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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**NOTICE 247 OF 2019****INVITATION FOR PUBLIC COMMENTS
ON****THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995:
AMENDMENTS TO THE REGULATIONS RELATING TO ASSISTANCE TO
VICTIMS IN RESPECT OF BASIC EDUCATION****1. INVITATION**

- 1.1 The Department of Justice and Constitutional Development (the Department) invites interested parties to submit written comments on the proposed amendments to the Regulations relating to Assistance to Victims in respect of Basic Education (the Regulations), which are attached hereto as Annexure A. The proposed amendments to the Regulations and the note below, explaining the background of the proposed amendments, are also available on the website of the Department at the following address: <http://www.justice.gov.za>.
- 1.2 The comments on the proposed amendments to the Regulations must be submitted not later than **Friday, 31 May 2019**, marked for the attention of **Ms F Bhayat** or **Ms I Botha**, and –
- (a) if they are forwarded by post, be addressed to -
The Director-General: Justice and Constitutional Development
Private Bag X81
Pretoria
0001
 - (b) if they are delivered by hand, be delivered at –
SALU Building, Room 23.09 or 23.23
316 Thabo Sehume Street
Pretoria
 - (c) if they are delivered by email, be emailed to fbhayat@justice.gov.za or inbotha@justice.gov.za
 - (d) if they are faxed, be faxed to **086 754 8493** or **086 648 2289**
- 1.3 For further information, please do not hesitate to contact Ms F Bhayat on 012 406 4771 or Ms I Botha on 012 406 4756.

2. BACKGROUND NOTE

The following background information is hereby furnished in order to assist interested parties to comment on the proposed amendments to the Regulations.

- 2.1 The Regulations came into operation on 07 November 2014 (Government Notice No. R. 852 of 3 November 2014). The purpose of the Regulations is to provide for financial assistance to declared TRC victims and their relatives and dependants in respect of the following categories: Grade R (year preceding Grade 1) for 1 year; general education (Grades 1 to 9) for 5 years; and further education (Grades 10 – 12) for 3 years. The assistance covers school fees, a boarding allowance, a uniform allowance and a transport allowance.
- 2.2 In terms of regulation 3 of the Regulations, the Department must verify whether a person who has applied for assistance is a declared victim or a relative or dependant of a victim. The Department of Basic Education (DoBE) is responsible for considering the applications, based on the means test and other conditions, and the making of payments to the persons and institutions referred to in regulation 15 of the Regulations. The DoBE may, however, in terms of regulation 3(2) of the Regulations delegate its responsibilities to the National Student Financial Aid Scheme (NSFAS), established by section 3 of the National Student Financial Aid Scheme Act, 1999 (Act No. 56 of 1999). (NSFAS is defined in regulation 1 of the Regulations.) If NSFAS becomes involved in the administration of the applications, the DoBE must, in terms of regulation 3(3) of the Regulations, pay any fees charged by the NSFAS for the work performed. The DoBE has never delegated its responsibilities in terms of the Regulations to NSFAS.
- 2.3 Therefore, there is no need to retain the power of the DoBE to delegate its functions to NSFAS. The draft amendments to the Regulations thus include the following:
- (a) The deletion of regulation 3(2) and (3);
 - (b) the deletion of the definition of “NSFAS”; and
 - (c) amendments to other regulations which refer to NSFAS.
- 2.4 In terms of regulation 21 of the Regulations, the Regulations apply for a period of five years from the date of commencement thereof. These regulations expire on 8 November 2019. However, applications received by the Department before the date of expiry of the Regulations must be dealt with as if the Regulations had not expired, if the application for assistance is in respect of the year in which the Regulations expire and if funds are available.
- 2.5 (a) The reasons for the inclusion of an expiry clause in regulation 21 of the Regulations are mainly as follows:

- (i) To determine whether there are still funds in the President's Fund, established in terms of section 42 of the Act, for the purposes of defraying expenses relating to reparations, including basic educational assistance, after 5 years; and
 - (ii) to determine whether there is still a need for the assistance; and
 - (iii) to review the Regulations having regard to problems experienced in practice.
- (b) The review process refer to in paragraph (a) has already started but has not yet been completed. If the period of application of the Regulations is not extended, the Regulations will expire and it would not be possible to render assistance in respect of the 2020 academic year.

2.6 The draft amendments to the Regulations therefore also seek to extend the period of application of the Regulations from five years to six years. This will enable the Department to complete the review process.

ANNEXURE A

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2019

AMENDMENT OF REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN RESPECT OF BASIC EDUCATION: PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995

The President has, under section 27(2) of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995), made the Regulations in the Schedule.

SCHEDULE

Definitions

1. In this Schedule "the Regulations" means the Regulations published by Government Notice No. R. 853 of 3 November 2014.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended—

(a) by the substitution for the definition of “administrator” of the following definition:

“**administrator**” means an official in the Department designated by the Director-General for the purposes of dealing with applications for assistance in terms of these Regulations and matters related thereto;” and

(b) by the deletion of the definition of “National Student Financial Aid Scheme”.

Amendment of regulation 3 of the Regulations

3. Regulation 3 of the Regulations is hereby amended by the deletion of subregulations (2) and (3).

Amendment of regulation 16 of the Regulations

4. Regulation 16 of the Regulations is hereby amended by the substitution for paragraph (b) of subregulation (3) of the following paragraph:

“(b) proof of payment of the assistance in terms of the Regulations by the Department.”.

Amendment of regulation 21 of the Regulations

5. Subregulation (1) of regulation 21 of the Regulations is hereby substituted for the following subregulation:

“(1) These Regulations apply for a period of six years, calculated from 7 November 2014.”.