

Regulation Gazette

No. 11227

Regulasiekoerant

Vol. 667

25

**January
Januarie 2021**

No. 44099

Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Social Development, Department of/ Maatskaplike Ontwikkeling, Departement van			
R. 39	Social Assistance Act (13/2004): Amendments to Regulations to the Social Assistance Act, 2004 on Application, Eligibility for and Payment of Social Assistance.....	44099	3
R. 40	Social Assistance Act (13/2004): Amendments to the 2011 Regulations to the Social Assistance Act, 2004, on Lodging and Adjudication of Social Assistance Appeals.....	44099	53

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SOCIAL DEVELOPMENT**NO. R. 39****25 JANUARY 2021**

**CALL FOR COMMENTS 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 (ACT NO. 13 OF 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 within 30 calendar days 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 to:

The Department of Social Development
Chief Directorate: Social Assistance
164 Totius Street
Harlequins Office Park
Groenkloof
PRETORIA
0184;

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

A handwritten signature in black ink, appearing to read 'L. Zulu' with a stylized flourish underneath.

L ZULU (MP)
MINISTER OF SOCIAL DEVELOPMENT
DATE: 08/01/2021

Regulations relating to the Application for and Payment of Social Assistance and the Requirements or Conditions in respect of

Eligibility for Social Assistance

n GG 31356 of 22 August 2008 as amended by GN R67 in GG 31824 of 28 January 2009
[with effect from 1 November 2008] GN R208 in GG 31955 of 26 February 2009
[with effect from 1 November 2008] GN R591 in GG 32254 of 29 May 2009
GN R1252 in GG 32853 of 31 December 2009 [with effect from 1 January 2010]
GN R193 in GG 32917 of 12 March 2010 [with effect from 1 January 2010]
GN R232 in GG 34120 of 15 March 2011 [with effect from 1 December 2010]
GN R286 in GG 34169 of 31 March 2011 [with effect from 1 April 2011]
GN R566 in GG 34529 of 15 August 2011 GN R269 in GG 35205 of 30 March 2012
[with effect from 1 April 2012] GN 211 in GG 37474 of 28 March 2014
[with effect from 1 April 2014] GN R621 in GG 39007 of 21 July 2015
GN R511 in GG 39978 of 6 May 2016
GN R..... of 2021 in GG..... of 2021

The Minister of Social Development has, in terms of section 32 of the Social Assistance Act, 2004 (Act 13 of 2004), and with the concurrence of the Minister of Finance, made the regulations in the Schedule.

SCHEDULE CONTENTS

1. Definitions

CHAPTER 1

GENERAL REQUIREMENTS FOR ELIGIBILITY TO QUALIFY FOR SOCIAL ASSISTANCE

- 2. Persons eligible for older person's grant
- 2A. Additional payment linked to older person's grant
- 3. Persons eligible for disability grant
- 4. Persons eligible for war veteran's grant
- 5. Persons eligible for grant in aid
- 6A. Additional payment linked to child support grant
- 6. Persons eligible for child support grant
- 7. Persons eligible for foster child grant
- 8. Persons eligible for care dependency grant
- 9. Persons eligible for social relief of distress

CHAPTER 2 APPLICATION FOR SOCIAL ASSISTANCE

- 10. Procedure to be followed in application for social grant
- 11. Documents to accompany application for social grant
- 12. Date of application for social grant
- 13. Notification of outcome
- 14. Procedure to be followed in application for social relief of distress
- 15. Documents to accompany application for social relief of distress
- 16. Determination of amount and period of social relief of distress
- 16A. Exceptional circumstances under which social relief of distress may be provided
[Reg. 16A inserted by GN R67 of 28 January 2009 (wef 1 November 2008).]
- 17. Date of application for social relief of distress

CHAPTER 3 DETERMINATION OF FINANCIAL CRITERIA

18. 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
19. Determination of means
20. Permissible deductions when calculating applicant's income

CHAPTER 4

PAYMENT OF SOCIAL ASSISTANCE

21. Method of payment of social assistance
22. Payment of reduced social grant to person maintained in certain institution
23. Conversion of social grant
24. Appointment of procurator
25. Conditions of appointment of welfare organization or person by Agency
26. Appointment of person to receive and manage social grant in case of abuse of social grant
- 26A. Circumstances under which a deduction may be made directly from a social grant
[Reg. 26A added by GN R591 of 29 May 2009 and substituted by GN R511 of 6 May 2016.]

CHAPTER 5

REVIEW OF SOCIAL GRANTS

27. Power of Agency to suspend, increase or decrease amount of grant on review
28. Lapsing of social grant
29. Procedure to be followed for suspension or cancellation of social assistance

CHAPTER 6

SPECIAL CONDITIONS FOR CONTINUATION OF PAYMENT OF SOCIAL GRANT

30. Information to be furnished to Agency by financial institution

31. Payment of social grant to beneficiary who is absent from Republic

CHAPTER 7

STANDARD RULES AND PROCEDURE APPLICABLE AT AGENCY OFFICES AND PAY-POINTS

[Heading amended by GN R621 of 21 July 2015.]

32. Prohibition of credit providers and other persons conducting and marketing credit provider services within areas of Agency offices and pay-points
[Reg. 32 substituted by GN R621 of 21 July 2015.]
33. Prohibition of credit providers and other persons enforcing credit agreements within areas of Agency offices and pay-points
[Reg. 33 substituted by GN R621 of 21 July 2015.]
34. Approval for person accompanying beneficiary to pay-point

CHAPTER 8

GENERAL PROVISIONS

37. Application for unclaimed benefits
- 37A. Penalties
[Reg. 37A inserted by GN R621 of 21 July 2015.]
39. Commencement

ANNEXURES

Annexure A

Determination of financial criteria for older person's grant, disability grant
and war veteran's grant

Annexure B

Determination of financial criteria for child support grant

Annexure C

Determination of financial criteria for foster child grant

Annexure D

Determination of financial criteria for care dependency grant

1. Definitions

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-

"additional payments" means additional payments referred to in section 12A of the Act;

"advanced electronic signature" means "advanced electronic signature as defined in section 1 of the No. 25 of 2002: Electronic Communications and Transactions Act, 2002;

"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;]

(a) the medical or activity limitations examinations performed in the ordinary course of practice by a medical practitioner, or health practitioner,

(b) the evaluation of information in a medical or activity limitations report by a medical practitioner, or health practitioner in the absence of the applicant or beneficiary; or

(c) the evaluation of further reports should additional information be required by the assessing a medical practitioner, or health practitioner in the absence of the applicant or beneficiary where the information contained in the medical or activity limitations report is inconclusive or inadequate;

"assets" means assets referred to in regulation 19(3);

"biometrics" means **[a fingerprint or palm print]** **"biometrics"** as defined in section 1 of the Protection of Personal Information Act, No. 4 of 2013;

"birth certificate" means a birth certificate as referred to in the Births and Deaths Registration Act, 1992 (Act 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;

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

[Definition of 'card' inserted by GN R621 of 21 July 2015.]

“Child-headed household” means a “child-headed household” as defined in section 1 of the Children’s Act;

“child is in need of care and protection” means a child is in need of care and protection referred to in section 150 of the Children’s Act;

“Children’s Act” means the Children’s Act, 2005 (Act 38 of 2005) as amended;

[Definition of 'Children's Act', previously 'Child Care Act' substituted by GN R621 of 21 July 2015.]

“children’s court” means **[every magistrate’s]** children’s court as defined in **[the Magistrates’ Courts Act, 1944 (Act 32 of 1944)]** section 1 of the Children’s Act;

“cluster foster care scheme” means a cluster foster care scheme as defined in the Children’s Act **[, 2005 (Act 38 of 2005) as amended]**;

[Definition of 'cluster foster care scheme' inserted by GN R621 of 21 July 2015.]

“credit provider” means credit provider as defined in the National Credit Act, 2005 (Act 34 of 2005) as amended;

[Definition of 'credit provider' inserted by GN R621 of 21 July 2015.]

[‘designated officer’ -

(a) means an official in the employ of the Agency; and

(b) for purposes of social relief of distress means any person designated as such by the Agency;]

[Definition of 'designated officer' substituted by GN R67 of 28 January 2009 (wef 1 November 2008).]

[‘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;]

"electronic communication" means electronic communication as defined in section 1 of the No. 25 of 2002: Electronic Communications and Transactions Act, 2002;

"electronic signature" means electronic signature as defined in section 1 of the No. 25 of 2002: Electronic Communications and Transactions Act, 2002;

"financial institution" means-

- (a) a bank as defined in section 1(1) of the Banks Act, 1990 (Act 94 of 1990), or a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act 124 of 1993);
- (b) a long-term insurer as defined in section 1 of the Long-Term Insurance Act, 1998 (Act 52 of 1998);
- (c) a short-term insurer as defined in section 1 of the Short-Term Insurance Act, 1998 (Act 53 of 1998); or
- (d) any other institution or body deemed or declared to be a financial institution in terms of any other law;

"health practitioner" means health practitioner as defined in section 1 of the Health Professions Act 56 of 1974;

"identity document" means the identity card referred to in the Identification Act, 1997 (Act 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 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, a treatment centre as defined in section 1 of the Prevention and Treatment of Drug Dependency Act, 1992 (Act 20 of 1992) or a child and youth care centre as described in section 191(1) of the Children's Amendment Act, 2007 (Act 41 of 2007), which is wholly funded by the State;

[Definition of 'institution funded by the state' substituted by GN R208 of 26 February 2009 (wef 1 November 2008).]

