

## GOVERNMENT NOTICE

## DEPARTMENT OF SOCIAL DEVELOPMENT

No. R. 162

22 February 2005

## SOCIAL ASSISTANCE ACT, 2004

## REGULATIONS IN TERMS OF THE SOCIAL ASSISTANCE ACT 13 of 2004

The Minister of Social Development has, in terms of section 32 of the Social Assistance Act 2004, (No 13 of 2004), made the regulations in the Schedule.

## SCHEDULE

**Definitions**

**1. In these Regulations, any word or expression to which a meaning has been assigned in the Act bears that meaning, unless the context otherwise indicates**

"Agency" means the South African Social Security Agency established in terms of section 2 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004), and for the purposes of the transitional period and transitional arrangements referred to in section 24 of the South African Social Security Agency Act, 2004, "Agency" shall mean the MEC and the Provincial Department;

"**assess**" means the evaluation of information provided on the forms prescribed by the Minister or the physical examination of a person in order to determine disability or care-dependency for the purposes of recommending a finding for the awarding of grants;

"**assets**" means assets referred to in regulation 20;

"**attesting officer**" means a person in the service of the Agency designated as such by the Agency ;

"**biometric identification**" means a finger print or, where a finger print cannot be obtained, such other form of identification as provided for in any other law or as determined by the Minister, with the concurrence of the Minister of Home Affairs;

"**birth certificate**" means a birth certificate as defined in terms of the Births and Deaths Registration Act 1992, (Act No. 51 of 1992) ;

"**Chief Executive Officer**" means a person appointed in terms section 5 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004);

"**Child Care Act**" means the Child Care Act, 1983 (Act No. 74 of 1983);

**"custodian"** means a person who is responsible for the supervision and care of a child, and "custody" has a corresponding meaning:

**"family"** means a parent and his or her dependent child :

**"financial institution"** means –

- (a) a bank as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank as defined in section 1(1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993);
- (b) any collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002 or a manager, trustee or custodian of such a scheme;
- (c) a long-term insurer as defined in section 1 of the Long Term Insurance Act, 1998 (Act, No. 52 of 1998);
- (d) a short-term insurer as defined in section 1 of the Short Term Insurance Act, 1998 (Act No. 53 of 1998); or
- (e) any other institution or body deemed or declared to be a financial institution in terms of any other law;

**"identity document"** means the identity document referred to in section 14 of the Identification Act, 1997 (Act No. 68 of 1997), and unless clearly inconsistent with the provisions of that Act, includes an identity document referred to in section 25(1) or (2) of that Act;

**"life certificate"** means a statement made and signed under oath or affirmation by a beneficiary before an attesting officer to prove that he or she is alive ;

**"married person"** means a person who is a party to a marriage which is recognised in terms of South African law;

**"means"** refer to the income and assets of –

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

**"MEC"** means the Member of the Executive Council referred to in section 24 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004)

**"mental officer"** means any medical practitioner in the service of the State and includes a medical practitioner in private practice or in the service of another person appointed under a contract to perform the function or render services of a medical officer in terms of the Act;

"**medical practitioner**" means any person registered as a medical practitioner in terms of the Health Professions Act, (Act No. 56 of 1974), or a person referred to in section 24A of that Act;

"**Minister**" means the Minister for Social Development;

"**permanent aid**" means social assistance of a permanent nature which excludes a temporary disability grant or any grant of a temporary nature;

"**personal income**" means the income of the primary care-giver and his or her spouse, in terms of these regulations, after all the 'permissible deductions have been made;

"**Provincial Department**" means the designated institution referred to in section 1 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004);

"**review**" means the presentation by or a physical appearance of a beneficiary before a person designated by the Agency to verify that the beneficiary still complies with the prescribed requirements;

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

"**social worker**" means a person registered as a social worker in terms of the Social Service Professions Act, 1978 (Act No. 110 of 1978);

"**the Act**" means the Social Assistance Act, 2004 (Act No 13 of 2004); and

"**verify**" means the scrutinising of any document, report or a completed application in order to ensure that the information provided in such document, report or completed application is true and correct.

## CHAPTER 1

### ELIGIBILITY FOR SOCIAL ASSISTANCE

#### Persons eligible for an Older Person's Grant

2 (1) A person is eligible for an older person's grant if-

(a) in the case of a woman, she has attained the age of sixty years; and

(b) in the case of a man, he has attained the age of sixty five years;

(2) A person is eligible for an older person's grant if she or he, in addition to being in compliance with sub-regulation (1)-

(a) passes the means test as referred to in regulation 21;

- (b) is a South African citizen or is resident in the Republic;
- (c) has a **valid** identity document;
- (d) is not a beneficiary of another social grant; and
- (e) is not maintained in any one of the following State institutions or institutions funded by the State -
  - (i) a prison;
  - (ii) a State psychiatric hospital;
  - (iii) a State home for older persons;
  - (iv) a care treatment centre; or
  - (v) a treatment centre for drug dependants.

#### **Persons eligible for a Disability Grant**

3 (1) In addition to the requirements set out in regulation 2(2), a person is eligible for a disability grant if-

- (a) he or she is a disabled person who has attained the age of 18 years;
- (b) the disability is confirmed by a valid medical report of a medical officer and the report specifies whether the disability is permanent or temporary, provided that-
  - (i) in the case of temporary disability, the medical report issued by a medical officer must, at the date of the application not be older than three months; and
  - (ii) In the case of permanent disability, the Agency may accept a medical report which was issued by a medical officer more than three months from date of application.
- (c) as a result of the disability
  - (i) the applicant is certified incapable of entering the labour market; and
  - (ii) he or she does not 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.

- (d) he or she does not, without good reason, refuse to undergo the necessary medical or other treatment recommended by a medical officer, a medical practitioner, or psychiatrist.

**Persons eligible for a Child Support Grant**

4(1) A person is eligible for a child support grant in respect of-

- (a) his or her own qualifying children; or
  - (b) a maximum of six children, if the children in respect of whom the application for the grant is made are not the said person's biological or legally adopted children.
- (2) In addition to the requirements of sub-regulations (1), a person is eligible for a child support grant if-
- (a) he or she is the primary care-giver of the child concerned;
  - (b) he or she satisfies the financial criteria determined by the Minister by notice in the Gazette;
  - (c) he or she does not receive remuneration for the care of the child concerned;
  - (d) the child concerned is not in an institution referred to in the Child Care Act or similar institution, whether registered under any law or not;
  - (e) he or she or any other person is not already in receipt of grant in respect of the child concerned;
  - (f) the child and primary care-giver are South African citizens or permanent residents residing in South Africa; and
  - (g) the child is in possession of a valid birth certificate .
- (3) If more than one person claims to be the primary care-giver of the child, the Agency must, after having taken into account all the relevant factors, determine one of them to be the primary care-giver.
- (4) In addition to the requirements of sub regulations (1) and (2), the child in respect of whom the grant is made, must -
- (a) as at 1 April 2005, be under the age of 14 years; or
  - (b) of such higher age as the Minister may determine.

**Persons eligible for a Foster Child Grant**

- 5 (1) A foster parent is eligible for foster child grant if the child is placed in the custody of a foster parent in terms of the Child Care Act 1983 (Act No. 74 of 1983);
- (2) A grant will not be payable if the income of the child exceeds twice the annual amount of a foster child grant determined by the Minister, with the concurrence of the Minister of Finance.
- (3) A foster parent qualifies for a foster child grant regardless of such foster parent's income.

