

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 8948

Regulasiekoerant

Vol. 518

Pretoria, 22 August
Augustus 2008

No. 31356

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Government Notice

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GOVERNMENT NOTICE

DEPARTMENT OF SOCIAL DEVELOPMENT**No. R. 898****22 August 2008****SOCIAL ASSISTANCE ACT, 2004****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), and with the concurrence of the Minister of Finance, made the regulations in the Schedule.

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Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and unless the context otherwise indicates -

“assessment” means –

- a) the medical examination by a medical officer of a person or child in order to determine disability or care-dependency for the purposes of recommending a finding for the awarding of a social grant, and **“assess”** has a corresponding meaning; or
- b) the evaluation of information set out in a medical assessment form or medical report by a medical officer in the absence of the patient;

“assets” means assets referred to in regulation 19 (3);

“biometric identification” means a fingerprint or palm print;

“birth certificate” means a birth certificate as referred to in the Births and Deaths Registration Act, 1992 (Act No. 51 of

1992), and includes a birth certificate issued by a country other than the Republic, if the child is not a South African citizen;

“breadwinner” means a person who generates the main or sole source of income in the immediate family household;

“Child Care Act” means the Child Care Act, 1983 (Act No. 74 of 1983);

“children’s court” means every magistrate's court as defined in the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944);

“designated officer” means an official in the employ of the Agency;

“designated place” means a place designated by the Agency by notice in the Gazette for making applications for social assistance, or for the payment of social assistance;

“financial institution” means –

- a) a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);
- b) a long-term insurer as defined in section 1 of the Long Term Insurance Act, 1998 (Act, No. 52 of 1998);
- c) a short-term insurer as defined in section 1 of the Short Term Insurance Act, 1998 (Act No. 53 of 1998); or
- d) any other institution or body deemed or declared to be a financial institution in terms of any other law;

“identity document” means the identity card referred to in the Identification Act, 1997 (Act No. 68 of 1997) and unless inconsistent with the provisions of that Act, includes an identity document referred to in section 25(1) or (2) of that Act, and further includes an identity document issued to a refugee in terms of section 30 of the Refugees Act, 1998 (Act No. 130 of 1998);

“income” means income as contemplated in regulation 19;

“institution funded by the state” means a prison, a psychiatric hospital, a home for older persons, or a treatment centre, which is wholly funded by the State;

“life certificate” means an affidavit in a format prescribed by the Agency, made and signed by a beneficiary under oath or affirmed before a commissioner of oaths or a designated officer to prove that he or she is alive;

“manual payment” means a payment in cash to a beneficiary at a designated place;

“means” for the purposes of the older persons grant, disability grant, war veterans grant and social relief of distress, excluding social relief of distress as contemplated in regulation 9(1)(d)(iv), means the income and assets of –

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

“medical officer” means any medical practitioner in the service of the State, or a person appointed under a contract to perform the functions or render the services of a medical

officer in terms of the Act;

“medical practitioner” means any person referred to as a medical practitioner or intern under the Health Professions Act, 1974 (Act No. 56 of 1974) or a person mentioned in section 24A of that Act;

“pay-point” means a place designated by the Agency for the payment of social assistance;

“permanent resident” means a person who is lawfully and permanently resident in the Republic;

“refugee” for purposes of these regulations means a person referred to in section 1 of the Refugees Act, 1998 (Act No. 130 of 1998) –

- (i) who complies with the requirements as set out in regulation 3;
- (ii) who is a foster parent referred to in sections 7 and 8 of the Act;

“review” means to verify whether or not a grant recipient still complies with the requirements for social assistance;

“SASSA Act” means the South African Social Security Agency Act, 2004 (Act No. 9 of 2004);

“service provider” means any person, excluding employees of the Agency, rendering social assistance or providing any service for the rendering of such social assistance on behalf of the Agency;

“sign” means the appending of a signature or affixing of a biometric identification and **“signature”** has a corresponding meaning;

“social assistance” means “social assistance” as defined in section 1 of the Act;

“social grant” means “social grant” as defined in section 1 of the Act;

“social worker” means a social worker registered as such in terms of section 17 of the Social Service Professions Act, 1978 (Act No. 110 of 1978);

“spouse” means a person who is the spouse or partner of a person in accordance with the Marriage Act, 1961 (Act No. 25 of 1961), the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998) or the Civil Union Act 2006 (Act No. 17 of 2006) or the tenets of any Asiatic religion and **“spousal relationship”** has a corresponding meaning;

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

“verify” means the scrutinising of any document, report, completed application or any other evidence to determine whether or not a person qualifies for social assistance.

CHAPTER 1

GENERAL REQUIREMENTS FOR ELEGIBILITY TO QUALIFY FOR SOCIAL ASSISTANCE

Persons eligible for older person’s grant

2. A person is eligible for an older person’s grant if he or she-

- a) is a person contemplated in section 10 of the Act;
- b) meets the requirements of the financial criteria set out in Annexure A;
- c) subject to regulation 5, does not derive a benefit for himself or herself from any other social grant;
- d) is not maintained in any institution funded by the State;
and
- e) is a permanent resident.