"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] a medical practitioner, or health practitioner in the service of the State;

"medical practitioner" means [any person referred to as a] **medical practitioner [or intern under]** as defined in section 1 of the Health Professions Act, 1974 (Act 56 of 1974) [or a person mentioned in section 24A of that Act];

"orphan" means an orphan as defined in section 1 of the Children's Act;

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

"permanent care" – means caring for a care dependent child on a 24 hour basis by-

- (a) a primary care giver,
- (b) a special school,
- (c) care centre, or
- (d) any combination of the above.

['permanent resident' means a person who is lawfully and permanently resident in the Republic;]

"person" for the purpose of social relief of distress in the event of a disaster means the head of the household or any person within the household acting on his or her behalf;

[Definition of 'person' inserted by GN R621 of 21 July 2015.]

"prevention and early intervention programmes" means prevention and early intervention programmes referred to in Chapter 8 of the Children's Act

"refugee" means a person referred to in section 1 of the Refugees Act, 1998 (Act 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;

[Definition of 'refugee' substituted by GN R269 of 30 March 2012 (wef 1 April 2012).]

"relative" in relation to an orphan means:

- (a) a parent of the child;
- (b) any other person who has parental responsibilities and rights in respect of the child; or
- (c) a grandparent, brother, sister, uncle, aunt or cousin of the child;

"representative" means an authorised representative of a non-profit organisation registered as a child protection organisation managing a cluster foster care scheme;

[Definition of 'representative' inserted by GN R621 of 21 July 2015.]

"resident" means resident as defined in section 1 of the Immigration Act, No.13 of 2000;

"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 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 biometric identification and 'signature' has a corresponding meaning];

"Sign" means the use of biometrics, electronic signature or advanced electronic 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 110 of 1978);

"spouse" means a person who is the spouse or partner of a person in accordance with the Marriage Act, 1961 (Act 25 of 1961), the Recognition of Customary Marriages Act, 1998 (Act 120 of 1998) or the Civil Union Act, 2006 (Act 17 of 2006) or the tenets of any Asiatic religion and **"spousal relationship"** has a corresponding meaning;

"Support services"- means:-

(a) day care facilities;

(b) stimulation centre;

(c) early childhood development services for children with disabilities; and

(d) education for learners with special education needs schools;

"temporary safe care" means temporary safe care as defined in the Children's Act, 2005 (Act 38 of 2005) as amended;

[Definition of 'temporary safe care' inserted by GN R621 of 21 July 2015.]

"the Act" means the Social Assistance Act, 2004 (Act 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 ELIGIBILITY TO QUALIFY FOR SOCIAL ASSISTANCE (regs 2-9)

2. **Persons eligible for older person's grant**

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 South African citizen, permanent resident or a refugee.

[Para. (e) substituted by GN R269 of 30 March 2012 (wef 1 April 2012).]

2.A Additional payment linked to older person's grant

(a) Subject to regulation 2 a person who is eligible for an older person's grant is also eligible for an additional payment linked to that grant if that person is over the age of 75 years.

(b) The payment referred to in subregulation (a) is subject to the concurrence of the Minister of Finance as contemplated in section 12A of the Act.

3. Persons eligible for disability grant

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 with a disability and who has attained the age of 18 years and-

(a) he or she is a South African citizen, permanent resident or a refugee residing in the Republic of South Africa;

(b) the disability is confirmed by an assessment which indicates **[whether]** that 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;]

Provided that where an application for a disability grant was previously declined on medical reasons, the applicant must furnish proof that there has been a significant deterioration in his or her medical condition.

(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.

4. Persons eligible for war veteran's grant

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.

5. Persons eligible for grant-in-aid

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.

6. Persons eligible for child support grant

(1) In addition to the requirements contemplated in section 6 of the Act and subject to subregulation (2), a primary care giver is **[, with effect from 1 January 2010,]** eligible for a child support grant in respect of a child if-

[(a) the child was born after 31 December 1993;]

Para. (a) substituted by GN R193 of 12 March 2010 (wef 1 January 2010).

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

(b) **[(c)]** he or she meets the requirements of the financial criteria set out in Annexure B;

(c) ~~[(d)]~~ he or she is not formally or informally employed to take care of the child;

(d) ~~[(e)]~~ the child concerned is not resident in an institution funded by the State;

(e) ~~[(f)]~~ he or she or any other person is not already in receipt of a social grant in respect of that child; and

(f) ~~[(g)]~~ he or she is a South African citizen, a permanent resident or a refugee.

Para. (g) substituted by GN R269 of 30 March 2012 (wef 1 April 2012).

Subreg. (1) amended by GN R193 of 12 March 2010 (wef 1 January 2010).

(2) A primary care giver who has applied for and has been granted a child support grant in terms of this regulation, shall, subject to subregulation (6)(1), continue to receive such grant until the child reaches the age of 18 years.

(3) 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.

(4) If more than one person claims to be the primary care giver of the, 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.

(5) The primary care must:

(a) in respect of a child between the ages of seven and 18 years, cause such a child to be enrolled at and to attend school;

(b) within one month of approval of a child support grant in respect of a child referred to in paragraph (a), provide proof of school or an educational institution enrolment and attendance to the Agency; and

[(c) every six months after the period referred to in paragraph (b), submit to the Director-General of the National Department of Social Development that child's recent school or educational institution report signed by the principal or head of that school or institution; and]

~~[(d)]~~ (c) where a child referred to in paragraph (a) is not enrolled or fails to attend school, notify the Director-General of the National Department of Social Development, in writing.

(6) The Head of Department, as defined in section 1 of the South African Schools Act, 1996 (Act 84 of 1996) must, in addition to the provisions of section 3(5) of Act 84 of 1996, notify the Director-General of the National Department of Social Development, in writing, of any child referred to in regulation ~~[6(1)]~~ 5(a) who is not enrolled at or fails to attend a school.

(7) The Director-General must, upon receipt of a notice as contemplated in subregulation (5)(d) or (6) or a school report as contemplated in subregulation (5)(c) or (6) indicating that a child is not attending school or is not enrolled at the school **[where he or she has not received such a report enrolled at or fails to attend school]-**

(a) cause a social service professional **[worker]** to investigate, in consultation with the National Department of Basic Education, and report to him or her the circumstances which lead to such a child not to be enrolled at or fail to attend school; and

(b) upon receipt of report as contemplated in paragraph (a) take appropriate steps to ensure that the child is enrolled at and attends school.

Reg. 6 substituted by GN R1252 of 31 December 2009 (wef 1 January 2010).

(9) A child who heads a child-headed household is, subject to regulation (6)(1) (a) to (f) eligible for a child support grant in respect of himself or herself.

6A. Additional payment linked to child support grant

(1) In addition to the child support grant contemplated regulation 7, a primary care giver, subject to subregulation (2), qualifies for additional payment linked to a child support grant already being received or to be received in respect of that orphan if the primary caregiver -

(a) is a relative of an orphan; and

(b) cares for an orphan.

(2) A primary caregiver contemplated in subregulation (1) who applies for and additional payment in respect of the orphan must produce proof that the child is an orphan in the form of:

(a) certified copies of the death certificate of the child's parents;
or

(b) where the death certificate of another parent of the child cannot be obtained by the applicant, where the child who has both parents an affidavit by the applicant attesting to the death or the unknown status of the child's other parent.

(3) Whatever the case might be proof of death as contemplated in subregulation (2) must be accompanied by at least one certified copy of the death certificate in respect of one parent and an affidavit as contemplated in subregulation (2)(b) in respect of the second or another parent of the same child.

(4) The Agency must, after awarding an additional payment linked to a child support grant, refer the details of such a relative and the orphan, to the head of the Provincial Department of Social Development to enable such a Department to assess whether-

(a) the orphan or family is in need of prevention and early intervention programmes; or

(b) the child is in need of care and protection.

(5) The payment referred to in regulation is subject to the concurrence of the Minister of Finance as contemplated in section 12A of the Act.

7. Persons eligible for foster child grant

(1) In addition to the requirements contemplated in section 8 of the Act, a foster parent or representative is eligible for a foster child grant if-

(a) the foster parent is:

- (i) a South African citizen, a permanent resident, or a refugee; and
- (ii) resides in the Republic.

(b) the cluster foster care scheme is registered by the Head of the Provincial Department of Social Development;

(c) the child is placed and remains in the care of the foster parent or cluster foster care scheme in terms of the Children's Act; and

(d) the child is not admitted to an institution funded by the State.

(2) A foster parent may not be eligible for a foster child grant for more than six children except where the children are siblings or blood relations or the

court considers this for any reason to be in the best interest of all the children as contemplated in section 185(1) of the Children's Act.

(3) A registered cluster foster care scheme may be eligible for a foster child grant for more than 6 children as contemplated in section 185(2) of the Children's Act.

[Reg. 7 substituted by GN R621 of 21 July 2015.]

8. Persons eligible for care-dependency grant

(1) 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[.] ;

(c) he or she is a South African citizen, a permanent resident or a refugee[.] ; and

[Para. (c) added by GN R566 of 15 August 2011.]

(d) an assessment confirms that the health condition is temporary in that the health condition will continue for a period determined by the medical or health practitioner and for a period of not more than five years".

(2) The Agency may, at any time after the care dependency grant has been approved, require the care dependent child to undergo an assessment.

(3) Upon receipt of evidence that changes in the health condition of a care dependent child have occurred, the Agency must review the care dependency grant.