**Persons eligible for a Care-Dependency Grant**

- 6 (1) A parent, primary care-giver, or foster parent is eligible for a care-dependency grant in respect of a care-dependent child if -
- (a) a medical officer certifies the child as a care-dependent child as defined in the Act;
  - (b) the combined annual income of the applicant and his or her spouse, after all the deductions referred to in these regulations are made, does not exceed an amount determined by the Minister by notice in the Gazette; and
  - (c) the income of the child does not exceed twice the annual amount of the care-dependency grant.
- (2) Despite the provisions of sub-regulation (1), the income of the foster parent must not be taken into consideration.

**Persons eligible for a War Veteran's Grant**

7. A person is eligible for a war veteran's grant if he or she satisfies the requirements referred to in section 11 of the Act.

**Persons eligible for a Grant-In-Aid**

8. (1) A person is eligible for a grant-in-aid if he or she is in receipt of a social grant and, owing to his or her physical or mental condition, is certified by a medical officer as requiring full time attendance by another person.
- (2) The Agency must, on such conditions and from the date as it determines, award a grant-in-aid to the person referred to in sub-regulation(1).

- (3) A grant-in-aid is not payable by the State for the housing and care of a beneficiary who is in any State funded home or institution.

**Persons eligible for Social Relief of Distress**

- 9(1) Subject to the provisions of the Act, a person in need of temporary material assistance may qualify for social relief of distress if he or she complies with one or more of the following conditions -
- (a) the person is awaiting permanent aid;
  - (b) the person has, for a period of not exceeding six months, been found to be medically unfit to undertake any remunerative work;
  - (d) no maintenance is received from a person obliged to pay maintenance and proof is furnished that efforts made to trace such a person or obtain maintenance were unsuccessful;
  - (e) the breadwinner has died, and there are insufficient means available;
  - (e) the breadwinner has been admitted to a State institution for a period not exceeding six months;
  - (f) the person has been affected by a disaster, despite the fact that the area of the community in which he or she lives has not yet been declared a disaster area; or
  - (g) the person is not receiving assistance from any other organisation; or
  - (h) refusal of the application for social relief of distress may cause undue hardship.
- (2) A person is not entitled to another grant and a grant for social relief of distress simultaneously;
- (3) Any amount paid in terms of a grant for social relief of distress must be recovered from any grant payment, including an arrear payment in respect of a grant.
- (4) The Agency may, with the approval of the Minister, grant relief for social distress where, in the opinion of the Minister, exceptional circumstances exist for such an action.

**CHAPTER 2****APPLICATION FOR SOCIAL ASSISTANCE****Documents to accompany applications for social grants**

10. (1) The following documents must accompany an application for a social grant -
- (a) a valid identity document of the applicant and where applicable, of his or her spouse, issued in the Republic;
  - (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 grant is made;
  - (c) in the case of a foster child who is not a South African citizen or resident in the Republic, an official identity document of the country of origin may be accepted; and
  - (d) proof of marital status, where applicable.
- (2) An application for an older person's grant, disability grant and war veteran's grant must, in addition to documents required in terms of sub-regulation (1) (a), be accompanied by the following documents -
- (a) proof of both assets and income of the applicant, and, where applicable, that of his or her spouse;
  - (b) in respect of a disabled person, a report from a medical officer, and
  - (c) in the case of a war veteran, proof of service as specified in the Act.
- (3) An application for a child support grant must, in addition to the documents required in terms of sub-regulation (1), be accompanied by the following documents -
- (a) proof of personal income of the applicant, and where applicable, that of his or her spouse. If no valid proof is obtainable, a sworn statement may be acceptable; and
  - (b) proof that the applicant is the primary care-giver of the child concerned in terms of section 1 of the Act.
- (4) An application for a foster child grant must, in addition to the documents required in terms of sub-regulation (1), be accompanied by the following documents-
- (a) proof of income of the foster child in respect of whom the grant is made;
  - (b) proof of regular school attendance, where the child is of school-going age, or proof that the child is on a waiting list for admission to a school,

unless he or she has been exempted from compulsory education; and

(c) an order of the children's court .

(5) An application for a care -dependency grant must, in addition to the documents required in terms of sub-regulation (1), be accompanied by the following documents-

(a) proof of income of the applicant and his or her spouse; and

(b) a report from a medical officer on a prescribed form .

(6) The Agency may accept alternative proof of any of the documents required in terms of sub regulation (1) to (5), including, where applicable a statement made by the applicant under oath.

**Procedures to be followed in application for grants**

11(1) A person requiring social assistance must apply in the prescribed manner and present himself or herself at a Social Security Agency office or designated place of the area in which he or she resides.

(2)The Agency may determine and publish the details of the days, times and places where applications for social assistance may be made;

(3) An application for a grant must be made on a prescribed form.

(4)The application form must be completed by an applicant or his or her procurator.

(5) The Agency must assist an applicant to complete an application form if he or she is unable, for whatever reason, to complete the application form or has not appointed a procurator or for whatever reason, the procurator is unable to complete the application form.

(6) An application form must be certified by an attesting officer and be signed by an applicant in the presence of the attesting officer in the case of a -

(a) foster child grant, by the foster parent;

(b) care dependency grant, by the parent or foster parent; or

(c) child support grant, by a primary caregiver.

(7) An application form must be accompanied by all the necessary documentation referred to in regulation 10, and be verified by a second attesting officer.

- (8) The attesting officer must certify on the duly completed application form that all the requirements have been complied with.
- (9) The applicant must be furnished with a copy of the duly completed application and an acknowledgement of receipt thereof, which must be dated, stamped with the official stamp and which must reflect the name of the applicant, the name of attesting officer and the date on which the prescribed application form was submitted.
- (10) The Agency must keep a register of each application received in which the following must be indicated -
- (a) identifying particulars;
  - (b) date of application;
  - (c) type of grant;
  - (d) status of application; and
  - (e) name of **the attesting officer**.

**Notification of outcome**

- 12 (1) The Agency must, on approval of a grant application, inform the applicant in writing in the language of preference of the applicant, of such approval and the date on which such approval was granted.
- (2) The Agency must, upon refusal of a grant application, or within a reasonable period thereafter, inform the applicant of such refusal in writing and in the language of preference of the applicant, and give reasons for such refusal.
- (3) The Agency must, when informing the applicant of the refusal of a grant application, also inform the applicant of his or her right to lodge an appeal in terms of section 18 of the Act.
- (4) Whenever the Agency informs an applicant of the outcome of an application, the Agency must ensure that the applicant fully understands the decision of the Agency, the reasons thereof and the procedures to be followed thereafter.

**Date of application for social grants**

- 13 (1) A grant, if approved, must be paid from the date on which the application is deemed to have been made in terms of regulation 10, but a person referred to in regulation 2 (e) may apply for a grant at a time when he or she is so maintained, and the grant must only be paid from the date when he or she is no longer so maintained.

- (2) In the case of a child placed in foster care in terms of an order of the court, the date on which the child was so placed shall be deemed to be the date of application.

**Documents to accompany the application for Social Relief of Distress**

14(1) The following documents or certified copies thereof must 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) his or her own and non-biological child dependent on the applicant;

(b) proof of marital status;

(c) proof of lack of means;

(d) discharge certificate from prison, treatment centre or hospital;

(e) proof of admission of spouse to a prison, treatment centre or hospital;

(f) proof of temporary medical disability; or

(g) alternative proof to that listed above as may be approved by the Agency.

