

**COMMENT ON THE AMENDMENTS TO THE REGULATIONS RELATING
TO COVID-19 SOCIAL RELIEF OF DISTRESS
ISSUED IN TERMS OF SECTION 32,
READ WITH SECTION 13 OF THE SOCIAL ASSISTANCE ACT
NO 13 OF 2004 AS AMENDED**

NO. R 2246

**BLACK SASH
29 JULY 2022**

AMENDMENTS TO THE REGULATIONS TO THE SOCIAL ASSISTANCE ACT, 2004

About the Black Sash Trust

1. Black Sash Trust (“Black Sash”) is a non-profit organization registered as a trust in terms of the laws of South Africa. Black Sash’s vision is a South Africa in which human rights are recognised in law, respected, and implemented in practice, where government is accountable to its people, meets basic needs in a participatory and dignified manner, and where the Constitution is protected, promoted, and fulfilled by all.
2. Black Sash works towards the realisation of socio-economic rights that seeks to reduce poverty and inequality, with an emphasis on social security and social protection for the most vulnerable, particularly women, youth, and children. To this end, strong, vibrant, and active civic engagement is promoted, made possible by enabling organisations of civil society that include community-based organisations, non-governmental organisations coalitions and social movements.
3. Black Sash appreciates the opportunity to comment on the amendments to the regulations relating to the COVID-19 Social Relief of Distress (SRD) Grant issued in terms of Section 32, read with Section 13 of the Social Assistance Act 2004 as amended issued by the Department of Social Development (DSD).

Rationale for submission

4. Our submissions are informed by our ongoing work with the DSD and the South African Social Security Agency (SASSA) to ensure the constitutional right to social security and social protection, with emphasis on social assistance through advocacy, community-based monitoring, research, education, and training.
5. The right to social security, particularly social assistance, is set out in section 27 of the Constitution¹. Social assistance is a crucial lifeline which the government provides to protect the poor and vulnerable. Currently more than 18 million people or a third of the South African population receive permanent social grants and a further 10 million people who received the SRD grant. Black Sash works to ensure the right to social assistance is delivered in an unhindered manner to all those who qualify in South Africa. It is incumbent on the government to ensure an effective and efficient social grant system which is transparent at no cost to beneficiaries.

6. Regulation 2 (4) of the Regulations

- 6.1 Black Sash supports the deletion of Regulation 2(4) which reads “*If the results from the bank verification referred in sub regulation (3)(c)(ii) contradicts the results from the data checks referred to in sub regulation (3)(c)(i), the results from the bank verification must be used to make the final determination*”.
- 6.2 In the South African context using a bank verification to determine a person’s income is not feasible, nor is it progressive. The Department is not able to ascertain the purpose for which the income is received. Neither can it verify that the funds received are in fact for the bank account holder.

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

By way of illustration, our Helpline is inundated with queries from SRD Grant applicants relating to the rejection of their application based on “alternative income source identified”, when they are adamant that they do not receive any other income. An example of this is applicants who receive ‘income’ as maintenance for a child, ‘income’ which SASSA deems to be for the account holder. The result of this is that applicants are unfairly excluded from receiving the grant despite there being a genuine need.

- 6.3 Though supporting the deletion as contained in 6.2, we wish to highlight that Black Sash has consistently reported to both DSD and SASSA in different forums that using government databases as a means of testing eligibility is a problem as the government databases are inaccurate and outdated. This results in many qualifying applicants being disqualified as the data used is outdated. We continue to call on the government to have an intergovernmental communications system with a single database.
- 6.4 In the first special report of the Auditor General on the financial management of Government's COVID-19 initiatives, it noted that the information technology systems used in government were not agile enough to respond to the changes required. The lack of validation, integration and sharing of data across government platforms resulted in people (including government officials) receiving benefits and grants they were not entitled to, and applicants being unfairly rejected as a result of outdated information ².
- 6.5 Black Sash submits that DSD and SASSA must seek to use reliable and accurate systems to determine eligibility. It must acknowledge that there is room for error with the use of government databases and banks systems. We propose that DSD and SASSA accept the version of the applicant in the absence of evidence to the contrary.
- 6.6 Below is the story of an applicant who turned to Black Sash for assistance and which illustrates the challenges with bank verifications:

“I have been declined for the new period, their reason being alternative income.

My mother-in-law passed away December 2020. In February 2021 he (father in law) asked me and my 2 children if we could move in with him to help him sort everything in the house. It helped me because I have been unemployed since February 2017.

The problem is that he sometimes pays money into my account so that I can go buy things that he needs or pay accounts because he doesn't have internet banking and he doesn't want it because he doesn't understand it, he is 63 years old. The reference he uses every time he does that on my bank statement is "Dad".

Because of that I have now been declined and when I put in an objection, it doesn't allow you to explain anything, all I could do is click on alternative income sourced. I don't see how that helps if I cannot explain to Sassa where the money comes from and what it is for because I am still responsible for my children. Even though he assists with food, I used to use the R350 for our toiletries and anything that my children needed because he cannot afford to help us with everything.

How can one explain to Sassa about the money?

² Auditor General of South Africa First Special Report on the financial management of government's Covid-19 initiatives p.5

- 6.7 It is Black Sash's submission that applicants be given an opportunity to present proof to mitigate against their 'ineligibility' in cases where there is a dispute about information received from government or bank databases. The continued failure to provide this mechanism means that SASSA is deliberately turning a blind eye to lived realities in the name of cost saving.