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 **[or representative of a cluster foster care scheme]** in need of temporary assistance qualifies for social relief of distress if he or she is-

[(a) has insufficient means; and]

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

(b) [is] a South African citizen or a permanent resident or a refugee and resides in the Republic who- [and complies with any of the following conditions-]

(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;[.]

(dd) has died; and

(ee) does not receive maintenance from a person legally obliged to pay maintenance to him or her, or

(iii) a person may qualify for social relief of distress if his or her 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 persons household has been determined by the Agency as such based on the needs of the affected community.

(2) Subject to the provisions of subregulation (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.

(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 subregulation (5), be recovered from any social grant payment, including an arrear payment.

(5) Notwithstanding the provisions of subregulation (1), in the event of a declared **[or undeclared]** disaster:

(a) **[a]** any 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).

(b) the value of social relief of distress paid to a person as a result of a disaster referred to in paragraph (a), may not be recovered from any social grant payment, including an arrear payment.

(c) a list of 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) Notwithstanding the provisions of subregulations (1) and (5)(a), and subject to subregulation 5(b) in the event of an undeclared disaster any person may qualify for social relief of distress if that household has been affected by a disaster.

(7) In respect of subregulation (6) 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.

CHAPTER 2

APPLICATION FOR SOCIAL ASSISTANCE (regs 10-17)

10. Procedure to be followed in application for social grant

(1) A person or his or her procurator applying for social **[grant]** assistance must **[present himself or herself at an office of the Agency or any other designated place, in order to]** complete the relevant application forms manually or electronically **[in the presence of a designated officer]** and submit it to the Agency.

(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 person or his or her procurator must sign 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]** and submit it to the Agency.

(5) **[The certification contemplated in sub regulation (4) must be verified by another designated officer]** The person or his or her procurator applying for social assistance must certify that all the application requirements have been complied with and the Agency shall verify that such requirements have been complied with.

(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; and
- (c) reflect the name and identity number of that **[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; and
- (c) type of social grant applied for. **[; and]**
- [(d) name of the designated officer.]**

11. Documents to accompany application for social grant

(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]** and

- (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 by the primary care-giver of the child **[from a police official];**

(ii) **[a report from a social worker]** a confirmation letter from a social service professional;

- (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).

12 . Date of application for social grant

(1) The date on which an application for a social grant is **[signed]** lodged with the Agency 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.

13. Notification of outcome

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

(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.]** may be given by electronic communication or any other means of communication.

(3) Upon approval of an application for a social grant, the Agency must inform the applicant, subject to the means of communication referred to in subregulation (2), [in writing] of such approval including: [and]

(a) **[of]** the payment details;

(b) **[of]** the obligations of the applicant to notify the Agency of a change in his or her 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.

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[-]

[(a)] completed and signed by the applicant or his or her procurator **[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.

(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 a 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 of such approval, 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;

[(b) the applicant's right to request the Agency to reconsider its decision;] and

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

[(d)] (c) the mechanism and procedure for lodging **[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.
- [Reg. 14 substituted by GN R621 of 21 July 2015.]

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 insufficient means, by way of a declaration of assets and income;]

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

(e) proof of temporary medical disability; or

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

(g) 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.

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, 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 maximum amount payable per month in respect of an older person's grant for each spouse;

(c) a child, 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.

(2) Social relief of distress must be issued monthly but may not be paid for a period exceeding three successive months.

(3) Social relief of distress may, at the end of the period contemplated in sub-regulation (2), and on the recommendation of a social worker or any other person designated by the Agency, be extended for a further period 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 worker.

(5) 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).

17. Date of application for social relief of distress

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]** lodged.

CHAPTER 3

DETERMINATION OF FINANCIAL CRITERIA (regs 18-20)

18 . 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

(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 antenuptial 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.

19. Determination of means

(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[.], provided that such impoverishment or relinquishment shall not be taken into account after a period of 5 years has lapsed from the date of such impoverishment or relinquishment.

20. Permissible deductions when calculating applicant's income

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 per cent 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 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 (regs 21-26A)**21. Method of payment of social assistance**

(1) The Agency shall pay a social grant-

(a) into a bank account of the beneficiary or institution where the beneficiary resides; provided that,

(i) the beneficiary of the social grant has [consents] consented to payment in accordance with subregulation 21(1)(a) by any means of communication including electronic communication [in writing] and has submitted such consent **[in person]** to the Agency;

(ii) where a beneficiary is unable to submit the consent contemplated in subparagraph (i) **[in person,]** alternative arrangements must be made with the Agency; or,

(b) by the payment method determined by the Agency.

[Subreg. (1) substituted by GN R511 of 6 May 2[016.]

(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.

(4) The method of payment contemplated in subregulation 1(b) shall not allow for any deductions, except for deductions allowed for in terms of the Act.

[Subreg. (4) added by GN R511 of 6 May 2016.]

22. Payment of reduced social grant to person maintained in certain institutions

(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]** funded by the State to care for and maintain such beneficiary, the relevant social grant must be reduced to an amount equal to 25 per cent 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.

23. Conversion of social grant

(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.

24. Appointment of procurator

(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.

25. Conditions of appointment of welfare organization or person by Agency

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.

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

(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.

26A. Circumstances under which a deduction may be made directly from a social grant

(1) The Agency may allow only one deduction per month not exceeding 10 per cent of the value of the beneficiary's social grant for a funeral policy issued by an insurer registered under the Long-term Insurance Act, 1998 (Act 52 of 1998) to be made directly from a social grant where-

(a) the beneficiary of the social grant consents to such deduction [**in writing**] by any other means of communication including electronic communication and has submitted such consent by any other means of communication including electronic communication [**in person to**] the Agency;

(b) a beneficiary is unable to submit the consent contemplated in paragraph (a) in person, alternative arrangements must be made with the Agency.

(2) Despite subregulation (1) no deduction may be made in respect of a-

- (a) foster child grant;
- (b) care dependency grant;
- (c) child support grant; and
- (d) social grant awarded for a period not exceeding twelve months.

(3) Active deductions for funeral insurance or a funeral scheme from social grants that are excluded in terms of subregulation (2) may continue to be deducted from a social grant for a period not exceeding six months following publication of these Regulations to allow the beneficiaries and financial service providers to make alternative payment arrangements.

[Reg. 26A added by GN R591 of 29 May 2009 and substituted by GN R511 of 6 May 2016.]

CHAPTER 5

REVIEW OF SOCIAL GRANTS (regs 27-29)

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

(1) The Agency must, within ~~[90]~~ 30 days of the date on which a social grant will be reviewed, inform the beneficiary **[in writing]** by any other means of communication including electronic communication 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; or **[.]**

(d) in the case of a care dependency grant, where evidence exists that the physical or mental disability of the child may no longer be permanent.

(e) in the case of a review contemplated in subregulation (2)(d) the Agency may, subject to that subregulation request primary care-giver or a foster parent to make the child available for re-assessment of his or her physical or mental disability.

(3) The Agency must, by any other means of communication including electronic communication **[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]** by any other means of communication including electronic communication, suspend payment

of the social grant, in which case the beneficiary must, by completing the relevant documents, apply within **[90] 30 working** 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]** by any other means of communication including electronic communication of the decrease, the reasons therefor and of the **[90] 30** 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).

28. Lapsing of social grant

(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-
 - (a) in which the child in respect of whom the child support grant is paid, dies;
 - (b) in which the child in respect of whom the child support grant is paid, attains the age of 18 years;
 - (c) in which the child is no longer in the custody of the primary care-giver; or
 - (d) if a primary care-giver, in respect of that child, ceases to be a refugee.
- [Subreg. (2) amended by GN R193 of 12 March 2010 (wef 1 January 2010) and substituted by GN R269 of 30 March 2012 (wef 1 April 2012).]
- (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 or ceases to be a refugee;
 - (c) on the last day of the month in which the foster child, in terms of the Children's Act, is no longer in the care of the foster parent or a cluster foster care scheme; or
 - (d) at the end of the calendar year in which the foster child attains the age of 18 years.
 - (e) Notwithstanding the provisions of subregulation (3)(b), (c) and (d) the Agency may continue payment of a foster child grant:
 - (i) in respect of a foster child under the age of 18 years to an alternative caregiver or designated child protection organisation on the recommendation of a social worker for an interim period not exceeding 6 months pending placement; or
 - (ii) in respect of a foster child who has attained the age of 18 years, provided that the provincial head of social development allows such a person to remain in the care of the current alternative care-giver to enable the person to complete his or her education or training.
 - (f) Subject to the provisions of subregulation (3)(e)(ii) a foster child grant may be payable until the end of the calendar year in which the person

attains the age of 21 years provided that the provincial head of social development's decision that the person remain in the care of the current alternative care-giver be submitted to the Agency annually.

[Subreg. (3) amended by GN R269 of 30 March 2012 (wef 1 April 2012) and substituted by GN R621 of 21 July 2015.]

- (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.
 - (iv) if a parent, primary care-giver or foster parent ceases to be a refugee.

[Subpara. (iv) added by GN R269 of 30 March 2012 (wef 1 April 2012).]

(b) The Agency may, on the recommendation of a medical officer, health professional, or allied health professional or social worker, authorise 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.]

29. Procedure to be followed for suspension or cancellation of social assistance

(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 30 [90] days [written] notice by any form of communication including electronic communication 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]** any form of communication including electronic communication.

(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 (regs 30-31)**

30. Information to be furnished to Agency by financial institution

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.

31. Payment of social grant to beneficiary who is absent from Republic

(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 AGENCY OFFICES AND PAY-POINTS (regs 32-36)

[Heading amended by GN R621 of 21 July 2015.]