(2) The Agency may, in exceptional circumstances, allow an application to be completed, attested to and approved in the absence of the prescribed documentation, provided that such documentation is submitted before social relief of distress is continued as contemplated in regulation 23(2).

**Procedure to be followed in the application for Social Relief of Distress**

15(1) An application for social relief of distress must be made on a prescribed form.

(2) The application form must be -

(a) completed in the presence of the first attesting officer by the applicant or his or her procurator, or with the assistance of the attesting officer for the area in which the applicant resides;

(b) certified or confirmed by the attesting officer referred to in sub-regulation 2(a); and

- (c) signed in the presence of the attesting officer by the applicant.
- (3) The second attesting officer must recommend the approval or rejection of the application for social relief of distress .
- (4) If the second attesting officer recommends the rejection of the application, written reasons must be given for such decision .
- (5) (a) The attesting officer must inform the applicant that if the documentation required in sub-regulation (6) is not available on application, such documentation will be required before the second and subsequent monthly payments, as referred to in regulation 24 (2), are made.
- (b) The applicant must be furnished with a copy of the application or a receipt for the application which must be dated and stamped with the official stamp and must contain the name of the applicant, attesting officer and the date of the application.
- (6) The Agency must keep a register of all applications received in which the following must be indicated, where applicable -
  - (a) identifying particulars;
  - (b) date of application;
  - (c) date on which social relief of distress is continued;
  - (d) date to which social relief of distress is extended;
  - (e) type of benefit, and the value thereof, which was made available to the applicant for social relief of distress; and
  - (f) date on which the applicant was referred to a social worker .
- (7) The Agency may request a social worker to investigate the circumstances of an applicant and to submit a written report with a recommendation.

**Notification of outcome of application for Social Relief of Distress**

- 16 (1) The Agency must, and on approval of an application for a grant, inform the applicant in writing in the language of preference of the applicant of such approval and the date on which such approval was granted.
- (2) The Agency must, within 3 days of refusal of an application, inform the applicant in writing and in the language of preference of the applicant and give reasons for such refusal, and the steps an applicant may take following such a refusal;

- (3) The Agency must, when informing the applicant of the refusal of an application for social relief of distress, also inform the applicant of his or her right to appeal in terms of section 18 of the Act.

#### **Date of application for Social Relief of Distress**

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

### **CHAPTER 3**

#### **APPEALS**

- 18 (1) An applicant or beneficiary who is aggrieved by a decision of the Agency shall, within 90 days of gaining knowledge of such a decision, lodge an appeal in writing to the Minister setting out the grounds on which the appeal is based, and submit a copy thereof to the Agency;
- (2) The Agency must, upon gaining knowledge of an intention on the part of any such person to appeal against its decision assist such person to lodge the appeal;
- (3) The Minister may appoint a person or persons to constitute a tribunal to consider an;
- (4) Whenever the Minister appoints a tribunal to consider an appeal, he or she may determine the conditions and procedures to be followed in the handling of the appeal.
- (5) A tribunal appointed by the Minister must dispose of the appeal within 30 days, unless the Minister directs otherwise.
- (6) When considering an appeal, the tribunal must ensure that, if necessary, the appellant is afforded an opportunity to rebut any evidence given or information provided to the tribunal by another person in connection with the appeal.
- (7) The Minister must communicate the outcome of the appeal in writing and in the official language of preference of the beneficiary within 10 days of the decision of the tribunal.
- (8) The provisions of regulation 18 shall apply with the necessary changes where the appeal is considered by the Minister or his or her delegatee.
- (9) The Agency must, within 30 days of receipt of the copy of appeal, furnish the Minister with –

- (a) the application form of the appellant; and
  - (b) reasons for the decision or findings .
- (10) The Minister may vary, set aside or confirm the decision of the Agency.
- (11) The applicant and the beneficiary must be informed of the decision in writing within 30 days of the date of the outcome of the appeal.

## CHAPTER 4

### DETERMINATION OF INCOME THRESHOLDS

#### Determination of the amount

- 19 (1) The Minister must, with the concurrence of the Minister of Finance, determine the grant amounts and the formula to be used when calculating such amounts for disability, war veteran's and older person's grants, by notice in the Gazette .
- (2) The income of a married person and his or her spouse must, be taken into account when applying the formula referred to in sub-regulation (1), irrespective of whether the couple is married in or out of community of property .
- (3) The Agency must, if it is satisfied that an applicant who is married was deserted by his or her spouse for a continuous period of at least three months, or the spouse is unable to support the applicant, grant approval for the marriage not to be taken into consideration when determining the means of the applicant.

#### Determination of assets

- 20 (1) When determining the assets of the applicant and his or her spouse, in the case of a disability, war veteran's and older person's grant application -
- (a) any assets donated by either the applicant or his or her spouse must be taken into account;
  - (b) the difference between the selling price of immovable property and the amount on which transfer duty was paid, where the selling price is less than the amount on which transfer duty was paid, must be taken into account;
  - (c) the Agency must, if he or she is satisfied that an applicant or his or her spouse had impoverished himself or herself or relinquished assets in order to obtain a grant, take such assets into account;

- (d) the municipal or market value of immovable property owned and occupied by the applicant and his or her spouse must not be taken into account; and
  - (e) the municipal value of the property owned but not occupied by the applicant and his or her spouse must be taken into account, but any outstanding bond payments must be deducted.
- (2) Despite sub-regulation (1)(a), (b) or (c) the value of such assets must not be taken into account after a period of five years has lapsed from the date of donation or relinquishment.
- (3) For purposes of determining the means of an applicant for an older person's grant, disability grant and war veteran's grant "assets" means -
- (a) immovable property owned by the applicant or his or her spouse, property held under leasehold, cash investment, bonds or loans or any outstanding debts in favour of the applicant or his or her spouse, interest in shares, share capital or assets of a company or other institution, endowment policies after maturity date and cash in hand or in any account with a financial institution;
  - (b) any fideicommissary rights held by the applicant or his or her spouse; and
  - (c) 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.

**Permissible deductions when calculating an applicant's means**

21. When determining the income of the applicant and his or her spouse, excluding foster care grant, and when determining the personal income of a primary caregiver and his or her spouse in the case of child support grant, the Agency must, on submission of acceptable documentary proof, allow the following deductions or contributions -
- (1) current obligatory contributions of the employee to a pension, provident or retirement annuity fund established in terms of an Act or, in the absence of such an obligatory contribution, another contribution which does not exceed 22 percent of the net income of the applicant;
  - (2) current deductions in respect of an employee's tax or standard income tax;
  - (3) current membership fees to an approved medical scheme in the Republic, established in terms of an Act, paid from income generated from services rendered or income from any other source; and

- (4) current contributions to the unemployment insurance fund paid from income generated from services rendered.

**Determination of the financial criteria for a Child Support Grant**

- 22(1) The Minister must, with the concurrence of the Minister of Finance, determine the amount of a child support grant by notice in the Gazette.
- (2) The primary care-giver qualifies for the amount referred to in sub-regulation (1), if his or her personal income is below an amount determined by the Minister by notice in the Gazette.