Persons eligible for disability grant

3. In addition to the requirements set out in section 9 of the Act and in regulation 2(b), (c), (d) and (e), a person is eligible for a disability grant if he or she is a disabled person who has attained the age of 18 years and-

- (a) he or she is a South African citizen, permanent resident or a refugee;
- b) the disability is confirmed by an assessment which indicates whether the disability is-

- i. permanent, in that the disability will continue for a period of more than 12 months; or
- ii. temporary, in that the disability will continue for a continuous period of not less than 6 months or for a continuous period of not more than 12 months as the case may be:

Provided that the assessment must, at the date of the application, not be older than three months;

- c) he or she is unable to enter the open labour market or to support himself or herself in light of his or her skills and ability to work;
- d) he or she does not unreasonably refuse to accept employment which is within his or her capabilities and from which he or she can generate income to provide fully or partially for his or her maintenance; and
- e) he or she does not, without good reason, refuse to undergo the necessary medical or other treatment recommended by

a medical officer.

Persons eligible for war veteran's grant

4. In addition to the requirements contemplated in regulation 2 (b), (c) and (d), a person is eligible for a war veteran's grant if he or she satisfies the requirements contemplated in section 11 of the Act.

Persons eligible for grant-in-aid

5. In addition to the requirements contemplated in section 12 of the Act,

(1) a person is eligible for a grant-in-aid if –

- a) he or she is in receipt of an older person's grant, disability grant or a war veteran's grant, and
- b) he or she is, due to his or her physical or mental condition, certified by a medical officer or medical practitioner as requiring regular attendance by another person as contemplated in section 12 of the Act.

- (2) A grant-in-aid is not payable to a person maintained in any institution subsidised by the State.

Persons eligible for child support grant

6. (1) In addition to the requirements contemplated in section 6 of the Act, a primary care giver is eligible for a child support grant if-

a) the children in respect of whom the application for the grant is made are his or her own children: Provided that if the children in respect of whom the application for the grant is made are not his or her biological or legally adopted children, he or she shall be entitled to such grant in respect of a maximum of six children;

b) or she meets the requirements of the financial criteria set out in Annexure B;

c) he or she is not formally or informally employed to take care of the child;

d) the child concerned is not resident in an institution funded by the State;

e) he or she or any other person is not already in receipt of a social grant in respect of that child; and,

f) he or she is a South African citizen or a permanent resident.

(2) The primary care-giver must continue to be a primary care-giver of the child concerned for the duration of the period that he or she receives the child support grant or until substituted by another primary care-giver in accordance with the provisions of section 19(3) (b) of the Act or upon the death of the primary care-giver.

(3) If more than one person claims to be the primary care-giver of the child, the Agency must, after having taken into account all factors contemplated in regulation 11 (3)(b), determine one of the persons to be the primary care-giver for purposes of eligibility for a child support grant.

(4) With effect from 1 January 2009 a child support grant may be awarded to a child not older than 15 years.

Persons eligible for foster child grant

7. (a) In addition to the requirements contemplated in section 8 of the Act, a foster parent is eligible for a foster child grant if the child is placed in his or her custody in terms of the Child Care Act 1983;

(b) child remains in his or her custody; and

(c) foster parent is a South African citizen, a permanent resident or a refugee.

Provided that a foster parent may not be eligible for a foster child grant for more than six children if the children are not his or her siblings or blood relatives.

Persons eligible for care-dependency grant

8. In addition to the requirements contemplated in section 7 of the Act, a parent, primary care-giver or foster parent is eligible for a care-dependency grant in respect of a care-dependent

child if -

- a) an assessment confirms that the child, due to his or her physical or mental disability, requires and receives permanent care or support services; and
- b) he or she meets the requirements of the financial criteria set out in Annexure D.

Persons eligible for social relief of distress

9.(1) Subject to the provisions of the Act, a person in need of immediate temporary assistance qualifies for social relief of distress if he or she -

- a) has insufficient means; and
- b) is a South African citizen or a permanent resident or a refugee and complies with any of the following conditions-
 - i. the person is awaiting payment of an approved social grant;

-
- ii. the person has, for a period of less than six months, been assessed to be medically unfit to undertake any remunerative work;
 - iii. no maintenance is received from a parent, child or a spouse obliged in law to pay maintenance and proof is furnished that efforts made to trace such a person or obtain maintenance were unsuccessful;
 - iv. the breadwinner of that person's family has died and the application is made within three months of the death of such breadwinner;
 - v. the breadwinner of that person's family has been admitted to an institution funded by the State; or
 - vi. the person has been affected by a disaster as defined in the Disaster Management Act, 2002 (Act No. 57 of 2002); and
 - vii) refusal of the application for social relief of

distress may cause undue hardship as contained in the Procedure Manual for Social Relief of Distress approved by the Minister.

- (2) A person is not entitled to a social grant in respect of himself or herself and social relief of distress simultaneously.
- (3) Where a person has received both social relief of distress and a social grant, the value paid for social relief of distress must be recovered from any social grant payment, including an arrear payment.

CHAPTER 2

APPLICATION FOR SOCIAL ASSISTANCE

Procedure to be followed in application for social grant

10.(1) A person or his or her procurator applying for a social grant must present himself or herself at an office of the Agency or any other designated place, in order to complete the relevant

application forms in the presence of a designated officer.

(2) The Agency must assist the person or his or her procurator to complete an application form if he or she is, for whatever reason, unable to complete the application form.

(3) The application form must be accompanied by all the necessary documentation contemplated in regulation 11.

(4) The application form must be signed by the person or his or her procurator in the presence of a designated officer who must certify that all the application requirements have been complied with.

(5) The certification contemplated in subregulation (4) must be verified by another designated officer.

(6) The person or his or her procurator must be furnished with an acknowledgement of receipt which must-

a) be dated;

b) be stamped with the official stamp of the Agency;

- c) reflect the name and identity number of the person; and
- d) reflect the name of the designated officer.