32. Prohibition of credit providers and other persons conducting and marketing credit provider services within areas of Agency offices and pay-points

(1) Subject to the provisions of section 20(1) and (2) of the Act-

(a) A person, must not market or offer any form of credit, whether or not that person is registered as a credit provider, within any Agency offices or pay-point for the purposes of soliciting or enticing a beneficiary to engage in any form of credit or credit granting, funeral scheme or life insurance scheme.

(b) The Agency branded card must not be ceded, pledged or retained to secure a loan, repayment of debt or payment of a funeral or insurance premium.

[Reg. 32 substituted by GN R621 of 21 July 2015.]

33. Prohibition of credit providers and other persons enforcing credit agreements within areas of Agency offices and pay-points

Subject to the provisions of section 20(1) and (2) of the Act a credit provider, credit agent or any person must not-

[(1) A credit provider, credit agent or any person must not-]

(a) enter any Agency office or any pay-point premises, building or place on any day or any time during the payment of social assistance for the purposes of engaging or offering to engage in any form of credit or concluding a credit agreement or contract or collecting from any such beneficiaries any money owing in terms of any verbal or written credit agreement or contract;

(b) accompany a beneficiary or a procurator to any Agency office or pay-point on any day or at any time during which a beneficiary or a procurator is to receive payment of social assistance for the purposes of engaging or offering to engage in any form of credit, concluding a credit agreement, funeral policy, life insurance policy or collecting money owing to such person by the beneficiary in terms of any form of credit agreement; or

(c) be within 100 metres of any pay-point for purposes of engaging or offering to engage in any form of credit, concluding a credit agreement, funeral policy, life insurance policy or collecting money owing to such person by the beneficiary in terms of any form of credit agreement.

[Reg. 33 substituted by GN R621 of 21 July 2015.]

34 . Approval for person accompanying beneficiary to pay-point

(1) The Agency may grant approval to 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.

**[35. General obligation of person accompanying beneficiary to pay-point
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.]**

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

(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 (regs 37-39)

37. Application for unclaimed benefits

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]** to the next of kin: Provided that an application for such payment is made within six months after the death of the beneficiary or child.

37A. Penalties

A person who contravenes any provision of the regulations to the Social Assistance Act, 2004 will be guilty of an offence and liable on conviction to a fine or imprisonment or both such fine and imprisonment.

[Reg. 37A inserted by GN R621 of 21 July 2015.]

[38. Repeal of regulations

- (1) The regulations published by Government Notice R418 in Government Gazette 18771 of 31 March 1998, Government Notice R813 in Government Gazette 20235 of 25 June 1999, Government Notice R1233 in Government Gazette 22852 of 23 November 2001, Government Notice R460 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.]

39. Commencement

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

[Annexure A amended by GN R286 of 31 March 2011 (wef 1 April 2011) and by GN 211 of 28 March 2014 (wef 1 April 2014).]

- (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-
$$D = 1,6A - 0,4B$$
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.
[Para. 2 substituted by GN R286 of 31 March 2011 (wef 1 April 2011) and by GN 211 of 28 March 2014 (wef 1 April 2014).]
- (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 55 times A or to any person in a spousal relationship whose total assets exceeds 110 times [A].
[Para. 6 substituted by GN R286 of 31 March 2011 (wef 1 April 2011).]

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].** The amounts payable per child 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. Provided that the Minister, with the concurrence of the Minister of Finance, may determine a supplementary amount for a primary care-giver who is a relative caring for an orphan child.)

(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 X 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.

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. R. 40

25 JANUARY 2021

**CALL FOR COMMENTS RELATING TO THE REGULATIONS ON LODGING
AND ADJUDICATION OF APPEALS FOR SOCIAL ASSISTANCE AS WELL
AS THE APPOINTMENT OF THE INDEPENDENT TRIBUNAL IN TERMS OF
THE SOCIAL ASSISTANCE ACT, 2004 (ACT NO.13 OF 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 on 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 within 30 calendar days 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 to:

The Department of Social Development
Chief Directorate: Social Assistance
164 Totius Street
Harlequins Office Park
Groenkloof
PRETORIA
0184;

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

A handwritten signature in black ink, appearing to read 'L. Zulu'.

L ZULU (MP)

MINISTER OF SOCIAL DEVELOPMENT

DATE: 08/01/2021

**Regulations relating to the Lodging [and Consideration of Applications
for Reconsideration of Social Assistance Application by the Agency and
Social Assistance Appeals by the Independent Tribunal]**

**APPLICATIONS FOR SOCIAL ASSISTANCE APPEALS AND THE
CONSIDERATION AND ADJUDICATION OF APPEALS BY THE
INDEPENDENT TRIBUNAL**

Published under GN R746 in GG 34618 of 19 September 2011 [with effect from 3 October 2011] The Minister of Social Development has, in terms of section 32 of the Social Assistance Act, 2004 (Act 13 of 2004), as amended, made regulations set out in the Schedule hereto.

SCHEDULE

CONTENTS

CHAPTER 1 DEFINITIONS

1. Definitions

CHAPTER 2

**[APPLICATION FOR RECONSIDERATION AND CONSIDERATION OF
THE APPLICATION]**

2. Application for reconsideration
3. Consideration of an application for reconsideration]

CHAPTER 2

**THE RESPONSIBILITIES OF THE AGENCY IN THE ADMINISTRATION OF
SOCIAL ASSISTANCE APPEALS**

2. Lodging of appeal through an office of the Agency
3. Receipt of request for critical documentation from the Independent Tribunal

CHAPTER 3**APPOINTMENT AND COMPOSITION OF INDEPENDENT TRIBUNAL**

4. Appointment

5. Composition

Qualifications and experience of members of Independent Tribunal

6. Legal practitioner

7. Medical practitioner

CHAPTER 4**ROLES AND POWERS OF INDEPENDENT TRIBUNAL**

8. Legal practitioner

9. Medical practitioner

10. Powers of Independent Tribunal

11. Ethical conduct of members of Independent Tribunal

CHAPTER 5**LODGING OF APPEAL AND CONDONATION**

12. Lodging appeal

13. Condonation of late lodging of appeal

CHAPTER 6**CONSIDERATION OF APPEAL [16] (14-16)**

14. Consideration of appeal

15. Decision by the Independent Tribunal

16. Medical examination of applicant or beneficiary

CHAPTER 7**ADMINISTRATION OF APPEALS (17-23)**

17. Receipt, acknowledgement and request for further information
18. Communication of decision
19. Application which does not constitute an appeal
20. Withdrawal of an appeal
21. Record keeping
22. Legal notice
23. Commencement

ANNEXURE

ANNEXURE A Consolidated Forms

CHAPTER 1

DEFINITIONS (reg. 1)

1. Definitions and interpretation

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

"critical documentation" means the documentation or information which is legible and complete required by the Independent Tribunal to consider and adjudicate an appeal which must be legible and complete;

"electronic communication" means electronic communication as defined in section 1 of the No. 25 of 2002: Electronic Communications and Transactions Act, 2002;

"health practitioner" means health practitioner as defined in section 1 of the Health Professions Act 56 of 1974;

"legal practitioner" means legal practitioner as defined in section 1 of the definition section of the Legal Practice Act, Act No. 28 of 2014;

"medical officer" means a medical practitioner, or health practitioner, or health professional in the service of the State;

'medical practitioner' means 'medical practitioner' as defined in the Health Professions Act, 1974 (Act 56 of 1974) as amended;

'the Act' means the Social Assistance Act, 2004 (Act 13 of 2004) as amended from time to time;

'2008 Regulations' means the Regulations made in terms of section 32 of the Social Assistance Act, 2004, relating to the application for and payment of social assistance and the requirements or conditions in respect of eligibility for social assistance, published in Government Gazette 31356 dated 22 August 2008, Government Notice R898 in Government Gazette 8948, as amended.

CHAPTER 2 [APPLICATION FOR RECONSIDERATION AND CONSIDERATION OF THE APPLICATION (regs 23) [Section 18(1)]]

2. Application for reconsideration

- (1) An applicant, beneficiary or a person acting on his or her behalf, who disagrees with the decision by the Agency as contemplated in section 18(1) may apply to the Agency in terms of section 18(1) of the Act requesting the Agency to reconsider its decision in a form similar to Form 1 in Annexure A to these Regulations.**
- (2) A reconsideration contemplated in subregulation (1):**
 - (a) must be lodged with the Agency;**
 - (b) may be delivered by hand, post, fax or electronic mail; and**
 - (c) must be accompanied by all documents indicated in Form 1.**
- (3) An application contemplated in subregulation (1) must, subject to subregulation (4)(a)(i) or (ii), be based on the same information which was supplied to the Agency.**
- (4) (a) The information contemplated in subregulation (3) must, in the case of**
 - (i) an applicant, be the same information which was provided to the Agency when the application on which the request for reconsideration is based was made; and**
 - (ii) a beneficiary, be the same information which was provided to the Agency when the review contemplated in regulations [sic] 27 of the 2008 Regulations was made; and be based on the information provided by the social worker to the Agency as contemplated in regulation 28(3)(d) and (e) of the 2008 Regulations when the Agency refused to authorise the continuation of the payment of the foster child grant;**