**Determination of the amount and the period of Social Relief of Distress**

23. (1) Subject to the provisions of the Act, the value of social relief of distress must be equal to, in the case of -
- (a) a single person, an amount not exceeding the maximum amount payable per month in respect of older person's, disability and war veteran's grants;
  - (b) a married person, where both spouses living together apply, an amount not exceeding the amount payable per month for each adult; and
  - (c) a child, an amount not exceeding the maximum child support grant payable per month for each child.
- (2) Social relief of distress must be issued monthly or for such periods as determined by the Agency for a maximum period of three successive months.
- (3) Before extending social relief of distress in terms of sub-regulation (2), the Agency must re-evaluate the application on the recommendation of a social worker or any other person authorized by the Agency.
- (4) The Agency may approve transport expenditure where -
- (a) an applicant is referred for and must attend treatment by a medical officer, and the applicant is unable to make his or her own travel arrangements, or cannot afford the cost of transport required to enable him or her to attend such treatment; or
  - (b) an applicant has to travel to a specific destination to assume employment, where he or she will not be dependent on further state aid, and cannot afford the cost of such travel

## CHAPTER 5

## PAYMENTS OF GRANTS

## Methods of payment of grants

- 24(1) The Agency may use any one or more of the following methods for the payment of grants -
- (a) Electronic transfers into an account of the beneficiary held at a financial institution or that of or his or her procurator;
  - (b) Manual payments at a designated pay-point; or
  - (c) Any other method approved by the Minister.
- (2) A grant must be paid monthly by the Agency or a person appointed for that purpose.
- (3) Subject to the provisions of sub-regulation (2) -
- (a) each beneficiary must -
    - (i) identify himself or herself by means of an identity document;
    - (ii) personally take receipt of the grant payable to him or her, and
    - (iii) sign for receipt for the amount received, if he or she receives payment of his or her grant manually;
  - (b) a beneficiary's signature must serve as acknowledgement of receipt for the amount received, unless the grant amount is credited to an account held at a financial institution.
- (4) If a beneficiary, except a person referred to in section 15 (2) of the Act, is, owing to circumstances determined by the Agency, unable to personally receive a grant awarded to him or her in terms of the Act, the Agency may, on submission of written authority by the beneficiary, duly signed in the presence of two witnesses, pay the grant to a person authorised by the beneficiary, for a period not exceeding three consecutive months.
- (5) When the Agency is satisfied that a beneficiary, cannot personally receive a grant, or that it would cause undue hardship for the beneficiary to receive the grant in person, the beneficiary may, in the manner and specific form apply for the authorisation of the grant to be paid to a person duly authorised by him or her.
- (6) When the Agency is satisfied that the beneficiary cannot personally receive the grant or that it will cause undue hardship for the beneficiary to receive

the grant in person, he or she must authorise the payment of the grant to the procurator appointed by the person or the Agency .

- (7) Whenever payment of the grant is made to any other person than the beneficiary, such person must furnish proof of identification, a life certificate in respect of the beneficiary, and an affidavit to the effect that the grant will be handed over to the beneficiary.

#### **APPOINTMENT OF PROCURATOR**

25(1) The Agency or a beneficiary must only nominate or appoint, respectively any person as a procurator, if that person -

- (a) has a valid identification document;
- (b) is not less than 18 years of age;
- (c) is permanent resident within the Republic;
- (d) is not an un-rehabilitated insolvent;
- (e) was never convicted of a criminal offence; and
- (f) is willing to be appointed the procurator of the beneficiary.**

(2) A person applying for or receiving social assistance may appoint a procurator if such a person is -

- (a) certified by a medical officer to be suffering from ill health and, in the opinion of the medical officer, it is in the health interests of such person to remain indoors;
- (b) certified by a medical officer that it will be in the health interests of the person not to personally attend at a pay-point for purposes of receiving a grant;
- (c) certified by a medical officer to be suffering from an infectious disease and the attendance or presence of such a person at a pay-point may affect the health of others;
- (d) certified by a medical officer to remain in a particular area for a period of time, for the purposes of receiving medical attention;
- (e) unable to complete the necessary application form or any other document required for such application;
- (f) in the case of a care-giver, unable, due to study, work or other commitments acceptable to the Agency, to attend at a pay-point to

receive the grant, where no other suitable alternative means of receiving the grant have been or can be made;

- (g) in the case of a disabled or older person, the attendance of such a person at a pay-point makes such a person vulnerable to abuse and no suitable alternative arrangements have been or are made for such person to receive the grant.
- (3) A person being appointed as a procurator by a person applying for or receiving social assistance must, prior to accepting such appointment satisfy the Agency that-
- (a) she or he is not, in terms of any agreement or contract, in any way indebted to the applicant or beneficiary;
  - (b) the purpose of the appointment as procurator is not to put in place an acknowledgement of debt;
  - (c) in the case where a grant will be received by way of electronic transfer into the account of the procurator held at a financial institution, suitable arrangements are made with the financial institution of the procurator for the amount of the grant to be protected against any form of attachment, pledge, cession or transfer by any person acting against the procurator.
  - (d) in the case where a grant will be received by way of electronic transfer into the account of the procurator held at a financial institution, provide the beneficiary with the account details into which the grant money is deposited;
  - (e) in the case of a procurator who, by virtue of the practice of his or her profession, is required to maintain a trust account, the monies received on behalf of a beneficiary shall be deposited into such trust account;
  - (f) he or she has not been convicted of an offence involving honesty and sentenced to a term of imprisonment;
  - (g) the beneficiary has not obtained an order in terms of any other law against the procurator to prevent the procurator from abusing the beneficiary;
  - (h) it is in the best interests of the beneficiary for a procurator to be appointed.
- (5) A person appointed as a procurator by a beneficiary shall be responsible for ensuring that-
- (a) all the necessary documents, reports or certificates required in connection with the application in terms of the Act are provided to the Agency when required;

- (b) information provided to the Agency is correct and truthful in all material respects;
  - (c) when the presence of the applicant before the Agency is required, the applicant presents himself or herself in person to the Agency at the place, on the date and at the time determined by the Agency;
  - (d) the Agency receives regular reports as may be required from the procurator from time to time, in connection with any matter relating to the application or receipt of social assistance by the beneficiary;
- (5) Whenever a beneficiary terminates a power of attorney appointing a procurator, the beneficiary shall-
- (a) notify the Agency in writing of such termination and the effective date thereof, provided that where an applicant or beneficiary is unable to read or write, the Agency may obtain a sworn statement from such an applicant or beneficiary;
  - (b) personally or through another person acting on behalf of the beneficiary, submit a report to the Agency detailing the reasons for the termination of the power of attorney;
  - (c) personally or through a person acting on his or her behalf notify the Agency of the alternative arrangements for the receipt of the grant or request the Agency to make alternative arrangements for the receipt of the grant, provided that the Agency may upon receipt or gaining knowledge of termination of a power of attorney and after consultation with the beneficiary, make alternative arrangements for the receipt of the grant money by the beneficiary
- (6) A procurator whose power of attorney is being or has been terminated must, upon being aware or gaining knowledge of the intention of the beneficiary to terminate or the actual termination-
- (a) within forty eight hours of such knowledge, give written notice of the intended termination or termination to the Agency;
  - (b) within seven days of such termination, submit a detailed report of the amounts received by the procurator and details of any monies still in the possession of the procurator.
  - (c) within 10 days of such termination, transfer to the beneficiary any such monies belonging to the beneficiary still in his or her possession;
  - (d) act in any manner permissible in law as directed by the Agency in connection with any such monies, reports or documents in his possession.