7. Regulation 2(5)

- 7.1 Black Sash supports the amendment to increase the means threshold to R624 rather than the R350 per person per month, as currently contemplated in terms of Regulation 2(5). This is subject to the proviso that the increased threshold be applied retrospectively. This means that applicants who qualify with the increased threshold may be able to do so from April 2022.

- 7.2 A beneficiary experience bears testament to the fact that the lowered threshold is exclusionary:

My daughter received SRD until March 2022. She reapplied in April but until now nothing. She gets some income now and then which makes her income under R595 but a bit more than R350.

- 7.3 Black Sash acknowledges the efforts made by the Department to allow more people to benefit from the SRD grant by increasing the threshold to the Food Poverty Line of R624- a response to the calls of Black Sash over the years.

- 7.4 We are very concerned that the number of beneficiaries who have qualified for the SRD grant with this iteration is less than half of the applications received. As at June 2022, SASSA received 11 369 797 applications of which only 5 278 563 were approved³.

- 7.5 Black Sash submits that the means test, or income threshold ought to be increased to R1335,00, in line with the StatsSA determined Upper Bound Food Poverty Line⁴. This would be much more aligned with considering the context of rising unemployment, no or little job opportunities and escalating costs of living.

8. Regulation 5 (A)

- 8.1 Black Sash notes the amendment empowering the Minister of Social Development to amend the income threshold under Regulation 5(A) with the concurrence of the Minister of Finance. We wish to add that this concurrence should however not negatively impact the rights of applicants and present delays.

9. Regulation 5 (2)

- 9.1 Black Sash supports the deletion of Regulation 5(2) which reads that "*the Covid-19 Social Relief of Distress may not be paid to a person for a period exceeding three successive months at a time, without confirmation that the person still meets the criteria set out in regulation 2 and may be extended for further periods not exceeding three months at a time*".

- 9.2 We must take cognisance of the technical and administrative challenges that have plagued the grant, which has caused unacceptable delays with the payment and reconsideration process for persons desperate to access the grant as a lifeline to survive.

³ SASSA Report on COVID-19 social relief of distress grant as at 30 June 2022

⁴ <https://www.statssa.gov.za/publications/P03101/P031012021.pdf>

- 9.3 This sub regulation as it stands adds to an already onerous administrative process which is not justifiable for a grant that is meagre and is of limited duration. This is a short-term grant which will come to an end in March 2023. The regulation must be relaxed to make it easier for people to access the grant without being subjected to administrative frustration. If this provision is not removed, SASSA/DSD will use unnecessary and burdensome administrative responsibilities to cause further frustration for people.

10. Conclusion and further recommendations

- 10.1 Government has a constitutional and international obligation to provide financial support for those between 18 and 59 years who earn no or little income.
- 10.2 We are concerned about the low number of successful beneficiaries whose applications were approved being 5 278 563 compared to the number of applications received. As at 30 June 2022, a total of 11 369 797 applications have been received by SASSA⁵. This illustrates the psychological fatigue of applicants who are challenged with an online system which is difficult to access, is only in English (which is not necessarily in their mother tongue), are confronted with administrative obstacles, combined with the uncertainty of the application outcome as well as the ever-shifting payment dates.
- 10.3 We submit that the current system is designed to be exclusionary by default namely, the exclusive online portal for the SRD grant, the “optional questionnaire which serves as a deterrent for applications, the administrative glitches with the use of outdated databases and inaccurate bank verifications, challenges with the payment system, the backlog with applications, and appeals.
- 10.4 Black Sash submits that DSD and SASSA must ensure that the provisions are inclusive rather than exclusionary by default to ensure that those who struggle to find employment have a buffer from hunger and starvation.
- 10.5 Given the crisis with unemployment it is prudent for the government to acknowledge the vulnerability of the unemployed and fulfil its constitutional obligation to provide the unemployed with financial support when they are able bodied to work but there are no jobs.
- 10.6 According to Stats SA consumer inflation surges to a 13-year high where the annual consumer inflation jumped to 7,4% in June from 6,5% in May, mainly driven by rising transport and food prices. The June rate is the highest reading since May 2009 (8,0%) when the economy was facing the headwind of currency depreciation during the global financial crisis⁶.
- 10.7 The value of the Rand is of much less value and implore the government to increase the amount of the SRD grant, have less onerous criteria for eligibility, provide accessibility and ensure an efficient administrative and payment system for the SRD grant so that those who are struggling to find employment can afford basic needs and have means to look for work. This will have a significant impact to addressing poverty if it is complemented by job creation.
- 10.8 Black Sash is advocating for Basic Income Support for 18 to 59 years who earn no or little income campaigning for the following demands:
- Increase the reinstated R350 Covid-19 SRD grant to at least the Food Poverty Line, currently R624.

⁵ SASSA Report on COVID-19 social relief of distress grant as at 30 June 2022

⁶ <https://www.statssa.gov.za/?p=15583>

- Implement permanent social assistance for those aged 18 to 59, valued at the upper-bound poverty line, currently R1,335 per month. Caregivers, who receive the Child Support Grant must also qualify for this grant;
- Reinstate and makes the COVID-19 increases of R250 per month permanent for all social grants;
- Ensure that these provisions apply to refugees, permanent residents, asylum seekers and migrant workers with special permits; and
- Work towards a universal basic income for all.

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