- (b) The information contemplated in subregulation (3) may be accompanied by:**
- (i) any document provided by the Agency as proof of receipt of an application for social assistance;**
 - (ii) a copy of a letter of rejection or approval, by the Agency, of an application for social assistance;**
 - (iii) any other relevant document in relation to the application; and**
 - (iv) in the case of a person applying on behalf of the beneficiary or applicant, a copy of the power of attorney or proof of his or her appointment by the applicant or beneficiary to act on his or her behalf.**
- 3. Consideration of an application for reconsideration**
- (1) The Chief Executive Officer of the Agency or his or her delegate must, subject to subregulation (3), assign such number of officials as may be necessary to consider applications contemplated in regulation 2.**
 - (2) An official contemplated in subregulation (1) must occupy a position that is higher in rank to that of the official or officials who considered the application in respect of which the applicant or beneficiary or a person acting on his or her behalf is requesting reconsideration.**
 - (3) An official contemplated in subregulation (1) shall consider an application contemplated in regulation 2 sitting alone.**
 - (4) The Agency must, within 90 days of receipt of an application contemplated in regulation 2 and after consideration of the application**
 - (a) uphold the application;**
 - (b) dismiss the application and provide reasons thereof in a form contemplated in subregulation (5); or**
 - (c) vary the Agency's decision.**
 - (5) The decision and reasons thereof contemplated in subregulation (4) must be communicated, within the period stipulated in subregulation (4), to the person referred to in regulation 2(1) in a form similar to Form 2 in Annexure A to these Regulations.**
 - (6) In the case where the Agency fails to reconsider its decision within the stipulated period of receipt of such an application for reconsideration, the Agency is regarded to have confirmed the decision leading to the application for reconsideration by the applicant, beneficiary or person acting on his or her behalf.**

- (7) An applicant, beneficiary or a person acting on his or her behalf, may, by means of a written notice, at any time prior to the finalisation of the reconsideration by the Agency, withdraw such application for reconsideration in a form similar to Form 12 in Annexure A to these Regulations.]**

Lodging of appeal through an office of the Agency

2. If an applicant or beneficiary does not qualify for social assistance in terms of the Act, the Agency must-

(a) inform the applicant or beneficiary, by any means of communication including electronic communication, that he or she may lodge an appeal with the Independent Tribunal within a period of 90 days from the date of the decision by the Agency and the appeal processes which need to be followed;

(b) where the applicant or beneficiary indicates that he or she wants to lodge an appeal, assist the applicant or beneficiary to complete the Appeal Form;

(c) where an applicant or beneficiary has failed to lodge an appeal within the 90 day period from the date of the Agency's decision, assist the applicant or beneficiary to complete a Condonation Form;

(d) where an applicant or beneficiary indicates that he or she wants to lodge an appeal directly to the Independent Tribunal and not through the Agency, provide the applicant or beneficiary with the necessary forms and contact details of the Independent Tribunal to enable the applicant or beneficiary to lodge an appeal; and

(e) ensure that the Appeal Form and Condonation Form, if applicable, together with all the critical documentation required in the Appeal Form and Condonation Form, are submitted to the Independent Tribunal within a period of 14 days from the date of lodging of the appeal.

Request for critical documentation from the Independent Tribunal

3. Where the Agency receives a request for critical documentation from the Independent Tribunal, the Agency must:

(a) retrieve the critical documentation and ensure that all critical documentation is scanned (or copied) and forwarded to the Independent Tribunal within a period of 15 days [but not more than 30 days] from date of receipt of request; or

(b) where the critical documentation is not available, reconstruct the file of the applicant or beneficiary and ensure that all the critical documentation is scanned or copied and forwarded to the Independent Tribunal within a period of not more than 30 days from date of receipt of request.

CHAPTER 3 APPOINTMENT AND COMPOSITION OF INDEPENDENT TRIBUNAL (regs 48)

[4.] Appointment

[The appointment of members to the Independent Tribunal, to consider appeals as contemplated in section 18(1A) of the Act, must be done in accordance with the terms and conditions as the Minister may determine.]

4(1) The Minister must appoint members of the Independent Tribunal, as contemplated in section 18(1) of the Act, by publishing a notice in the Gazette and three national newspapers, with due regard to the Use of Official Languages Act, 2012 (Act No. 12 of 2012) inviting written applications from persons who comply with the criteria contemplated in regulations 6 and 7, to be appointed as members of the Independent Tribunal;

(2) The notice referred to under subsection (1) must set out the-

(a) place where the Independent Tribunal will be sitting when considering appeals;

(b) powers and functions of the Independent Tribunal;

(c) time commitments reasonably expected from members of the Independent Tribunal;

(d) the term of office of members of the Independent Tribunal;

(e) whether the members of the Independent Tribunal are appointed on a full-time or part-time basis

(f) criteria for disqualification as a member of the Independent Tribunal;

(g) requirements for appointment as a member of the Independent Tribunal;

(h) closing date for applications; and

(i) the address to which applications must be delivered.

(3) The Minister must appoint a selection panel to consider all applications contemplated in subregulation (1).

(4) The selection panel must compile a list of suitable candidates recommended for appointment as members of the Independent Tribunal together with their curriculum vitae and submit it to the Minister.

(5) The Minister must upon receipt of the list together with the curriculum vitae contemplated in subregulation (4), approve the appoint of the recommended candidates subject to the provisions of subregulation (5).

(6) The Minister must ensure that, before approving the appointment of the recommended candidates, she or he has consulted Parliament as contemplated in section 18(1) of the Act.

(7) The Minister must, after consultation with Parliament as contemplated in subregulation (6) issue each candidate with a letter of appointment stating the term of appointment of each member of the Independent Tribunal.

(8) The Minister may appoint as many members of the Independent Tribunal as he or she may deem necessary.

(9) If the list compiled in terms of subsection (1) does not contain suitably qualified persons or does not contain the required number of suitably qualified persons, the Minister must, after consultation with the panel referred to under subsection (3), published a notice in the Gazette as contemplated in subregulation (1).

(10) The publication of the notice as contemplated in subregulation (8) may be in respect of the entire candidates or for those candidates who were found

not to have been suitably qualified for appointment as members of the Independent Tribunal, whichever is applicable.

(11) The procedure for the shortlisting, recommendation, and appointment of the members of the Independent Tribunal must be in accordance with the provisions of subregulations (2) to (7).

(12) A member of the Independent Tribunal may be appointed for a period not exceeding five years subject to such conditions as the Minister may determine.

(13) A member of the Independent Tribunal whose period of appointment has expired may be eligible for re-appointment for a further period not exceeding five years subject to subregulation (12).

5. Composition

(1) The Independent Tribunal considering an appeal, subject to subregulation (2) and (3) is constituted by:

- (a) a legal practitioner, who shall be [as the] a chairperson; and
- (b) a medical practitioner who shall be [as] an assessor. [**; and]**
- [(c) a member of civil society.]**

(2) A medical practitioner may only form part of the Independent Tribunal in respect of an appeal relating to [on] a disability, care dependency, war veteran's or grant in aid grant where the dispute relates to the medical assessment of the applicant or beneficiary.

[(3) A member of civil society may only form part of the Independent Tribunal in respect of an appeal against the decision of the Agency relating to a social relief of distress grant.]

Qualifications and experience of members of Independent Tribunal

6. Legal practitioner

(1) The legal practitioner as contemplated in regulation 5(1)(a) must be a person:

- [(a) who is an admitted attorney, advocate of the High Court of South Africa or a person with experience in the administration of law;]**
- (b) who has at least five years post admission experience in the practice of law **[or at least five years post graduate experience in the administration of law];**
- [(c) who, in the case of an Advocate or Attorney, has not been struck off the roll of Attorneys or Advocates;]**
- (d) **[who is a fit and proper person to consider appeals in terms of section 18(2)(b) of the Act;]** has knowledge of the relevant provisions of the Act and the Regulations made thereunder;
- (e) whose appointment will not give rise to a conflict of interests; and
- (f) who is not in the full-time **[or part-time]** employ of the public service or in Organ State [Agency].

(2) Notwithstanding the provisions of subregulation (1) in relation to a legal practitioner, a person who is not a legal practitioner may be appointed as a member of the Independent Tribunal provided that person:

- (a) has an experience in the administration of law;
- (b) has at least five years post graduate experience in the administration of law; and
- (c) meets the requirement of subregulation (1)(d) to (f).

7. Medical practitioner

A medical practitioner as contemplated in regulation 5(1)(b) must be a person:

- (a) who is registered with the Health Professions Council of South Africa;
- (b) who has at least five years post registration experience in the practice of medicine;
- (c) whose registration with the Health Professions Council of South Africa has not been revoked;
- (d) has knowledge of the relevant provisions of the Act and the Regulations made thereunder **[who is fit and proper to make assessments in relation to appeals in terms of section 18(2)(b) of the Act];**
- (e) who is not in the full-time employ of the public **[health]** service or an Organ State **[or in the full-time or part-time employ of the Agency]** ; and
- (f) whose appointment will not give rise to a conflict of interests.

[8. Member of civil society

A member of civil society as contemplated in regulation 5(1)(c) must be a person-

- (a) of good standing in the community; and**
- (b) whose appointment will not give rise to a conflict of interest.]**

CHAPTER 4

ROLES AND POWERS OF MEMBERS OF THE INDEPENDENT TRIBUNAL (regs [9] 8-11)

[9] 8. Legal practitioner

The legal practitioner is responsible for-

[(1)] (a) [deciding and ruling whether or not an appeal is to be upheld after consultation with the medical practitioner in respect of appeals contemplated in subregulation 5(2) and a member of civil society in respect of an appeal contemplated in subregulation 5(3)] deciding and ruling whether an appeal is to be confirmed, varied or set aside provided that, where the legal practitioner is in disagreement with the recommendation of a medical practitioner as contemplated in sub-regulation 9(3), he or she may only decide and rule on the appeal after consultation with the medical practitioner;

[(2)] (b) recording the decision of the Independent Tribunal and the reasons therefor; and

[(3)] (c) signing off on the decision and reasons contemplated in subregulation (2).