- (7) The Agency may, on its own or at the request of any person, investigate the conduct of a procurator appointed to apply or receive social assistance on behalf of any person, in connection with any matter relating to such application or receipt of grant in terms of the Act.

#### **Conditions for appointment of a procurator by the Agency**

26. Whenever the Agency appoints a welfare organisation as a procurator for a person who is unable to appoint another as her or his procurator, the Agency must ensure that the organisation -
- (a) is, prior to such appointment registered in terms of any applicable law;
  - (b) has the financial and administrative capacity to act as procurator;
  - (c) will not require the person for whom it is appointed to pay any fees, surcharges, bank or administration charges or make any contribution in any form or kind in recompense for the welfare organization acting as procurator for such person;
  - (d) operates an account with a financial institution into which the grant money will be paid;
  - (e) will act in the best interests of the applicant or beneficiary.

### **CHAPTER 6**

#### **ADDITIONAL REQUIREMENTS OR CONDITIONS FOR SOCIAL ASSISTANCE**

##### **Determination of means**

- 27.(1) For the purposes of determining means regarding social assistance, "**income**" means-
- (a) any compensation payable to an applicant or his or her spouse or dependent child in cash or otherwise as an employee;
  - (b) any profits, withdrawals or other benefits derived from a business concern or farm of which the applicant or his or her spouse or family is the owner or a usufructuary or holds fideicommissary rights in respect thereof;
  - (c) any income which an applicant or his or her spouse or family or foster **child** derives from a trust or inheritance;
  - (d) any income which an applicant or his or her spouse or family derives from usufruct or fideicommissary rights in respect of immovable property, cash investments, bonds or loans or any other outstanding

debts, shares capital or assets of a company or other institution, capital invested in a business concern, a bank or other financial institution;

- (e) any pension or annuity payable to an applicant or his or her spouse or family in terms of the provisions or regulations of a pension or provident or retirement annuity fund initiated in terms of an Act, but excluding benefits received in terms of this Act.
  - (f) any ex gratia compensation received in cash or otherwise by an applicant or his or her spouse or family;
  - (g) **the** rental payable to an applicant or his or her spouse 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 family; and
  - (i) any other income, including interest and dividends, generated from assets of an applicant or his or her spouse or family or foster child.
  - (j) Any lump sum invested by the applicant or his or her spouse in a company or financial institution with the aim of procuring an income.
- (2) The provisions of sub-regulation 20(1) (a),(b) and (c) apply with the necessary changes if the applicant or his or her spouse donated or relinquished in order to obtain a grant.
- (3) Despite the provisions of sub-regulation (1), the said income must not be taken into account after a period of five years has elapsed from the date of donation or relinquishment.

## CHAPTER 7

### CONDITIONS APPLICABLE TO A PERSON IN RECEIPT OF A GRANT

#### Special conditions regarding Child Support Grant

28. A primary care-giver who is in receipt of a child support grant must comply with the following conditions -

- (1) he or she must continue to be a primary care-giver of the child concerned for the duration of the grant or until substituted by another;
- (2) the child must have accommodation, be fed and clothed;
- (3) he or she must allow the Agency reasonable access to the child and the

- dwelling in which the child resides;
- (4) he or she must ensure that the child receives immunisation and other health services;
- (5) he or she must use the grant for the benefit of the child .

**Special conditions regarding Foster Child Grant**

29. A foster parent who is in receipt of a foster child support grant must comply with the following conditions:
- (1) the foster child must remain in the custody of the foster parent, but the foster child who attends school **elsewhere is** deemed to be in custody of the foster parent;
  - (2) the foster child must have adequate accommodation, be properly fed, clothed and receive medical and dental care;
  - (3) the foster child, if of school-going age, must attend school regularly;
  - (4) the foster parent must allow an official who has been authorised in terms of the Child Care Act reasonable access to the foster child and the dwelling in which the child resides; and
  - (5) the foster parent must use the grant for the benefit of the beneficiary.

**Special conditions regarding Care Dependency Grant**

30. A parent or foster parent who is in receipt of a care-dependency grant must comply with the following conditions -
- (1) the care-dependent child must remain in the care of the parent or foster parent;
  - (2) the care-dependent child must have accommodation, be fed and do - and receive care and stimulation services, medical and dental care;
  - (3) the parent or primary care-giver must allow the Agency or an authonsed person access to the care-dependent child and the dwelling in which the child resides and, in the case of a care -dependent child who is in foster care, the foster parent must allow an official who has been authorised in terms of the Child Care Act
  - (4) the care-dependent child must not be permanently cared for in one of the following institutions run by the State -
    - (i) a psychiatric hospital; or

(ii) a care and rehabilitation centre ;

(5) the care-dependent child must receive the necessary medical or other treatment recommended by a medical practitioner or psychiatrist. However, refusal to undergo treatment which is or may be life-threatening must be accepted by the Agency as adequate reason for not subjecting the child concerned to such treatment; and

(6) the care-dependent child must be evaluated by an education authority for attendance at a specialised school at the age of six years.

#### **Powers of the Agency to suspend or vary the amount of grant on review**

31(1) A person who is in receipt of a grant must, without delay, inform the Agency of any changes in the general, medical or financial circumstances of the beneficiary, child or foster child.

(2) The Agency must review the grant -

(a) annually, in situations where there is documentary evidence that changes in the beneficiary's financial circumstances may occur, but a foster child grant must be reviewed on the expiry date of the court order or an extension order;

(b) where there is documentary evidence that changes in the medical circumstances of a temporarily disabled person may occur, such review may be done in terms of sub-regulation (8)(b).

(3) The Agency must require a beneficiary to submit a life certificate annually to him or her to prove that he or she is still alive.

(4) If a beneficiary fails to provide the requested information or documentation, the Agency must suspend payment of the grant, in which case the beneficiary must apply for the restoration of such grant.

(5) If an application is made for the restoration of a grant, the Agency may restore the grant from the date on which the grant was suspended, but the application for restoration must be made within 90 days of suspension or variation.

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

(7) The provisions of sub-regulation (2) will, with the necessary changes, apply to any person to whom payment has been made according to authority granted in terms of regulation 24(3) and (4).

(8) Despite the provisions of sub-regulations (1) to (7) -

- (a) in the case of social grants for disabled persons, no further medical assessment may be required where permanent classification has been made;
- (b) the Agency, may, at any time after a period of five years from the date of application for a grant, request the beneficiary to undergo a medical examination in terms of regulation 2(3); and
- (c) a beneficiary who receives a grant personally must not submit a life certificate.