(7) The Agency must keep a register of all applications received, which register must record the-

- a) identifying particulars of the applicant;
- b) date of application;
- c) type of social grant applied for ; and
- d) name of the designated officer.

Documents to accompany application for social grant

11.(1) The following original documents or certified copies thereof, must accompany an application for a social grant:

- a) an identity document of the applicant and of his or her spouse; and

- b) in the case of a child support grant, a care-dependency grant or a foster child grant, an identity document or a valid birth certificate of each child, care-dependent child or foster child in respect of whom an application for a social grant is made; or

- c) proof of spousal relationship status.

Provided that if no valid proof is obtainable, a sworn statement or an affidavit in a format prescribed by the Agency may be accepted.

(2) An application for an older person's grant, disability grant or war veteran's grant must, in addition to the documents required in terms of subregulation (1), be accompanied by the following documents -

- a) A sworn statement or an affidavit in a format prescribed by the Agency, indicating the income and assets of the applicant, together with any supporting documents that may be deemed necessary and in the case of a spousal relationship, that of his or her spouse. In the absence of supporting documents an applicant may submit a sworn

statement or an affidavit in a format prescribed by the Agency, stating that the applicant does not have supporting documents.

- b) in respect of a disabled person, an assessment; and
- c) in the case of a war veteran, proof of service as contemplated in the Act.

(3) An application for a child support grant must be made on the relevant form and in addition to the documents required in terms of subregulation (1), be accompanied by the following documents –

- a) A sworn statement or an affidavit in a format prescribed by the Agency, indicating the income of the applicant, together with any supporting documents that may be deemed necessary and in the case of a spousal relationship, that of his or her spouse. In the absence of supporting documents an applicant may submit a sworn statement or an affidavit in a format prescribed by the Agency, stating that the applicant does not have supporting documents.

b) proof that the applicant is the primary care-giver of the child, which may take the form of any of the following-

(i) an affidavit from a police official;

(ii) a report from a social worker;

(iii) an affidavit from a biological parent of the child; or

(iv) a letter from the principal of the school attended by the child.

(4) An application for a foster child grant must be made on the relevant form and in addition to the documents required in terms of subregulation (1), be accompanied by the court order placing the child in foster care.

(5) An application for a care dependency grant must be made on the relevant form and in addition to the documents required in terms of subregulation (1), be accompanied by the following documents-

a) A sworn statement or an affidavit in a format prescribed by the Agency, indicating the income of the applicant, together with any supporting documents that may be deemed necessary and in the case of a spousal relationship, that of his or her spouse. In the absence of supporting documents an applicant may submit a sworn statement or an affidavit in a format prescribed by the Agency, stating that the applicant does not have supporting documents.

b) an assessment referred to in regulation 8(a).

(6) An application for a grant-in aid must be made on the relevant form and in addition to the documents required in terms of subregulation (1), be accompanied by a medical certificate as contemplated in regulation 5(1)(b).

Date of application for social grant

12.(1) The date on which an application for a social grant is signed in accordance with regulation 10(4) is deemed to be the date on which the application is made.

(2) Despite the provisions of subregulation (1), the date on which a child is placed in foster care in terms of a court order is deemed to be the date of application for the foster child grant.

(3) A social grant, if approved, must be paid from the date on which the application was made: Provided that a person contemplated in regulation 2 (d) may apply for a social grant at the time when he or she is in an institution funded by the State: Provided further that the social grant may only be paid from the date when he or she is no longer in an institution funded by the State.

Notification of outcome

13.(1) The Agency must, within three months of the date of the application for a social grant notify the applicant of the approval or rejection of the application for the social grant.

(2) A notification contemplated in subregulation (1) must be delivered to the applicant by-

- a) hand, against signature by the applicant, or at the address furnished by the applicant at the time of

application; or

- b) pre-paid registered post to the address furnished by the applicant at the time of application.

(3) Upon approval of an application for a social grant, the Agency must inform the applicant in writing of such approval and

- a) of the payment details;
- b) of the obligations of the applicant to notify the Agency of a change in circumstances;
- c) in the case of refugees, the date of lapsing of the social grant; and
- d) in the case of a temporary disability grant, the reasons therefor, the duration of the social grant and the date upon which it lapses.

(4) Upon refusal of a social grant application, the Agency must inform the applicant in writing of such refusal and of-

- a) the reasons for such refusal; and
- b) the applicant's right to appeal the decision and the mechanism and procedure to lodge an appeal.

Procedure to be followed in application for social relief of distress

14. (1) An application for social relief of distress must be made in the relevant form and be-

- a) completed by the applicant or his or her procurator at the offices of the Agency or at a designated place in the presence of a designated officer, or with the assistance of the designated officer for the area in which the applicant resides; and
- b) signed, certified or confirmed in the presence of the designated officer by the applicant or his or her procurator.

(2) The designated officer must approve or reject the application for social relief of distress immediately.

(3)(a) The designated officer 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 will be required before any further payments are made.

(b) The applicant for social relief of distress must be furnished with a receipt for the application for social relief of distress which must be dated and stamped with the official Agency stamp and must contain the name of the applicant, the designated officer and the date of the application.

(4) 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 date to which social relief of distress is extended;
- e) the form of social relief of distress granted, whether in cash or in any other form and the value thereof; and
- f) the date on which the applicant was referred to a social worker.

(5) With regard to the extension of social relief of distress, the Agency may request a social worker or any other 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 or not.