[10] 9. Medical practitioner

The medical practitioner is responsible for-

[(1)] (a) the assessment of all medical aspects of appeals in respect of grants contemplated in regulation 5(2);

[(2)] (b) advising the legal practitioner on all medical aspects of the appeals contemplated in subregulation (1); and

[(3)] (c) making recommendations in respect of appeals contemplated in regulation 5(2).

[11. Member of civil society

The member of civil society is responsible for advising the Independent Tribunal on the socio-economic aspects of the appellants in respect of an appeal contemplated in subregulation 5(3).]

[12]10. Powers of Independent Tribunal

(1) The Independent Tribunal has the power to-

(a) consider all applications for appeal by applicant, beneficiary or a person acting on his or her behalf in terms of section **[18(1A)] 18(1)** of the Act;

(b) in an instance where it is adjudicating an appeal by the applicant, beneficiary or a person acting on his or her behalf and it is not satisfied with the reasons provided by the applicant, beneficiary or a person acting on his or her behalf, request further written reasons from the applicant, beneficiary or a person acting on his or her behalf, in a form similar to **Form 8A** in **Annexure A** of these Regulations, to be submitted within a period of 15 days from the date of receipt of the request by the applicant, beneficiary or a person acting on his or her behalf;

(c) if it is not satisfied with the reasons provided by the Agency for rejecting the beneficiary's or applicant's social grant **[request for reconsideration]**, request the Agency to provide further written reasons for its decision for rejecting the social grant **[request for reconsideration in terms of section 18(1) of the Act]**;

(d) give directions to any party to the appeal regarding any matter within its jurisdiction in connection with that appeal;

(e) at any time, request any person or institution to furnish any written information which is necessary for the determination of the appeal;

(f) refer the applicant, beneficiary or a person acting on his or her behalf for a second and independent medical examination or opinion in terms of regulation **[18(1)] 16(1)**; and

(g) postpone the hearing for the consideration of an appeal to such date as it may determine subject to regulation **14(2) [16(2)]**. **[; and]**

[(h) consider an appeal relating to the failure of the Agency to reconsider its decision as contemplated in regulation 3(6).]

(2) The 90 days period referred to in regulation **[16(2)] 14(2)** will be interrupted by the 15 days period referred to in subregulation 1(b) and/or the 15 days period referred to in regulation 16(2)(b) and/or by the 30 days period referred to in regulation **[18(8)] 16(2)(c)**.

(3) The Independent Tribunal upon receipt of the reasons as contemplated in subregulation (1)(b) and (c), the information referred to in subregulation 1(e) or the medical report contemplated in regulation **[18(5)] 16(5)**

and after consideration of the appeal may **[act in accordance with section 18(2)(b) of the Act]** confirm, vary, or set aside that decision.

[13] 11. Ethical conduct of members of Independent Tribunal

(1) All members of the Independent Tribunal must, in performing their functions and duties-

- (a) maintain a high standard of integrity;
- (b) respect the confidentiality of information of all parties to an appeal;
- (c) maintain acceptable standards of professionalism and ethics; and
- (d) recuse themselves where there is conflict of interest.

(2) In an instance where a member of the Independent Tribunal is a member of a professional body he or she must observe the ethical rules applicable to members of such a body.

CHAPTER 5

LODGING OF APPEAL AND CONDONATION (regs [14-15] 12-13)

[14] 12. Lodging of appeal [Section 18(1A)]

(1) An applicant, beneficiary or a person acting on his or her behalf, who disagrees with the decision **[and reasons]** of the Agency and wishes to appeal that decision, must subject to regulation 2, lodge an appeal in terms of section **[18(1A)] 18(1)** of the Act **[to] with** the Independent Tribunal, in a form similar to Form **[3] 1** in Annexure A to these Regulations.

(2) An appeal contemplated in subregulation (1):

- (a) must be lodged with the Independent Tribunal;
- (b) may be delivered by hand, or by electronic communication [post, fax or electronic mail]; and

(c) must be accompanied by documents required under Form **[3] 1** in Annexure A to these Regulations.

(3) When lodging an appeal as contemplated in subregulation (1) the applicant, beneficiary or a person acting on his or her behalf must not be allowed to produce any evidence or information which was not provided to the Agency at the time of application for social assistance.

[15] 13. Condonation of late lodging of appeal

(1) The Independent Tribunal may, on application and on good cause shown **[upon application for condonation]** by persons contemplated in regulation **[14(1)]** 12(1), condone an application for appeal lodged after a period of 90 days **[, upon good cause shown]**.

(2) In deciding whether good cause has been shown for condonation of a late application for an appeal, the Independent Tribunal must take the following factors into account:

- (a) the reason for **[the delay]** and extent of the delay ;
- (b) whether it is in the interest of justice that condonation be granted; and
- (c) **[if]** whether there are reasonable prospects of success.

(3) An application contemplated in subregulation (1) must be in a form similar to Form **[4]** 2 in Annexure A to these Regulations.

CHAPTER 6

CONSIDERATION OF APPEAL (regs **[16-18]** 14-16)

[16.]

14(1) An appeal contemplated in regulation **[14(1)]** 12(1) must be **[conducted]** adjudicated:

(a) in the absence of the applicant, beneficiary or a person acting on his or her behalf; and

(b) by means of consideration of documentary evidence submitted by the Agency and the applicant, beneficiary or a person acting on his or her behalf or sourced by the Independent Tribunal in terms of regulation 16(1), if applicable.

(2) An appeal must, subject to regulation 10(1)(b), 14(3), [16(6)], 16(2)(b) and (c), or 17(5) be finalised within a period of 90 days from the date on which the appeal was received by the Independent Tribunal.

(3) The 90 days period referred to in regulation 14(2) will be interrupted by the 15 day period for obtaining the report referred to in regulation 16(1).

(4) The 90 days period referred to in regulation 14(2) will be further interrupted by the period of 30 days referred to in regulation 10(1)(b) to provide additional information or, for the appellant to submit the examination report referred to in regulation 16(2)(b) and (c).

[17] 15. Decision by the Independent Tribunal

The Independent Tribunal must, after having had due regard to the documents contemplated in regulation **[2(4)] 12(1)** and **Form [3] 1** in **Annexure A** to these Regulations act in terms of regulation **[12(2)] 10 (1)**.

[18] 16. Medical examination of applicant or beneficiary

(1) The Independent Tribunal must, where it is unable to make a decision **[due to] based on** the **[insufficiency, inconclusiveness or contradictory nature] available [of the] information contained in a** medical report provided by the Agency or the applicant, beneficiary or a person acting on his or her behalf, refer the applicant, beneficiary **[or a person acting on his or her behalf,] refer the applicant[, or beneficiary [or a person acting on his or her behalf]** for **[a second and] an additional independent examination by** medical or allied health professional's examination and report **[or opinion]**.

[(2) Before an applicant, beneficiary or a person acting on his or her behalf is referred for a second and independent examination or opinion as contemplated in subregulation (1) the chairperson of the Independent Tribunal must summon the applicant, beneficiary or a person acting on his or her behalf, in a form similar to Form 5 in Annexure A to these Regulations to appear before it.]

(2) **[When the applicant, beneficiary or a person acting on his or her behalf appears before the Independent Tribunal as contemplated in subregulation (2) the chairperson]** Where an applicant or beneficiary is referred for an examination as contemplated in subregulation (1) the Independent Tribunal must, in writing:

- (a) inform him or her of the reasons for the referral;
- (b) inform him or her or the person acting on his or her behalf that the examination report contemplated in subregulation (1) must be obtained within a period of 30 days; [of the date and address to which a medical examination will take place;] and
- (c) inform him or her that he or she must submit to the Independent Tribunal, the examination and report contemplated in subregulation (3)(b) [such medical report] within a period of **[30] 15** days from the date **[of being informed of such referral] contemplated in subregulation (3)(b). [; and]**
- [(d) make him or her aware that, if he or she fails to submit himself or herself to a medical examination referred to in subregulation (1) or submit a medical report based on the said medical examination, the Independent Tribunal will continue to consider and finalise the appeal without such a medical report.]**

[(4) The medical report contemplated in subregulation (1) must be in a form similar to Form 6 in Annexure A to these Regulations.

(5) The applicant or beneficiary who has undergone the medical examination must submit such a medical report to the Independent Tribunal.]

(3) The Independent Tribunal must, upon receipt of [a medical] an examination report as contemplated in subregulation [(5)] 2 consider the appeal and act in terms of regulation [12(2)] 10(2).

[(7) The Independent Tribunal must, subject to subregulation (10), upon receipt of a medical report referred to in subregulation (5), act in accordance with the provisions of regulation 12(2).]

(4) Where an applicant, or beneficiary [fails to attend a medical examination despite having been summoned as contemplated in subregulation (1) or] fails to submit the required [medical] examination report referred to in subregulation [(5)] (2)(c) within a period of [30] 15 days [of being summoned as] contemplated in subregulation [(5)] (2)(c), the Independent Tribunal may proceed with the [consideration] adjudication of the appeal in the absence of the medical report.

[(9) A medical examination referred to in this regulation must be based on and relate to the applicant's or beneficiary's medical condition as it had been at the time when the application for a social grant was rejected by the Agency.