**Lapsing of grants and unclaimed benefits**

32. (1) An older person's, disability and war veteran's grants shall lapse -

- (a) on the last day of the month in which the beneficiary dies;
  - (b) when a beneficiary is admitted to an institution referred to in regulation 2(2)(f), but a grant must be paid for a period not exceeding six months if a person is admitted temporarily to a psychiatric hospital for observation or treatment; or
  - (c) when the period of temporary disability has lapsed in the case of a temporary disability grant.
- (2) A child support grant lapses on the last day of the month in which the child in respect of whom the grant is paid.
- (a) dies;
  - (b) attains the age of 14 years; or
  - (c) is no longer in the custody of the primary care-giver ,
- (3) The Agency must pay such grant as part of the payment for expenses incurred in respect of the funeral of the child, on submission of documentary proof of funeral expenses by the person responsible for the child's funeral; and
- (4) An application for unclaimed benefits must be made within six months after the death of the child, and the amount must not exceed the amount owing to the primary care-giver at time of death.
- (5) 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 foster child is, in terms of any Act, no longer in the custody of the foster parent;

- (c) at the end of the calendar year in which the foster child attains the age of 18 years;
  - (d) with effect from the first day of the month following the month in which the foster child leaves school, but the Agency may authorise continuation of the payment of the grant on the recommendation of a social worker in the case of -
    - (i) a child under the age of 18 years, for an interim period not exceeding 12 months, pending placement;
    - (ii) a foster child who has attained the age of 18 years but has not yet attained the age of 21 years, in terms of section 33 (3) of the Child Care Act, 1983 (Act No. 74 of 1983), on submission of the required documentation, to enable the child to complete his or her secondary school or training; or
    - (iii) a disabled child, on condition that the grant will not be continued after the end of the year in which the child attains the age of 18 years and the Agency must authorize a person to administer the grant for the benefit of the disabled child.
- (6) A care-dependency grant lapses -
- (a) on the last day of the month in which the care-dependent child dies;
  - (b) on the last day of the month in which the care-dependent child attains the age of 18 years and becomes eligible for disability grant; and
  - (c) when a care-dependent child is admitted to an institution referred to in regulation 22 (2) (e) -
    - (i) a care-dependency grant must be paid for a period not exceeding six months when a person is admitted temporarily to a psychiatric hospital for observation or treatment;
    - (ii) the Agency may, on the recommendation of a 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 .
- (7) Any grant lapses if the beneficiary has not claimed the grant for a period of three consecutive months. But if the beneficiary applies for the restoration of the grant within 90 days after the lapsing of the grant, and the Agency is satisfied that failure to claim the grant was due to circumstances over which the beneficiary had no control, he or she must direct that the grant be restored from the date on which it was last claimed.

**CHAPTER 8****ABUSE OF SOCIAL ASSISTANCE RECEIVED ON BEHALF OF THE BENEFICIARY****Measures to curb abuse of social assistance received on behalf of a beneficiary**

33. Whenever the Agency appoints a person to receive and use a grant on behalf of a beneficiary, it may direct the person -

- (1) not to give the beneficiary the grant money after receiving it;
- (2) not to purchase any particular goods for the beneficiary;
- (3) to use the money for particular purposes only;

**CHAPTER 9****APPOINTMENT OF A PERSON TO RECEIVE A GRANT IN THE CASE OF DEATH OF A PRIMARY CARE-GIVER****Continuation of a social grant in the case of death of a primary care-giver**

34. (1) On receipt of notice of death of a primary care-giver, the Agency must, without suspending the grant, appoint a person to receive the grant on behalf of a beneficiary

- (2) A person referred to in sub-regulation (1) must-
  - (a) continue to receive the grant until a primary care-giver has been appointed;
  - (b) carry out any instruction by the Agency regarding the use of the grant; and
  - (d) comply with any conditions applicable to the relevant grant.

**Information to be furnished by an organ of State to the Agency relating to the applicant**

35. An organ of state must assist the Agency with access to any information held by that organ of State as the Agency may require in connection with the administration and management of social assistance.

**Information to be furnished to the Agency or the Inspectorate by a financial Institution**

36. A financial institution must, at the request of the Agency or Inspectorate, furnish information on the following:

- (1) cash investments, bonds or loans or any outstanding debts in favour of the applicant or his or her spouse;
- (2) any interest in shares, share capital or assets of a company or other institution;
- (3) any endowment policies after maturity date and cash on hand or in any account with a bank or other financial institution;
- (4) any fideicommissary rights hold by the applicant or his or her spouse;
- (5) any lump sum investment by the applicant or his or her spouse in a company or financial institution with the aim of procuring annuity; or
- (6) any other relevant information.

**Circumstances under which the Agency may continue payment of a grant or a portion thereof of a beneficiary who is absent from the Republic**

37. The Agency may continue payment of a grant or a portion thereof to a beneficiary or a procurator who is absent from the Republic for a period not exceeding 90 days under the following circumstances –

- (1) In the case a procurator-
  - (a) where the procurator is absent from the Republic due to work or study commitments for a period not exceeding 12 consecutive months.
  - (b) where the procurator is absent from the Republic for purposes of receiving medical attention overseas; or
  - (c) where the procurator is in the employ of the State overseas;

Provided that such a procurator will, prior to such departure and during any period of such absence, satisfy the Agency that any such absence does not adversely affect the beneficiary.

- (2) In the case of a beneficiary-

- (a) where the beneficiary is absent from the Republic for purposes of receiving medical attention overseas;
  - (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 within a period from date of departure from the Republic;
  - (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 reason the arrest and detention of a beneficiary overseas.
- (3) The Agency may require any person who is absent from the Republic and who continues to receive a grant or a portion thereof -
- (a) to 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) to present any credentials as the Agency may determine for purposes of verifying any information in connection with the beneficiary or the procurator.

**Conditions under which deductions may be made directly from social grants**

38(1) The Agency may, with the prior written approval of the Minister, allow deductions directly from a social grant where -

- (a) in the opinion of the Minister, the deduction is for a lawful purpose and in the interests of the beneficiary;
  - (b) the person requiring such deduction obtained the prior approval of the Minister for the transaction giving rise to such deduction;
  - (d) the person requiring such deduction is authorized in law to effect any such deduction; Provided that no deduction shall be allowed directly in favour of any person who-
    - (i) is not registered in terms of any law applicable to the business giving rise to the transaction for which the deduction is made; or
    - (ii) such person does not comply with any law regulating and applicable to any such business transaction for which the deduction is made;
- (2) The Minister may not grant approval for deduction directly from a grant if such deduction is made in favour of a service provider or a person having an interest in the business of the service provider and vice versa.
- (3) A service provider must not, without the prior written approval of the

Minister, allow any deductions directly from a social grant;

- (4) The Agency must, within thirty days of any deduction made directly from a social grant, require the person in whose favour the deduction was made to provide any such information to the Agency as the Agency may require in connection with such a deduction and the transaction giving rise to the deductions.

#### **Procedures to be followed for suspension and cancellation of grants**

39 (1) The Agency may suspend or cancel a grant if-

- (a) the grant was obtained fraudulently or through misrepresentation by any person;
  - (b) the physical, health or financial circumstances of the beneficiary have so materially changed that she or he no longer meet the requirements for the grant;
  - (c) the beneficiary fails to comply with any additional conditions prescribed for the grant and, after notice by the Agency remains non-compliant with any such conditions;
  - (d) the beneficiary dies;
  - (e) the beneficiary fails to produce a life certificate;
  - (f) the grant was approved and granted in error;
- (2) Except in the case of a beneficiary who is employed either by the State or other person and who does not ordinarily qualify for a grant in terms of the Act, a deceased beneficiary or where a beneficiary was found guilty of fraud in connection with obtaining the grant, before the Agency suspends a grant, it must-
- (a) thirty days prior to such suspension or termination, inform a beneficiary in writing and in the official language which the beneficiary understands of its intention to suspend or terminate a grant, and provide the beneficiary with the following information-
    - (i) the effective date of the intended suspension or termination;
    - (ii) the reasons for the suspension or termination; and
    - (iii) the actions required from the beneficiary, if any, to prevent such suspension or cancellation;
    - (iv) the procedures to be followed in the suspension or cancellation of the grant;