(6) Where an application for social relief of distress is approved, the Agency must inform the applicant in writing of such approval and of the date on which such approval is granted.

(7) Where an application for social relief of distress is rejected, the Agency must inform the applicant in writing of such rejection and of-

- a) the reasons for such rejection;
- b) the applicant's right to appeal the decision; and
- c) the mechanism and procedure to lodge such an appeal.

Documents to accompany application for social relief of distress

15.(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 insufficient means, by way of a declaration of assets and income;
- d) proof of admission of his or her spouse to a prison, treatment centre or hospital;
- e) proof of temporary medical disability; or
- f) alternative proof to that contemplated in paragraphs (a), (b), (c), (d) and (e) as may be approved by the Agency.

(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, attested to and approved in the absence of the required documentation.

Determination of amount and period of social relief of distress

16.(1) Subject to the provisions of the Act, the value of social

relief of distress, may, in the case of –

- a) a single person, not exceed the maximum amount payable per month in respect of an older person's grant;
- b) a person in a spousal relationship, where both spouses living together apply, not exceed the amount payable per month in respect of an older person's grant for each spouse;
- c) a child, not be an amount exceeding the 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 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 amount of the foster child grant payable per month for the child concerned.

(2) Social relief of distress must be issued monthly but may not

be paid for longer than a period of three successive months.

(3) Social relief of distress may, at the end of the period contemplated in subregulation (2), and on the recommendation of a social worker or any other person authorised by the Agency, be extended for a further period not exceeding three months.

(4) Subsequent applications for social relief of distress within a one-year period must be supported by a report from a social worker.

(5) The Agency may provide non-financial assistance or relief to eligible applicants for social relief of distress.

Date of application for social relief of distress

17. The date on which an application for social relief of distress is signed before a designated officer is deemed to be the date on which the application is made.

CHAPTER 3

DETERMINATION OF FINANCIAL CRITERIA

Determination of financial criteria for older person's grant, disability grant, war veteran's grant, child support grant, foster child grant and care dependency grant

18. (1) The financial criteria in terms of which applicants for an older person's grant, a disability grant, a war veteran's grant, a child support grant, a foster child grant and a care dependency grant, respectively, qualify are set out in Annexures A, B, C and D, respectively.

(2) The income of an applicant and his or her spouse must be taken into account irrespective of whether the couple is married in or out of community of property under the Marriage Act, 1961 or any provisions contained in an ante-nuptial contract.

(3) The Agency must, if it is satisfied that an applicant has been deserted by his or her spouse for a continuous period of at least three months, and the spouse is unwilling to support the applicant, grant approval for the means of that spouse not to be taken into consideration when determining the means of the applicant.

Determination of means

19.(1) For the purposes of determining means, in respect of social assistance, except for a grant in-aid and the foster child grant, the income of the applicant is deemed to be the annual income for an applicant not in a spousal relationship, or half the annual income of the applicant and his or her spouse, where the applicant is in a spousal relationship, and "income" means-

- a) any compensation payable to an applicant or his or her spouse or dependent child in cash or otherwise;
- b) any profits, withdrawals or other benefits derived from a business concern or farm of which the applicant or his or her spouse or dependent child is the owner or holds property rights in respect thereof;
- c) any payment which an applicant or his or her spouse or dependent child receives from a trust or inheritance or as an employee;
- d) any payment which an applicant or his or her spouse or

dependent child derives from property rights;

- e) any pension or annuity payable to an applicant or his or her spouse or dependent child in terms of the provisions of a pension or provident or retirement annuity fund established in terms of any Act, but excluding benefits received in terms of the Act;
- f) any ex gratia amount received in cash or otherwise by an applicant or his or her spouse or dependent child;
- g) any rental payable to an applicant or his or her spouse or dependent child for providing accommodation;
- h) any profits, withdrawals or other benefits derived from farming activities where fixed property is rented by an applicant or his or her spouse or dependent child;
- i) any maintenance received from a person obliged in law to provide such maintenance;
- j) any other income, not mentioned in these regulations including interest and dividends, generated from assets

of an applicant or his or her spouse or dependent child;
and

- k) any income or financial support derived from a South African or international organisation, excluding social assistance.

(2)(a) The provisions of subregulation (1)(a),(b) and (c) apply with the necessary changes if the applicant or his or her spouse donated or relinquished income in order to obtain a social grant.

- b) Despite the provisions of paragraph (a) the income contemplated in paragraph (a) must not be taken into account after a period of five years has lapsed from the date of donation or relinquishment.

(3) Regarding the assets of the applicant and his or her spouse, in the case of an older person's grant, disability grant and a war veteran's grant, the following must be taken into account-

- a) the municipal value of any property owned but not

occupied by the applicant and his or her spouse:
Provided that any outstanding bond amount must be deducted;

- b)
 - (i) immovable property owned by the applicant or his or her spouse, or property held under leasehold;
 - (ii) cash investments, bonds or loans or any outstanding debts in favour of the applicant or his or her spouse;
 - (iii) shares, share capital or interest in assets of a company or other institution; and
 - (iv) endowment policies after maturity date and cash in hand or in any account with a financial institution;
- c) any property rights held by the applicant or his or her spouse; and
- d) any lump sum invested by the applicant or his or her

spouse in a company or a financial institution with the aim of procuring an annuity.

(4) Despite subregulation (3) the value of immovable property owned and occupied by the applicant and his or her spouse must not be taken into account when regard is had to the assets of the applicant and his or her spouse, in the case of an older person's grant, a disability grant and a war veteran's grant.