(10) Where the medical report as contemplated in subregulation (1) concludes that the applicant or beneficiary, as at the time of rejection of the application for the grant, had a disability, the Independent Tribunal must uphold the appeal.]

CHAPTER 7

ADMINISTRATION OF APPEALS WITHIN INDEPENDENT TRIBUNAL [(regs 1925)

[19] 17. Receipt, acknowledgement and request for further information

(1) The Independent Tribunal is responsible to [sic]-

(a) receive and register appeals in an appeals register;

(b) within a period of seven days from date of receipt, acknowledge receipt of an appeal **[in a form similar to Form 7A in Annexure A to these Regulations]**;

(c) prepare files for the adjudication of appeals by ensuring that all relevant and supporting documentation as may be required in respect of a particular social grant are included in such files;

(d) assess the accuracy, validity and reliability of supporting documentation. **[; and]**

(2) The Independent Tribunal may request the Agency to provide any document referred to in regulation 10(1)(c) or (e).

(3) The Independent Tribunal may request the applicant, beneficiary or a person acting on his or her behalf to provide any outstanding document referred to in regulation **[14(2)(c)] 12(2)(c)**.

[(4) The Independent Tribunal must-

(a) **upon receipt of further written reasons as contemplated in regulation 12(1)(b), acknowledge receipt thereof in a form similar to Form 8B in Annexure A to these Regulations.**

(b) **in a case of a referral for a medical examination provide the applicant, beneficiary or a person acting on his or her behalf with a date and venue of the medical examination in a form similar to Form 5 in Annexure A to these Regulations; and**

(c) **must schedule the appeal for consideration.**

(5) The documents referred to in subregulation (3) must be submitted to the Independent Tribunal within 15 days from date of receipt of the request.]

(4) An appeal shall only be considered to have been lodged upon receipt of all the documentation referred to in regulation 12(2).

(5) Where, in the case of a medically related grant appeal the Agency fails to or cannot for whatever reason provide the Independent Tribunal with the relevant records required for the adjudication of such an appeal within the 30 days period contemplated in regulation 3(b), the Independent Tribunal may instruct the Agency to do a medical re-assessment of the appellant or beneficiary and submit such medical re-assessment report within a period of 30 days from the date of issuance of the instruction to the Agency.

(6) The Independent Tribunal shall, upon receipt of all documents referred to in subregulation (3), acknowledge receipt thereof **[in a form similar to Form 7B in Annexure A to these Regulations]**.

[(7) The 90 days period referred to in regulation 16(2) will only start running from date of receipt by the Independent Tribunal of all documents required under subregulation (3).]

[20.] 18 Communication of decision

(1) The Independent Tribunal must, subject to subregulation (2) communicate the decision and reasons thereof in respect of an appeal to an applicant, beneficiary or a person acting on his or her behalf and to the Agency [, in a form similar to Form 9 in Annexure A to these Regulations].

(2) The communication of the decision must be delivered to the **[address provided by the]** applicant, beneficiary or a person acting on his or her behalf **[in his or her by the form for an application for appeal or]** by **[any other]** a method of communication as indicated by the applicant, beneficiary or a person acting on his or her behalf in his or her application form for an appeal or by any other method of communication including electronic communication as determined by the Independent Tribunal.

(3) Upon receipt of the finding of the Independent Tribunal by the Agency as contemplated in subregulation (1), the Agency must implement such finding within a period of **[14]** 30 days of receipt thereof.

[21.] 19. Application which does not constitute an appeal

(1) The Independent Tribunal must, upon receipt of the application which does not constitute an appeal as contemplated in section **[18(1A)]** 18(2) of the Act read with regulation 14, notify the applicant, beneficiary or a person acting on his or her behalf, in writing, that such an application does not constitute an appeal and the reasons thereof:

[(a) remove the matter from the schedule if it was already scheduled; and

(b) notify the applicant, beneficiary or person acting on his or her behalf that such an application does not constitute an appeal and the reasons thereof in a form similar to Form 10 in Annexure A to these Regulations;]

(2) The Independent Tribunal shall not be obliged to consider an application as contemplated in subregulation (1) **[.]**:

(a) when an application is not accompanied by all the documents required under Form 1 in Annexure A to these Regulations; or

(b) if such an application is an application contemplated in subregulation (1).

[22.] 20. Withdrawal of an appeal

An applicant, beneficiary or a person acting on his or her behalf may, by means of a written notice, at any time prior to the finalisation of the appeal by the

Independent Tribunal, withdraw such an appeal **[in a form similar to Form 11 in Annexure A to these Regulations]**.

[23.] 21. Record keeping

(1) A copy of the appeal documents, including notification of decision, record of proceedings and copies of the Agency's file should be retained by the Independent Tribunal for a period of five years from the date of communication of the outcome of the appeal.

(2) The Independent Tribunal is the custodian of the appeal documents.

[24. Legal notice

In the event that any legal notice or litigation against the minister, in connection with any matter prescribed in these Regulations and the 2008 Regulations, is contemplated, service of such notice must be addressed and delivered to the Chief Director Legal Services for the Department of Social Development at the following address:

Private Bag X901

PRETORIA

0001]

[25.] 22. Commencement

These Regulations come into effect on a date of proclamation thereof **[3 October 2011.]**

ANNEXURE A
FORM 1
[APPLICATION FOR RECONSIDERATION]
(Regulation 2(1))
[Section 18(1) of the Social Assistance Act 13 of 2004]

LODGING OF AN APPEAL
(Regulation 12(1))
[Section 18(1) of the Social Assistance Act 13 of 2004]

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION: AGENCY

Agency Office:		Date of Application:	Date of Rejection:				
Type of Grant (Mark with 'X')							
Dis-ability	Older Persons'	War Veteran	Foster Child	Care Depen-dency	Child Support	Grant-in-Aid	Social Relief of Distress

C. REASONS FOR REQUEST FOR RECONSIDERATION

Reasons why you disagree with the decision of the Agency: (If the space provided is insufficient, please attach a separate page to this form.) (Please sign and date the separate page).

Reasons:

.....

.....

.....		
.....		
.....		
Separate page attached (Please indicate with an X)	YES	NO

D. DOCUMENTATION TO ACCOMPANY APPLICATION

Copy of a letter of rejection or approval of social assistance application by the Agency;	Copy of the power of attorney or letter of appointment by the applicant or beneficiary;	Previous and current medical reports which were presented to the Agency (if available);	Proof of grant application to Agency (Receipt issued by Agency);
Proof of income and/or assets	Any other relevant document in relation to the application; and state what type of documentation.		

E. REPRESENTATIVE'S DETAILS

Surname:	Full Names:		
ID No:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

Signature of applicant/beneficiary/ representative	Place	Date
--	-------	------

OFFICIAL DATE STAMP OF RECEIPT:

FORM 2
NOTIFICATION OF OUTCOME OF CONSIDERATION OF AN APPLICATION
FOR RECONSIDERATION

(Regulation 3(5))

[Section 18(1) of the Social Assistance Act 13 of 2004]

TO: _____

Address: _____

Dear Sir/Madam

Pursuant to section 18(1) of the Social Assistance Act, 13 of 2004, this serves to inform you of the outcome of your application for reconsideration of the Agency's decision.

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Name and Surname:	
ID Number:	

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION

Agency Office:		Date of Application:	Date of Rejection:				
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:					
Type of Grant (Mark with 'X')							
Dis-ability	Older Persons'	War Veteran	Foster Child	Care Dependency	Child Support	Grant-in- Aid	Social Relief of Distress

C. OUTCOME OF APPLICATION FOR RECONSIDERATION

The outcome of your application for reconsideration is as follows:

application upheld.

application dismissed.

Reasons:

.....

.....

.....

If you wish to appeal against the above decision, you may appeal to the Minister of Social Development, in terms of regulation 14 in a form similar to **Form 3**, against such decision within ninety (90) [days] of gaining knowledge of such decision.

The appeal must be sent to:

**DEPARTMENT OF SOCIAL DEVELOPMENT
INDEPENDENT TRIBUNAL FOR SOCIAL ASSISTANCE APPEALS
PRIVATE BAG X901
PRETORIA
0001**

**CHIEF EXECUTIVE OFFICER
SOUTH AFRICAN SOCIAL SECURITY AGENCY
DATE:**

**Signature or thumb print of recipient (if hand- delivered)
Print Name**

Date

**FORM [3] 1
LODGING OF AN APPEAL
[(Regulation 14(1))**

[Section 18(1A) of the Social Assistance Act 13 of 2004]

For office use only:

Province:	Local Office:
------------------	----------------------

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION

Agency Office:		Date of Application:		Date of Rejection:			
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:					
Type of Grant (Mark with 'X')							
Dis-ability	Older Persons'	War Veteran	Foster Child	Care Depen-dency	Child Support	Grant-in-Aid	Social Relief of Distress

C. REASONS FOR APPEAL

Reasons why you disagree with the decision of the Agency: (If the space provided is insufficient, please attach a separate page to this form and clearly indicate that a separate page(s) is attached).

.....

.....

.....

.....

D. DOCUMENTATION TO ACCOMPANY APPEAL

Copy of Identity Document;

Proof of application for reconsideration to Agency;

A copy of a letter of rejection or approval of application for reconsideration by the Agency;

Previous and current medical reports which were presented to the Agency (if available);

Name of the hospital/clinic that you normally attend.