- (v) the implications of the suspension or cancellation; and
  - (vi) the right and procedures for appealing against the decision of the Agency.
- (3) The notice of suspension or. cancellation of a grant shall be delivered or sent by registered post to the last known address of the beneficiary and, where a procurator was appointed by the beneficiary to the last known address of the procurator;
- (4)The Agency shall cause to be displayed in a public place and at the pay-point of the affected beneficiary a notice in the official business language of the Agency and another official language spoken in the area of the pay-point of Its intention to suspend or cancel a grant, and calling upon any interested person to show cause, within 30 days thereof why the grant should not be suspended or cancelled;
- (5) The Agency may cause the notice of its intention to suspend or cancel a grant to be served on the registered or business address of any community-based organisation or non-governmental organisation providing services to the community of the beneficiary, if in the opinion of the Agency the service of such notice may facilitate notice to a beneficiary;
- (6)The Agency must afford a beneficiary an opportunity to show cause why the grant 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; or
  - (b) requiring the beneficiary to submit any such reports or certificates as the Agency may direct; or
  - (c) ensuring that the beneficiary obtain 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.
- (7)The Agency must, prior to suspending or cancelling any grant, investigate, obtain and verify all the facts and circumstances surrounding the grant .
- (8) Despite having complied with the conditions set out herein-above, the Agency may not suspend or cancel a grant prior to submitting a report to the Minister on the circumstances surrounding its decision to cancel or suspend the grant;
- (9)The Minister may, within 7 days of receipt of the Agency's report direct the Agency to take any other action other than the suspension of the grant or require the Agency to perform any other function prior to the suspension or cancellation of the grant;

(10) The Agency must, when suspending or cancelling a grant as result of non-compliance with the prescribed requirements for eligibility, after complying with the conditions set out herein above, notify the beneficiary in writing of its decision, setting out the following-

- (a) details of the nature and scope of such non compliance;
- (b) details of the steps taken by the Agency to ensure that the beneficiary comply with the requirements; and
- (c) any other factor taken into consideration;

## CHAPTER 10

### GENERAL RESPONSIBILITIES

#### General responsibilities of the Agency and other persons

40. The Agency must adopt reasonable measures within the available resources to ensure that-

- (1) an applicant for a grant understands the requirements for eligibility of the grants for which she or he is applying together with any prescribed additional conditions for the grant;
- (2) an applicant for a grant understands his or her rights for social assistance and his or her obligations to qualify for a grant;
- (3) an applicant for a grant is given the necessary support and assistance in applying for social assistance and is properly advised of the steps to be followed in applying for social assistance;
- (4) an applicant for social assistance is not in any way subjected to any form of inducement or influence by any member of staff of the Agency or any person acting on behalf of the Agency, not to act in the prescribed manner in applying for social assistance;

41. A member of staff of the Agency or of a person performing a function on behalf of the Agency and any other person performing any function or exercising any power in terms of the Act must-

- (1) perform any such function or exercise any such power with a high degree of integrity, honesty and objectivity;
- (2) not in any way, directly or indirectly seek to or derive any material or other benefit from an applicant or a beneficiary for the performance of any such function or the exercise of any such power;

- (3) report, within 7 days of gaining any such knowledge, any conduct, or act or the part of an applicant, a beneficiary or any other person in contravention of the provisions of the Act, rules or procedures made under the Act or in terms of the Act, or any other law in connection with an application for a grant or the provision of social assistance .
- (4) notify the Agency in writing, within 7 days of any omission, conduct or act on the part of such a person or any other person, contrary to the Act, any rules or procedures made under or in terms of the Act or any other law in connection with the administration, management of social assistance or the payment of a grant;
- (5) report any act of misconduct by any employee of the State in terms of any other law in connection with the administration, management of social assistance and the payment of a grant;

**General responsibilities of medical officers**

42. A medical officer performing a function or exercising a power in terms of the Act must-

- (1) Keep proper medical certificates, records and reports of an applicant or a beneficiary examined by such Medical Officer in connection with the administration of social assistance in terms of the Act;
- (2) When requested to do so by the Agency in writing, provide the Agency with certified copies of any such certificates, records or reports;
- (3) Report to the Agency in writing within 7 days of gaining any such knowledge of any act, conduct or omission of an applicant or beneficiary in connection with medical treatment of the applicant or beneficiary in relation to such applicant's application for social assistance or the beneficiary's grant, which act, conduct or omission is contrary to the provisions of the Act;
- (4) Report to the Agency in writing within 7 days of gaining any such knowledge of any failure or refusal by an applicant or a beneficiary to undergo medical treatment recommended by the medical officer or a medical practitioner;
- (5) Report to the Agency within 30 days of gaining any such knowledge of any act, conduct or omission contrary to the provisions of the Act or any other law, of any other Medical Officer, Medical Practitioner or other health practitioner in connection with the administration of social assistance in terms of the Act

**General responsibilities of persons who perform a function on behalf of the Agency**

43. A person appointed or authorised by the Agency to perform a function or

render a service in connection with the administration, management of social assistance and the payment of grants must –

- (1) within 14 days of gaining any such knowledge, report to the Agency, an organ of State or any person acting on behalf the Agency any act or conduct contrary to the Act, rules or procedures made under or in terms of the Act, by any person in connection with the administration, management of social assistance or payment of grants;
- (2) not, directly or indirectly, whether on his or her own, or acting in concert or partnership with any other person, require any beneficiary to act or do any other thing as a pre-condition for receiving any payment of a grant;
- (3) not act in any manner or do anything, enter into any agreement or make arrangements, whether orally or in writing, with any person in terms whereof a beneficiary is required to purchase any goods, service or anything from any such person;
- (4) not act in any manner or do anything calculated or intended to limit a beneficiary's choice to any particular service provider or supplier of any goods during the period of the payment of a grant;
- (5) provide any person with any information, without the prior written approval of the Agency, regarding any beneficiary, the amount of the grant received by the beneficiary, the and the date on which any such beneficiary receives his or her grant

## CHAPTER 11

### STANDARD RULES AND PROCEDURES APPLICABLE AT PAY-POINTS

#### **Prohibition of creditors and other persons enforcing debts within the area of a pay-point**

44. Any person owed any money by a beneficiary shall not without the prior written approval of the Agency –
- (1) enter any premises, building or place on any day or any time during the payment of grants to beneficiaries for the purposes of collecting from any such beneficiaries any monies owing in terms of any verbal or written agreement;
  - (2) accompany any beneficiary or a procurator to any pay point on any day or at any time during which a beneficiary is to receive any payment of a grant for the purposes of collecting any monies owing to such person by the beneficiary;
  - (3) be within 100 meters of any pay point unless such person is accredited by

the Agency to accompany the beneficiary to the pay-point.

#### **Prohibition against conducting money-lending business at pay-points**

- 45 (1) No person may conduct any business, whether registered or not, within any pay-point for the purposes of soliciting a beneficiary to join any money lending scheme or to borrow money from any such person;
- (2) No person in the employ of the Agency or performing any function on behalf of the Agency in connection with the administration, management or payment of grants, may directly or indirectly offer any money-lending services or lend any money to a beneficiary within a pay-point.
- (3) No person in the employ of the Agency or performing a function on behalf of the Agency shall in any way, directly or indirectly, knowingly or unknowingly, assist any person to collect any money owing to any such person from a beneficiary;
- (4) A person in the employ of the Agency or a person performing a function on behalf of the Agency at a pay-point, must report any act or conduct of any person which act or conduct is in contravention of these regulations in connection with any matter relating to the collection of any monies by any person from a beneficiary;

#### **Accreditation of persons accompanying beneficiaries to pay-points**

46. The Agency may accredit or allow a person or organisation or member of such organisation to accompany a beneficiary and to assist the beneficiary to receive his or her grant at a pay-point provided that the person.
- (1) presents a valid identity document or a form of identification approved by the Agency to any person controlling access to the pay-point;
- (2) records, in the register provided for that purpose, his or her identification details and signs the register;
- (3) the person controlling access to the pay-point has no reason to believe that such a person and the beneficiary are misleading;
- (4) the physical or health condition of the beneficiary is such that assistance is required and the Agency is unable to provide the assistance;
- (5) the beneficiary consents to the person accompanying him or her to receive his or her grant;
- (6) the person has already been accredited by the Agency, issued with an identification card for that purpose and produces such identification card when requested to do so by the person controlling access to the premises;

**General obligations of persons accompanying beneficiaries to pay-points**

47. A person accompanying a beneficiary and authorised to enter upon the premises of a pay-point must-

- (1) at all material times conspicuously display any identification card provided for that purpose upon entering any such premises or when requested by any authorised person provide any other form of identification requested by **such** authorised person;
- (2) report to the Agency any person at the pay -point seeking to collect any monies owing to any such person by the beneficiary ;
- (3) not, directly or indirectly assist any person to collect any monies owing to any such person from the beneficiary;
- (4) report to the Agency or a person acting on behalf of the Agency, any poor treatment of the beneficiary or act or conduct of any nature by any person at the pay-point in contravention of the Act, any rules or procedures made under or in terms of the Act.

**Faith-based, welfare, community-based, non-governmental organisations and community service workers**

48. 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 grants at a pay -point for the purposes of -

- (1) providing any services or services to beneficiaries to ensure the comfort and wellbeing of such beneficiaries when receiving grants;
- (2) assisting an individual beneficiary in any manner to ensure the comfort and well being of such a beneficiary;
- (3) providing any meals or non -alcoholic drinks for the comfort and well being of such beneficiaries;
- (4) providing any other form of assistance required and approved by the Agency for the comfort and well-being of such beneficiaries.

49. An organisation or person authorised by the Agency to render any service to a beneficiary for the comfort or well-being of the beneficiary must -

- (1) comply with any law, rule or procedure for the rendering of any such service;

- (2) at its own cost obtain any such approvals, authorisations or exemptions as may be required in terms of any other law applicable to the rendering of any such service
  - (3) when rendering a service in terms of these regulations, comply with any standards, procedures or rules applicable to the pay-point;
  - (4) report 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;
50. An organisation or person authorised by the Agency to render any service to a beneficiary for the comfort or well-being of the beneficiary must not –
- (1) require a beneficiary to contribute financially or donate anything to such organisation or person in recompense for any such service rendered at the pay-point;
  - (2) require a beneficiary to 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;
  - (3) require the beneficiary to give any undertaking to support the activities of any such organisation or person;

## CHAPTER 11

### OFFENCES AND PENALTIES

51. Any person commits an offence who –
- (1) induces or influences an applicant or a beneficiary not to report any complaint to any person or organ of State in respect of any matter in terms of the Act
  - (2) wilfully furnishes wrong or false information to the Agency, the Minister or the Director -General in the performance of her or his duties in terms of this Act;
    - (a) does anything calculated improperly to influence the Agency or any person acting on behalf of the Agency, the Minister or the Director-General, in respect any matter being considered by the Agency, the Minister or the Director General, in connection with any performance of any function or exercise of any power in terms of the Act;
    - (b) wilfully hinders or obstructs any investigation, inquiry or evaluation by a member of staff or person appointed by the Agency, the Minister or the Department to conduct such investigation, inquiry or evaluation;

- (c) without just cause and being aware of any fraud or attempt to commit fraud, misrepresentation of facts to the Agency, Minister or Director-General, fails to report an action or act of any person, which act is prohibited in terms of the Act.
  - (d) does anything to assist an applicant or beneficiary to falsify any document, certificate or report, alter or temper with any such certificate, document or report, or makes false presentations or supply false information to the Agency, the Minister or the Director General in connection with any matter in connection with such report, document or certificate or in terms of the Act;
  - (e) whilst obliged to do so and upon written request, fails to provide information to the Agency, the Minister or the Director-General regarding any matter in connection with the administration of social assistance and the payment of grants in terms of the Act;
  - (f) whilst appointed by the Agency to act on behalf of a beneficiary in respect of a matter in terms of the Act, fails to act in accordance with the conditions of appointment applicable to him or her;
  - (g) whilst appointed by the Agency to act on behalf of a beneficiary in connection with any matter in terms of the Act, fails and neglects to act in the best interests of the beneficiary, or uses any monies received on behalf of the beneficiary for any purpose not authorised by the beneficiary or the by the Agency;
  - (h) whilst appointed by the Agency to act on behalf of a beneficiary in connection with any matter in terms of the Act, influences the beneficiary to provide false information, reports or documents to the Agency or any other organ of State in connection with any matter relating to the administration of social assistance or the payment of a grant to a beneficiary.
  - (i) knowing that a statement or declaration by an applicant or beneficiary is false in material respect or without verifying any fact, assists or encourages a beneficiary or applicant to make such a false statement or declaration; or
  - (j) threatens or interferes with a beneficiary at a pay-point.
- (2) Any person found guilty of an offence in subsection (1) shall be liable on conviction to a fine or to imprisonment.

### **Conversion of grants**

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

- (2) If a person who receives a grant for an older person's or disability grant qualifies for a war veteran's grant, such a grant may be converted, at his or her request, on submission of the necessary documentation, but the date of conversion must not be earlier than the date of request.

### **Payment of reduced grants to persons maintained in certain institutions**

- 53 (1) If a beneficiary of a grant is admitted at an institution that has a contract with the state to care for and maintain such beneficiary, the grant must be reduced to an amount equal to 25 percent of the maximum amount
- (2) A grant reduced according to regulation (1) must be reinstated immediately from the date of discharge of the beneficiary from the State institution.

### **Transitional provisions**

54. For the proper administration of the Act, the following transitional arrangements are prescribed-
- (1) For the duration of the Memorandum of Understanding entered into by and between the Minister and a Member of the Executive Council, as contemplated in section 24 of the South African Social Security Agency Act, 2004 (Act No. 13 of 2004), the MEC and the Provincial Department must perform the functions and exercise the powers to be exercised by the Agency, in terms of the Act;
- (2) The MEC and the Provincial Department shall continue to perform the functions and exercise the powers in terms of the Act, until the Minister, by written notice, relieves the MEC and the Provincial Department of such functions and powers; and
- (3) Whenever the Minister transfers the performance of any function or the exercise of any power to the Agency during the currency of the Memorandum of Understanding referred to in sub-regulation (1), the MEC and the Provincial Department must continue to perform any functions or exercise any powers not transferred to the Agency.

### **Repeal of regulations**

55. Regulations regarding grants and financial awards to welfare organisations and to persons in need of social relief of distress in terms of the Social Assistance Act, 1992 (Act No. 59 of 1992) are repealed.

### **Short Title and date of commencement**

56. These regulations are called Regulations in terms of the Social Assistance Act, 2004 (Act No. 13 of 2004).