(5) The Agency must, if it is of the opinion that an applicant or his or her spouse impoverished himself or herself or relinquished assets to obtain a social grant, take such assets into account, which may include any property or asset donated, transferred or sold below market value by either the applicant or his or her spouse to a connected party.

Permissible deductions when calculating applicant's income

20. When determining the income of an applicant and his or her spouse in the case of a social grant, the Agency must, on submission of acceptable documentary proof, allow the following deductions or contributions -

- a) current obligatory contributions of an employee to a pension, provident or retirement annuity fund established in terms of an Act or, in the absence of such an obligatory contribution, another contribution which does not exceed 22 percent of the net income of the applicant;
- b) current deductions in respect of an employee's tax or standard income tax;
- c) current membership fees to an approved medical scheme in the Republic, established in terms of the Medical Schemes Act 1998 (Act No. 131 of 1998), paid from income generated from services rendered or income from any other source; and
- d) current contributions to the unemployment insurance fund paid from income generated from services rendered.

CHAPTER 4

PAYMENT OF SOCIAL ASSISTANCE

Method of payment of social assistance

- a) electronic transfers into an account of the beneficiary or institution where the beneficiary resides, subject to written authorization by the beneficiary; or
- b) manual payments at a designated place.

(2) Social assistance must be paid monthly by the Agency or a person appointed by the Agency for that purpose in terms of section 4 of the SASSA Act.

(3) Subject to the provisions of subregulation (2) -

- a) in the case of manual payments a beneficiary must-
 - i. identify himself or herself by means of an identity document or biometric identification;
 - ii. personally or via a person appointed by the beneficiary or the Agency, take receipt of the social

assistance payable to him or her; and

iii. sign an acknowledgement of the amount received, if he or she receives payment of his or her social assistance manually;

b) a beneficiary's signature or biometric identification serves as acknowledgement of receipt for the amount received, unless the amount of the social assistance is credited to an account held at a financial institution.

(c) where the beneficiary is unable to personally receive social assistance due to illness or temporary incapacity the beneficiary may apply and complete an application form for the authorisation of the grant to be paid to a person duly authorised by him or her for a period not exceeding three consecutive months.

Payment of reduced social grant to person maintained in certain institutions

22.(1) If a beneficiary of an older person's grant, disability grant or war veteran's grant is admitted to an institution that has a contract with the State to care for and maintain such beneficiary, the relevant social grant must be reduced to an

amount equal to 25 percent of the maximum amount of the social grant with effect from the first day of the fourth month following the month of the beneficiary's admission to that institution.

(2) A social grant reduced in terms of subregulation (1) must be reinstated immediately from the date of discharge of the beneficiary from the institution contemplated in that subregulation.

Conversion of social grant

23.(1) A social grant payable to a disabled person must be converted to an older person's grant as soon as that person qualifies for an older person's grant.

(2) If a person who receives an older person's grant or disability grant qualifies for a war veteran's grant, the person may request that the older person's grant or disability grant, as the case may be, be converted to a war veteran's grant subject to the following conditions:

(a) the request must be accompanied by the necessary documents; and

(b) the date of conversion may not be earlier than the date of the request.

Appointment of procurator

24. (1) (a) When the person applying for or receiving social assistance cannot personally apply for or receive social assistance or if it will cause undue hardship for the person to apply for or receive the social assistance in person, the person may appoint, by way of a power of attorney, a procurator to apply or receive social assistance on his or her behalf.

(b) Where the person applying for or receiving social assistance is unable to appoint someone to apply or receive social assistance on his or her behalf, the Agency may nominate a person to apply or receive social assistance on behalf of the person unable to do so.

(2) A procurator contemplated in subregulation (1) may not receive social assistance on behalf of more than five beneficiaries.

(3) A beneficiary may appoint a person as a procurator, only if

-
- a) that person has an identification document;
 - b) that person is not younger than 18 years of age;
 - c) that person is permanently resident in the Republic;
 - d) that person is not an unrehabilitated insolvent;
 - e) that person is willing to be appointed as the procurator of the beneficiary; and
 - f) the applicant or beneficiary is not indebted to the procurator.

(4) Upon appointment of the procurator by the beneficiary, in terms of section 15(1) of the Act, such procurator must furnish proof of identification, a life certificate in respect of the beneficiary and an affidavit to the effect that social assistance will be handed over to the beneficiary.

(5) Whenever a beneficiary terminates the services of the

procurator appointed by him or her in terms of section 15(1) of the Act, the beneficiary must –

(a) notify the Agency in writing of such termination and the effective date thereof; or

(b) where the beneficiary is unable to read or write, the Agency may obtain a sworn statement from such beneficiary.

(6) A procurator whose power of attorney is being or has been terminated must, upon becoming aware or gaining knowledge of the termination or the intention of the beneficiary to terminate the power of attorney-

a) immediately give notice in writing of such termination to the Agency; and

b) within 10 days of such termination, transfer to the beneficiary any money belonging to the beneficiary still in the procurator's possession.

Conditions of appointment of welfare organization or person by Agency

25. Whenever the Agency considers the nomination of a welfare organisation or an adult person in terms of section 15(3) of the Act, the Agency must ensure that the organisation or person concerned-

- a) is, with regard to the organisation, prior to such appointment, registered as a welfare organisation;
- b) has the financial and administrative capacity to act as contemplated in section 15(3) of the Act;
- c) will not require the person for whom he or she is nominated, to pay any fees, surcharges, bank or administration charges or make any contribution in any form to the welfare organization concerned;
- d) operates an account with a financial institution into which social assistance will be paid; and
- e) acts in the best interests of the applicant or beneficiary.

Appointment of person to receive and manage social grant in case of abuse of social grant

26.(1) Whenever the Agency appoints a person to receive a social grant on behalf of a beneficiary in terms of section 19(2) of the Act, it must ensure that the person acts in the best interest of the applicant or beneficiary.

(2) Whenever the Agency appoints a person contemplated in terms of subregulation (1), the provisions of regulation 24 (2) apply with the necessary changes.

(3) Upon the appointment of a person contemplated in subregulation (1), the person so appointed must furnish the Agency with proof of identification, a life certificate in respect of the beneficiary and an affidavit to the effect that the social grant will be used in the best interest of the beneficiary.

(4) The Agency may of its own accord or at the request of any person investigate the conduct of a person appointed in terms of section 19 (2) of the Act.

(5) The Agency must terminate the appointment contemplated in subregulation (1) if the person is not acting in the best interests of the beneficiary.

(6) The Agency must inform the person of the termination contemplated in subregulation (5) and provide reasons to that person for the termination in writing.

(7) The person whose appointment is terminated in terms of subregulation (5) must within 10 days of such termination, transfer to the beneficiary any money belonging to the beneficiary still in his or her possession.

CHAPTER 5

REVIEW OF SOCIAL GRANTS

Powers of Agency to suspend, increase or decrease amount of social grant on review

27.(1) The Agency must, within 90 days of the date on which a social grant will be reviewed, inform the beneficiary in writing of the date of such review.

(2) The Agency must review the social grant –

- a) at any time where it has reason to believe that changes in the beneficiary's financial circumstances may have occurred;
- b) on expiry of the validity of the identity document of a beneficiary, if the beneficiary is a refugee; or
- c) in case of a foster child grant, on expiry of the court order.

(3) The Agency must, in writing request a beneficiary to submit a life certificate annually to prove that he or she is still alive: Provided that a beneficiary who receives a social grant personally from a service provider who utilises biometric identification does not need to submit a life certificate.

(4) If a beneficiary fails to provide the requested information or documentation contemplated in section 4 (1)(b) of the SASSA Act, the Agency may within 30 days of notifying the beneficiary thereof in writing, suspend payment of the social grant, in which

case the beneficiary must, by completing the relevant documents, apply within 90 days of the suspension for the restoration of such social grant.

(5) If an application is made for the restoration of a social grant contemplated in subregulation (4), the Agency may restore the social grant from the date on which the social grant was suspended.

(6) If a beneficiary applies for a social grant to be increased and the Agency is satisfied that it should be increased, the social grant must be increased with effect from the date of application for such increase.

(7)(a) When a beneficiary informs the Agency of a change in financial circumstances and the social grant is to be decreased as a result of the change, the decrease will be effected from the first day of the month following the change in the beneficiary's financial circumstances.

b) The beneficiary must be informed in writing of the decrease, the reasons therefor and of the 90 day period for application to review the decision to decrease his or

her social grant.

(8) (a) Where evidence exists that changes in the medical or financial circumstances of a permanently disabled person have or may have occurred, the review of the social grant may be done in accordance with subregulation 8(b).

(b) The Agency, may, at any time from the date of application for a disability grant, request the beneficiary to undergo an assessment in terms of regulation 3(a).

Lapsing of social grant

28.(1) An older person's grant, a disability grant and a war veteran's grant lapse -

- a) on the last day of the month in which the beneficiary dies;
- b) when a beneficiary is admitted to an institution contemplated in regulation 2(d);

- c) six months after the date on which the beneficiary was admitted temporarily to a psychiatric hospital for observation or treatment and such beneficiary remains so admitted;
- d) when the period of temporary disability has expired in the case of a temporary disability grant; or
- e) if a refugee ceases to be a refugee.

(2) A child support grant lapses on the last day of the month in which the child-

- a) in respect of whom the child support grant is paid, dies;
- b) in respect of whom the child support grant is paid, attains the age of 15 years with effect from 1 January 2009; or
- c) is no longer in the custody of the primary care-giver.

(3) A foster child grant lapses –

- a) on the last day of the month in which the foster child dies;

- b) on the last day of the month in which the last living foster parent dies;
- c) on the last day of the month in which the foster child is, in terms of any Act, no longer in the custody of the foster parent;
- d) at the end of the calendar year in which the foster child attains the age of 18 years: Provided that in the case of a foster child or a disabled foster child who has attained the age of 18 years, the Agency may authorise the continuation of the payment of the foster child grant on the recommendation of a social worker in order to enable the person to complete his or her secondary schooling or training, or special educational training; or
- e) with effect from the first day of the month following the month in which the foster child leaves school: Provided that the Agency may authorise continuation of the payment of the foster child grant on the recommendation of a social worker in the case of a child under the age of 18 years, for an interim period not exceeding 12 months,

pending placement.

- (4)(a) A care dependency grant lapses on the -
- (i) last day of the month in which the care dependent child dies;
 - (ii) last day of the month in which the care dependent child attains the age of 18 years and becomes eligible for a disability grant; or
 - (iii) first day of the seventh month following the date on which the care dependent child was admitted to an institution funded by the State as contemplated in section 7 (b) of the Act.
- b) The Agency may, on the recommendation of a medical officer or social worker authorize the continuation of the payment of a care dependency grant to a person other than the beneficiary for an interim period not exceeding 12 months, pending placement of the care dependent child.