Proof of income and/or assets: Yes No N/A

In the case of a person appealing on behalf of the beneficiary or applicant, a copy of the power of attorney or proof of his or her appointment by the applicant or beneficiary to act on his or her behalf;

Any other relevant supporting documents (state what type of documentation).

E. REPRESENTATIVE'S DETAILS

Name and Surname:	
Name of Organisation/Firm (where applicable):	

ID Number:			
Telephone No:	Fax No:	Cell No:	Email Address:

Signature of applicant/beneficiary/ Representative	Place	Date

OFFICIAL DATE STAMP OF RECEIPT:

FORM [4] 2
APPLICATION FOR CONDONATION FOR LATE APPEAL
 [(Regulation 15)
 [Section 18(1A) of the Social Assistance Act 13 of 2004]]

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY			
Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax:	Email:	Cell No:
Physical Address			
Postal Address			

B. REASONS FOR LATE LODGING OF AN APPEAL

Reasons for application for condonation as contemplated in regulation 15(2):

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(If the space provided is insufficient, please attach a separate page to this form and clearly indicate that a separate page(s) is attached).

C. DOCUMENTATION TO ACCOMPANY CONDONATION APPLICATION
FORM 3 (Application for Appeal)
 All documents required under Form 3

Signature of applicant/beneficiary/Representative

Date

FORM 5

SUMMON TO APPEAR BEFORE THE INDEPENDENT TRIBUNAL

(Regulation 18(2))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

You are hereby summoned to appear before the Independent Tribunal on
 (Date) (Time) at
 (Venue).

The purpose of your appearance is to notify you of the medical examination which you have to undergo prior [to] finalisation of your appeal which you lodged on

.....

.....

ITSAA official)

SAA date stamp:

FORM 6
REFERRAL FORM FOR SECOND MEDICAL EXAMINATION OR OPINION
(Regulation 18(4))

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY			
Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION			
Agency Office:		Date of Application:	Date of Rejection:
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:	
Type of Grant (Mark with 'X')			

Dis-ability	Older Persons'	War Veteran	Foster Child	Care Depen-dency	Child Support	Grant-in- Aid	Social Relief of Distress
-------------	----------------	-------------	--------------	------------------	---------------	---------------	---------------------------

C. REFERRAL

In accordance with regulation 18, the above-mentioned applicant or beneficiary is hereby referred for a second and independent medical examination or opinion as follows:

Date of Medical Examination:	Time:	Telephone Number:
Venue: Physical Address:		
Name of medical practitioner:		

D. SECOND MEDICAL EXAMINATION OR OPINION**EXISTENCE OF DISABILITY:**

Is disability certified?

Yes

No

NATURE OF DISABILITY

Medical Doctor's signature and stamp

FORM 7A
ACKNOWLEDGEMENT OF RECEIPT OF APPEAL AND REQUEST OF
FURTHER DOCUMENTS

(Regulation 14(2)(c) read with Regulation (19(1)(b) and (2))
[Section 18(1A) of the Social Assistance Act 13 of 2004]

To: _____

Address:

Dear Sir/Madam

This is to acknowledge receipt of your appeal dated _____
which was received by the Independent Tribunal on _____

1 You did not provide us with all the necessary documents required in terms of **Form 3**.
Please be informed that the Independent Tribunal will not be able to consider your appeal
until such time that you have submitted the following documentation:

.....

.....

.....

.....

.....

Further note that in terms of regulation 19(7) the 90 days period contemplated in regulation
16(2) will only start running from the date of receipt [of] all the documents referred to above.

(ITSAA official)

Name: _____	
Signature: _____	Date _____
ITSAA official stamp:	

1 Please delete if not applicable

FORM 7B
ACKNOWLEDGEMENT OF RECEIPT OF FURTHER DOCUMENTS
 (Regulation 19(6))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

To: _____
Address: _____
Dear Sir/Madam
This is to acknowledge receipt of your documents referred to in regulation 19(2) which was received by the Independent Tribunal on _____.
ITSAA official)
Name: _____
Signature: _____
Date: _____
ITSAA official stamp:

FORM 8A
REQUEST FOR FURTHER WRITTEN REASONS
 (Regulation 12(1)(b))

To: _____

Address:

Dear Sir/Madam

Please note that the Independent Tribunal is not satisfied with the reasons you have provided in support of your application for appeal. **(State the reason why the Independent Tribunal is not satisfied with the reasons)**. You are kindly requested to provide us with further written reasons within a period of 15 working days from receipt of this notice.

Please be informed that the Independent Tribunal will not be able to consider your appeal until such time that you have submitted the information required above. Further note that in terms of regulation 12(2) the 90 days period contemplated in regulation 16(2) will be interrupted by a period of 15 days indicated in the above paragraph.

ITSAA official)

Name: _____

Signature:

ate

TSAA official stamp:

FORM 8B
ACKNOWLEDGEMENT OF RECEIPT OF FURTHER WRITTEN REASONS
(Regulation 19(4)(a))

To:

Address:

Dear Sir/Madam

This is to acknowledge receipt of further written reasons as was requested in terms of regulation 12(1)(b).

You will be notified of the outcome of the appeal within days **(Indicate the period before the 90 days lapse)** from the of 201....

ITSAA official)

Name:

Signature:

ate

SAA official stamp:

FORM 9
NOTIFICATION OF OUTCOME OF AN APPEAL
(Regulation 20(1))

To: _____

Dear Sir/Madam

Pursuant to section 18(1A) of the Social Assistance Act, 13 of 2004, this serves to inform you of the outcome of your appeal.

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

B. DETAILS OF GRANT APPLICATION AND APPLICATION FOR RECONSIDERATION

Agency Office:		Date of Application:	Date of Rejection:
Date of Application for Reconsideration:		Date of Rejection of Application for Reconsideration:	
Type of Grant (Mark with 'X')			
Dis-ability	Older Persons'	War Veteran	Foster Child
		Care Depen- dency	Child Support
		Grant-in-Aid	Social Relief of Distress

D. OUTCOME OF APPEAL

Decision of Agency confirmed	Decision of Agency varied	Decision of Agency set aside

Reasons:

**CHAIRPERSON
INDEPENDENT TRIBUNAL
DATE:**

o:
ddress:
ear Sir/Madam
his serves to inform you that your application dated _____ does not constitute an appeal
in terms of section 18(1A) of the Social Assistance Act, 2004 (Act 13 of 2004) as amended
ue to the following reasons:

(ITSAA Official)

ITSAA date stamp:

FORM 11
WITHDRAWAL OF AN APPEAL
 (Regulation 22)

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION:

Independent Tribunal for Social Assistance Appeals
 Private Bag X901, PRETORIA 0001

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:	Full Names:		
ID Number:	Nationality:	Gender: M	F
Tel No:	Fax No:	Email:	Cell No:
Physical Address			
Postal Address			

I, the undersigned, hereby withdraw my application for an appeal date My reasons for withdrawing the appeals are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

Date:

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12
WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION
[MARSHALLTOWN]
 (Regulation 3(7))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X120
Marshalltown
2107

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY					
Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					

Postal Address	
----------------	--

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS			
Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [NELSPRUIT]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X11230
Nelspruit
1200

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY					
Surname:					
ID Number:		Nationality:	Date of Birth:	Gender: M	F
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
 My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....
 (Signature of applicant or beneficiary or representative)

.....
 Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	

Telephone No:	Fax No:	Cell No:	Email Address:
---------------	---------	----------	----------------

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [CAPE TOWN]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9189
Cape Town
8000

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY					
Surname:					
ID Number:		Nationality:	Date of Birth:	Gender: M	F
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12
WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION
[BLOEMFONTEIN]
 (Regulation 3(7))
 [Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X4424
Bloemfontein
9300

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					

Postal Address	

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....

Date

E. REPRESENTATIVE'S DETAILS			
Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [POLOKWANE]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9677

Polokwane
0700

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY					
Surname:					
ID Number:		Nationality:	Date of Birth:	Gender: M	F
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	

Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [MMABATHO]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X44
Mmabatho
2735

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS

Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [EAST LONDON]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9001
Chiselhurst
East London
5200

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY

Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					

Postal Address	
----------------	--

I, the undersigned, hereby withdraw my application for reconsideration dated
 My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....
 Date

E. REPRESENTATIVE'S DETAILS			
Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12

WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION
 [PIETERMARITZBURG]

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X9146

Pietermaritzburg
3201

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY					
Surname:					
ID Number:		Nationality:	Date of Birth:	Gender: M	F
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated
My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

.....
(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS			
Name and Surname:			
ID Number:		Date of Birth:	

Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address:

FORM 12**WITHDRAWAL OF AN APPLICATION FOR RECONSIDERATION [KIMBERLEY]**

(Regulation 3(7))

[Section 18(1A) of the Social Assistance Act 13 of 2004]

ATTENTION: Regional Executive Manager
South African Social Security Agency
Private Bag X6011
Kimberley
8300

A. PERSONAL DETAILS OF APPLICANT OR BENEFICIARY					
Surname:					
ID Number:	Nationality:	Date of Birth:	Gender: M	F	
Age:	Tel No:	Fax No:	Cell No:	Email:	Tel No:
Physical Address					
Postal Address					

I, the undersigned, hereby withdraw my application for reconsideration dated

My reasons for withdrawing the application for reconsideration are as follows:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(Signature of applicant or beneficiary or representative)

.....
Date

E. REPRESENTATIVE'S DETAILS			
Name and Surname:			
ID Number:		Date of Birth:	
Age:	Nationality:	Gender:	
Telephone No:	Fax No:	Cell No:	Email Address: