to determine application, eligibility, payment, and appeal processes for Social Relief of Distress approval by the Minister and therefore, a critical document guiding the regulations. It is therefore, critical that the Procedure Manual should have been finalised to respond comprehensively to the draft regulations.

Black Sash wishes to remind the DSD and SASSA that the administration and delivery of the SRD Grant must be consistent with Section 33(1) and (2), and Section 195 of the Constitution, and Promotion of Administrative Justice Act (Act No 3 of 2000).

**8. REGULATION 9 PERSONS ELIGIBLE FOR SOCIAL RELIEF OF DISTRESS**

- 8.1 Black Sash submits that the insertion of “*may qualify*” is open to discretion and promotes exclusion which is not in the spirit of the Constitution and the right to social security. We recommend that “*may*” must be substituted with “*must*” (9(1)).
- 8.2 Black Sash is concerned that SASSA has the discretion to determine the method of how the Social Relief of Distress grant is disbursed. We submit, that due consideration must be given to the circumstances of the applicants where an applicant has the choice to choose the method of payment, to ensure that the recipient receives the full cash value of the grant.
- 8.3 Our work on the ground reveals that social grant beneficiaries have to spend money to receive the grant which lessens the value of the grant thereby affecting the impact of the grant (9 (7) ).
- 8.4 Black Sash is concerned that SASSA has a discretion to limit the disbursements to the budget without providing guidelines to the exercise of this discretion (9 (8) ).

Trustees: Yasmin Turton (Chairperson), Sibongile (Bongi) Mkhabela, Mieke Krynauw, Janeen de Klerk, Maleshini Naidoo, Nolundi Luwaya and Matlicia Smith. Patron: Maria (Mary) Burton, National Director: Rachel Bukasa

## 9. REGULATION 11 DOCUMENTS TO ACCOMPANY APPLICATION FOR SOCIAL ASSISTANCE

- 9.1 The core objective of the DSD is oversight over policies that aim to alleviate poverty and must therefore, not introduce regulations which will have a contrary impact.
- 9.2 The introduction of digital technology in the administration of social assistance can and will further entrench economic and racial inequality, if not managed carefully and balanced with the issues of access (11 (7)).
- 9.3 There are beneficiaries and recipients who do not own or have access to digital technology including devices (i.e., laptop, desktop, cell phone); interconnectivity (i.e., WIFI, modems and opportunities to hotspot) or data to participate and access the social grants for which they are eligible. Nor do they have an email account. For example, information or digital technology in rural communities and/or villages, townships, etc. is almost non-existent. Another hindrance for poorer and economically challenged persons is the high data costs as well as the lack of digital literacy.
- 9.4 They should have the choice to access the facilities of SASSA in person to make a submission, lodge a complaint or access payment and recourse.
- 9.5 SASSA offices must be open to all beneficiaries and prospective beneficiaries must have access to front-line services.
- 9.6 Whilst the Black Sash supports the transition to online modes of applying and receiving social grants, such measures must not deny access, exclude, or discriminate against any person with none or limited technological infrastructure and lack of education, capacity, and resources.
- 9.7 The right to social security must prevail over electronic tools which might have the unintended effect of diminishing this right. Furthermore, electronic tools must not diminish the right to administrative justice (and recourse).
- 9.8 It is therefore, necessary for SASSA to consider what methods of application an applicant can easily access without incurring any cost.
- 9.9 Black Sash has consistently objected to the verification of information by alternative means using government databases (11 (8)):
- 9.9.1 Black Sash has highlighted how the gross exclusions from accessing the SRD Grant can be attributed to challenges with the online and administrative processes such as applications being verified monthly against outdated databases, delays and glitches with payments and corruption within government departments<sup>2</sup>.
- 9.9.2 Black Sash conducted a qualitative study, conducted in all nine provinces, which sought to understand how the Covid-19 SRD Grant was distributed and how people experienced its distribution. One of its key findings was that almost one third of applications were rejected where the most common reason for rejection was conflicting information with national

<sup>2</sup> 12 October 2020 Joint Statement: Extend and Increase Special Grants to Prevent a Humanitarian Crisis

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government databases. Numerous applicants were rejected because they appeared on outdated Unemployment Insurance Fund (UIF), South African Revenue Service (SARS), National Student Financial Aid Scheme ( NSFAS) and SASSA (SOCPEN) databases.<sup>3</sup>

9.9.3 In the recent meeting between SASSA, Civil Society and the Department of Labour (UIF) and SARS, it was made clear by both entities who provide databases to SASSA that, for the purpose of the SRD grant, their information is outdated and in order for SASSA to realistically ensure that the grant goes to those who do qualify, human capacity must be brought into the system to ensure that technical errors can be ruled out and some form of discretion is used within the system.

9.9.4 Black Sash is part of the SASSA Recourse Forum which was initially formed to address the Recourse system, education and communication challenges to grant beneficiaries which provides a platform for Black Sash to submit reports to reflect the lived realities of social grant beneficiaries.

9.9.5 In our most recent report to the Recourse Forum, we shared our concern that applicants for the COVID-19 SRD grant have been rejected solely due to information used and relied upon by SASSA on government databases without being able to submit additional evidence. It is critical that rejected applicants be permitted, and encouraged, to provide additional documentation to ensure that SASSA has the most up-to-date information on file to ensure that eligible applicants receive this vital grant to be procedurally fair and promote efficient administration.

9.9.6 At the recourse Forum of September 2021, Black Sash highlighted the issue of the databases and queried whether the databases were fully updated and relevant as we are still receiving complaints of UIF and NSFAS where these do not apply. If these databases are not updated, what alternatives are SASSA able to use to ensure the determinations made are fair and based on relevant, updated information?<sup>4</sup>

9.9.7 At the Recourse Forum of March 2021, Black Sash provided case typologies to illustrate the broader challenges identified within the COVID-19 SRD Grant automated system where identity verification; verification with SARS and other databases inhibit qualifying applicants from accessing the grant. Furthermore, the automated appeals process presents an additional barrier against access to the grant. SASSA responded to the cases and made recommendations for applicants to appeal in many cases but given the fact that applicants cannot provide additional information to substantiate the appeal does little to address the problem of using the government databases to determine eligibility.

#### 9.10 The Auditor General identified challenges with the government databases:

9.10.1 In the first special report of the Auditor General on the financial management of Government's COVID-19 initiatives, it noted that the information technology systems used in government were not agile enough to respond to the changes required. The lack of validation, integration and sharing of data across government platforms resulted in people (including government officials)

<sup>3</sup> Social Protection in a time of COVID Lessons for Basic Income Support p.6

<sup>4</sup> 30 September 2021 SASSA recourse Forum Black Sash and Partners Monitoring Report p.17

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receiving benefits and grants they were not entitled to, and applicants being unfairly rejected as a result of outdated information<sup>5</sup>.

9.10.2 The report found that SASSA still makes use of outdated government databases to verify applications.

9.10.3 The Black Sash can confirm this troubling finding given our ongoing community monitoring programme. Our national Helpline is inundated with queries from applicants who were unsuccessful in accessing the Covid-19 SRD grant, despite them being unemployed and desperate to receive some relief that the grant can provide. Rejections are primarily due to outdated databases that reflect these applicants as recipients of a social grant or receiving income- claims they deny vehemently. SASSA must urgently ensure that these inadequate verification controls are speedily resolved so that all those in distress receive this grant. With the release of the national audit office's second real-time audit report on government's covid-19 expenditure, the Auditor General reported that in response to these findings, SASSA stopped the payment of grants to the flagged people who could also be receiving income from other sources until they can prove they are entitled to the grant. The Auditor General noted that SASSA *"is also taking a conservative approach when evaluating applications for the grant - if a discrepancy is identified, the application is rejected and only if the applicant queries the rejection and provides proof of eligibility will the grant be activated or re-instated"*.

#### 10. REGULATION 14 PROCEDURE TO BE FOLLOWED IN APPLICATION FOR SOCIAL RELIEF OF DISTRESS

- 10.1 Black Sash submits that an applicant must be given the option to make an application manually or electronically (14(1)).
- 10.2 As highlighted in 9.3, there are applicants who do not own or have access to digital technology including devices, data, or an email account to participate and access the social grants for which they are eligible. Such applicants should have the choice to access the facilities in person to apply.
- 10.3 Black Sash recommends that the regulations should provide a fixed time frame for the approval or rejection of an application bearing in mind that the applicant is experiencing distress and must be considered urgently. Providing for a *"reasonable timeframe as provided for in the Procedure Manual"* does not bode well for a person in distress who is seeking relief urgently (14(2)).
- 10.4 Given the nature of the application for distress, Black Sash submits that the regulation should specify the time frames to approve and/or reject an application. Black Sash proposes that the time frame must not exceed 7 calendar days (14(2)).
- 10.5 Black Sash submits that provision must be made for applicants to choose the method of communication in which they wish to receive information with regards to the outcome of their application (14(4)).

<sup>5</sup> Auditor General of South Africa First Special Report on the financial management of government's Covid-19 initiatives p.5

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- 10.6 Black Sash approves of the provision to place an obligation on SASSA to comply with the Protection of Personal Information Act (POPIA) (2013) and the Electronic Communications and Transactions Act 2002 (14(8)).

## 11. REGULATION 14A APPEAL AGAINST DECISION OF AGENCY IN RELATION TO SOCIAL RELIEF OF DISTRESS

- 11.1 We strongly advocate for the inclusion of a member of Civil Society as part of the composition of the Independent Tribunal for all Appeals adjudicated by the Tribunal. The perspective of a member of Civil Society provides insights to the socio-economic context and the struggles of grant beneficiaries to access administrative justice (and recourse) which is crucial in the transformation out of poverty with the payment of grants where the appeals process is crucial to promote transparency and accountability (14A(1)(a)).
- 11.2 It is contrary to administrative justice, not to allow an applicant to submit any evidence when lodging an appeal to substantiate the grounds of appeal (14A (1)(b)(c)). Having due consideration for the proposed draft providing specific sources to verify information, it is critical that an appeal process allows for an applicant, to mitigate a rejection with additional evidence given the fact that the sources are not up to date as at date of application of the grant.
- 11.3 Black Sash strongly objects to the method of lodging an appeal electronically. As reiterated above, due consideration must be taken of the fact that the applicant is applying for relief of distress and must consider that applicants may have challenges with digital online platforms as they may not own or have access to digital technology, interconnectivity and/ or data to participate and access the social grants for which they are eligible.
- 11.4 In the spirit of just administration and transparency the applicant must be able to provide supporting documentation to mitigate his/her appeal for reconsideration.
- 11.5 DSD and SASSA have indicated that they do not have the human capacity to be able to consider documents submitted in support of an appeal. Black Sash strongly recommends that a budget be allocated for resources to be able to consider documents to ensure that all eligible applicants are successful with their application.
- 11.6 Social Relief of Distress is a form of social assistance provided for in the Social Assistance Act (2004), therefore, SASSA is obligated to have systems in place for the administration of Social Relief of Distress applications.
- 11.7 The Black Sash acknowledges the issue of arranging labour given the temporary nature of the COVID SRD Grant but given the fact that the grant has been extended for a year, it is strongly recommended given the high unemployment rates in our country, especially amongst the youth, it is recommended that SASSA procure staff, particularly those aged 18-24, (like the Department of Home Affairs is doing) to increase capacity within SASSA. SASSA will fulfil a dual purpose to ensure that the grants are received by those who really need it and provide employment opportunities for the youth which government has flagged as a priority.



- 11.8 In a meeting with government departments to seek to address challenges with rejections of applicants of the COVID Social Relief of Distress grant, SARS proposed that exception management is important, given the significant number of applications, and there is a need for the application of the human mind with human intervention.<sup>6</sup>
- 11.9 Black Sash, therefore, recommends that the Independent Tribunal must be able to consider additional information from the applicant in support of the appeal and not be limited to the information at its disposal (14(1)(c)).
- 11.10 Black Sash submits that the prescribed period of 90 days to lodge an appeal must be calculated from the date the applicant becomes aware of the rejection. We want to emphasise, that we appreciate the period of 90 days to lodge an appeal but note that any successful application, must have a retrospective effect from the date of the first and/or original application, noting the fact that this is for relief of distress which is an urgent need.
- 11.11 Black Sash appreciates that provision is made for the protection of personal information by placing an obligation on SASSA. Black Sash further recommends, that SASSA has a further obligation that must be extended to third parties who have access to the information of applicants and recipients to ensure the protection of personal information.
- 11.12 Black Sash has a grave concern that the Independent Tribunal can consider an appeal for 90 days. Given the context of the application as an urgent application for relief of distress, 90 days is too long to consider an appeal. Black Sash submits that the Independent Tribunal must finalise an appeal within 14 days of submitting an appeal and recommend that successful applications must be paid retrospectively from date of first application (14A(1)(d)).

## 12. REGULATION 15 DOCUMENTS TO ACCOMPANY APPLICATION FOR SOCIAL RELIEF OF DISTRESS

- 12.1 Black Sash reserves the right to comment on the assessment as provided for in the Procedure Manual (15 (1)(c)).
- 12.2 The provision of SASSA to allow an application to be completed by means of “any other form” and approved, where such information can be verified by “alternative means,” puts an applicant at a disadvantage in that the form allowed may not consider the subjective context of applicants, and the verification may be discriminatory if it is in the discretion of SASSA to choose the form of the application ( 15(2)).
- 12.3 We caution SASSA from introducing processes that have cost implications for an application.

<sup>6</sup> 02 February 2022 Meeting facilitated by the Community Advice Offices of South Africa with Department of Social Development, South African Social Security SASSA, SARS and Department of Labour and Black Sash to address the challenges of outdated databases

### 13. REGULATION 16 DETERMINATION OF AMOUNT AND PERIOD OF SOCIAL RELIEF OF DISTRESS

- 13.1 Black Sash specifically speaks to the amount of the Child Support Grant (CSG) which is below the Food Poverty Line<sup>7</sup>. Black Sash is a strong advocate for this grant to at least be in line with the Food Poverty Line (16 (1) (c)).
- 13.2 Black Sash recently launched a research report on children, social assistance, and food security where one of its key findings was that the Child Support Grant is not enough even to support a single mother and her young child, highlighting the need to increase the CSG to afford children (0-18 years) adequate nutrition. The Child Support Grant should be linked to an objective measure of need, such as the Food Poverty Line.<sup>8</sup>
- 13.3 The amount for a child for Social Relief of Distress is informed by the amount of the CSG and therefore, Black Sash submits that the amount of the CSG must be increased.
- 13.4 Black Sash submits the period of 3 months to pay for social relief of distress is too short given the current economic climate and recommends that payment must at least be for 6 months before the beneficiary is required to provide proof that assistance is needed (16(2)).

### 14. REGULATION 17 DATE OF APPLICATION FOR SOCIAL RELIEF OF DISTRESS

- 14.1 Black Sash submits that due consideration must be given to the nature of the application of the grant for distress and appreciates that the date of the submission be deemed to be the date of the application.
- 14.2 However, while we acknowledge that due consideration must be given to the fact that those who are eligible should receive the grant, we are concerned that the prerequisite that the application must be duly completed may hinder eligible applicants from receiving the grant as a matter of urgency.

Black Sash Executive Director  
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<sup>7</sup> <http://www.statssa.gov.za/publications/p03101/p031012021.pdf> p1

<sup>8</sup> 0606 bs - children social assistance and food security research report v15.pdf (blacksash.org.za) p.3

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