(5) Any social grant lapses if the beneficiary has not claimed the social grant for a period of three consecutive months: Provided that where the beneficiary applies for the restoration of the social grant within 90 days after the lapsing of the social grant, and the Agency is satisfied that failure to claim the social grant was due to circumstances beyond the control of the beneficiary, the Agency must direct that the social grant be restored from the date on which it was last claimed.

Procedure to be followed for suspension or cancellation of social assistance

29.(1) The Agency may suspend or cancel social assistance if the social assistance was -

- a) obtained fraudulently or through misrepresentation by any person contemplated in section 21 of the Act; or
- b) approved and granted in error.

2) Except for the circumstances contemplated in subregulation 1(a) the Agency must before suspending or cancelling social assistance give a beneficiary 90 days written notice of its intention to suspend or cancel the social assistance,

and provide the beneficiary with the following information-

- a) the effective date of the intended suspension or cancellation;
- b) the reasons for the intended suspension or cancellation;
- c) the right to make a representation contemplated in subregulation (5); and
- d) the right and procedure for appealing against the decision of the Agency.

(3) The notice of suspension or cancellation of social assistance contemplated in subregulation (2) must be delivered to the beneficiary or the procurator by hand or sent by registered post to the last known address of the beneficiary or procurator.

(4) The Agency must, prior to suspending or cancelling any social assistance, investigate, obtain and verify all the facts and circumstances surrounding the social assistance.

(5) The Agency must afford a beneficiary an opportunity to show

cause why the social assistance should not be suspended or cancelled by-

- a) requiring the beneficiary to appear in person before the Agency or a person designated by the Agency;
- b) requiring the beneficiary to submit any reports or certificates as the Agency may direct; and
- c) ensuring that the beneficiary obtains the necessary assistance to make representations to the Agency including, but not limited to, referring the beneficiary to any organisation or institution that may assist the beneficiary to make representations.

CHAPTER 6

SPECIAL CONDITIONS FOR CONTINUATION OF PAYMENT OF SOCIAL GRANT

Information to be furnished to Agency by financial institution

30. A financial institution must, at the request of the Agency and with the consent of the beneficiary, furnish the Agency with the following information:

- a) cash investments, bonds or loans or any outstanding debts in favour of the applicant or his or her spouse;
- b) any interest in shares, share capital or assets of a company or other institution;
- c) any endowment policies after maturity date and cash on hand or in any account with a financial institution;
- d) any property rights held by the applicant or his or her spouse; and
- e) any lump sum investment by the applicant or his or her spouse in a company or financial institution with the aim of procuring an annuity.

Payment of social grant to beneficiary who is absent from Republic

31.(1) The Agency may continue payment of a social grant to a beneficiary who is absent from the Republic for a period not exceeding 90 days under the following circumstances-

- a) where the beneficiary is outside the Republic for purposes of receiving medical attention;
- b) where the beneficiary is absent from the Republic and is certified by a medical practitioner to be unfit to travel back to the Republic; or
- c) where the Agency is satisfied that, for reasons beyond the control of the beneficiary, he or she is unable to return to the Republic: Provided that the Agency shall not accept as a reason the lawful arrest and detention of a beneficiary outside the Republic.

(2) The Agency may require any person who is absent from the Republic as contemplated in subregulation (1) and who continues to receive a social grant to -

- a) report at such frequency as the Agency may determine, to a South African mission or office designated by the Agency for purposes of identification; or
- b) present any qualifications as the Agency may determine for purposes of verifying any information in connection with the beneficiary.

CHAPTER 7

STANDARD RULES AND PROCEDURE APPLICABLE AT PAY-POINTS

Prohibition of creditors and other persons enforcing debts within area of pay-point

32. Any person owed any money by a beneficiary shall not, without the prior written approval of the Agency-

- a) enter any premises, building or place on any day or any time during the payment of social assistance to beneficiaries for the purposes of collecting from any such

beneficiaries any money owing in terms of any verbal or written agreement;

- b) accompany any beneficiary or a procurator to any pay-point on any day or at any time during which a beneficiary or a procurator is to receive any payment of social assistance for the purposes of collecting any money owing to such person by the beneficiary; or
- c) be within 100 metres of any pay-point.

Prohibition against conducting money-lending business at pay-point

33. No person may conduct any business, whether registered or not, within any pay-point for the purposes of soliciting a beneficiary to join any money-lending scheme or to borrow money from any such person.

Approval for person accompanying beneficiary to pay-point

34.(1) The Agency may grant approval to either a non-profit organisation, a non governmental organisation or a faith-based organisation, a member of staff, a person acting on behalf of any

such organisation or a community service worker to attend upon and be present during the payment of social assistance at a pay-point.

(2) The Agency may grant approval to an organisation or person authorised by the Agency to render any service to a beneficiary for the comfort or well-being of the beneficiary.

(3) An organisation or person contemplated in subregulation (2) must not require a beneficiary to -

- a) contribute financially or donate anything to such organisation or person in recompense for any such service rendered at the pay-point;
- b) do anything or act in any other manner inconsistent with the Act, any rule or procedure applicable to a pay-point in recompense for any such service;
- c) give any undertaking to support the activities of any such organisation or person.

General obligation of person accompanying beneficiary to

pay-point

35. A person accompanying a beneficiary and authorised to enter upon the premises of a pay-point must at all material times conspicuously display any identification card provided for that purpose by the Agency.

Accreditation of certain organisations and persons attending pay-out at pay-point

36.(1) The Agency may accredit an organisation, a member of staff, a person acting on behalf of any such organisation or a community service worker to attend upon and be present during the payment of social assistance at a pay-point for the purposes of -

- a) providing any service or assistance in any manner to a beneficiary to ensure the comfort and well-being of the beneficiary when receiving social assistance; and
- b) providing any meals or non-alcoholic drinks for the comfort and well-being of the beneficiary.

(2) An organisation or person authorised by the Agency to render any service or assistance to a beneficiary for the comfort or well-being of the beneficiary must-

- a) comply with any law, rule or procedure for the rendering of any such service or assistance;
- b) at its own cost, obtain any such approval, authorisation or exemption as may be required in terms of any other law applicable to the rendering of any such service or assistance;
- c) when rendering a service or assistance in terms of these regulations, comply with any standards, procedures or rules applicable to a pay-point; and
- d) report to the Agency any act or conduct of any person at the pay-point, which act or conduct is contrary to the Act, any policy, rules or procedures made under or in terms of the Act.

CHAPTER 8

GENERAL PROVISIONS

Application for unclaimed benefits

37. Social assistance is payable until the last day of the month in which a beneficiary or child dies, and unclaimed benefits must be paid by the Agency to the person liable for the funeral expenses of the beneficiary or child: Provided that an application for such payment is made within six months after the death of the beneficiary or child.

Repeal of regulations

38. (1) The regulations published by Government Notice R.418 in Government Gazette 18771 of 31 March 1998, Government Notice R.813 in Government Gazette 20235 of 25 June 1999, Government Notice R.1233 in Government Gazette 22852 of 23 November 2001, Government Notice R.460 in Government Gazette 24630 of 31 March 2003, and Government Notice R162 in Government Gazette 27316 of 22 February 2005 are hereby repealed;

(2) Despite regulation 38(1) of these regulations, regulations 4(4) (a) and 32(2)(b) of Regulation 8156 published in Government Notice R.162 in Government Gazette 27316 of 22 February 2005 remain in force until 31 December 2008.

Commencement

39. These Regulations come into effect on the date of publication of this notice.

ANNEXURE A

DETERMINATION OF FINANCIAL CRITERIA FOR OLDER PERSONS GRANT, DISABILITY GRANT AND WAR VETERAN'S GRANT

(1) The maximum amount of an older person's grant, disability grant or war veteran's grant shall from time to time be determined by the Minister with the concurrence of the Minister of Finance by notice in the Gazette.

(2) The formula for the determination of the value of the older persons grant, disability grant and war veterans grant to be paid to an applicant is -

$$D = 1,3A - 0,5B$$

where -

- (i) A = the maximum social grant payable per annum as approved;
- (ii) B = the annual income of the applicant in accordance with regulation 19, which shall include the income

from assets as determined in regulation 19(3), after permissible deductions contemplated in regulation 20 are effected;

(iii) D = annual social grant amount payable, which must not exceed the amount equal to A.

(3) Where a person in a spousal relationship has been deserted by his or her spouse for a continuous period of at least three months and the spouse is unwilling to support that person, the applicant is to be regarded as not being in a spousal relationship for the purpose of determining the means as contemplated in regulation 19.

(4) The Agency must, if it is convinced that a person in a spousal relationship was deserted by his or her spouse for a continuous period of at least three months, and the spouse is unwilling to support that person, grant approval to disregard the means of the spouse.

(5) No grant amounting to less than R100 per month is payable.

(6) No grant may be paid to any person not in a spousal relationship whose total assets as contemplated in regulation 19 exceeds 40 times A or to any person in a spousal relationship whose total assets exceeds 80 times A.

ANNEXURE B

DETERMINATION OF FINANCIAL CRITERIA FOR CHILD SUPPORT GRANT

(1) The amount payable in respect of a child support grant shall from time to time be determined by the Minister with the concurrence of the Minister of Finance by notice in the Gazette.

(2) (a) A primary care giver meets the financial criteria as contemplated in regulation 6(1)(a) if the income of the applicant, contemplated in regulation 19 after permissible deductions contemplated in regulation 20 are effected, is below the income threshold as referred to in paragraph (b).

(b) The formula for the determination of the income threshold for the child support grant is:

$A = B \times 10$; where —

I. A = annual income threshold, and

II. B = annual value of the child support grant

(3) Where a person in a spousal relationship has been deserted for a period of at least three months by his or her spouse and the spouse is unwilling to support that person, the applicant is to be regarded as not being in a spousal relationship for the purpose of determining the means as contemplated in regulation 19.

ANNEXURE C

DETERMINATION OF FINANCIAL CRITERIA FOR FOSTER CHILD GRANT

(1) The amount payable in respect of a foster child grant shall from time to time be determined by the Minister with the concurrence of the Minister of Finance by notice in the Gazette.

(2) A foster parent qualifies for a foster child grant regardless of such foster parent's income.

ANNEXURE D

DETERMINATION OF FINANCIAL CRITERIA FOR CARE DEPENDENCY GRANT

(1) The amount payable in respect of a care dependency grant shall from time to time be determined by the Minister with the concurrence of the Minister of Finance by notice in the Gazette.

(2) (a) A care dependency grant is not payable if the income of the applicant, contemplated in regulation 19, after the permissible deductions as prescribed in regulation 20, exceeds the income threshold as referred to in paragraph (b).

(b) The formula for the determination of the income threshold for the care dependency grant to be paid to an applicant is

$A = B \times 10$; where-

- i. A = annual income threshold, and
- ii. B = annual value of the care dependency grant.

(c) A foster parent qualifies for a care dependency grant regardless of such foster parent's income.