

**BLACK SASH SUBMISSION TO THE DEPARTMENT OF SOCIAL DEVELOPMENT
TO CONSIDER CHANGES TO ASPECTS OF THE AMENDMENT TO THE DIRECTIONS
ISSUED IN TERMS OF REGULATIONS 4(5) OF THE REGULATIONS MADE UNDER SECTION
27(2) OF THE DISASTER MANAGEMENT ACT, 2002 (ACT NO. 57 OF 2002):
MEASURE TO PREVENT AND COMBAT THE SPREAD OF COVID-19**

For further information:

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INTRODUCTION

1. The Black Sash has a long history of working with the constitutional right to social security particularly social assistance.
2. The Regulations¹ made an addition in term of paragraph 6(l) (vii) which provided that a special COVID-19 Social Relief of Distress of R350 per month may be provided for the period indicated herein to distressed individuals who are, inter alia, unemployed; not receiving any form of income; not receiving any social grant; not receiving an unemployment insurance benefit and do not qualify to receive an unemployment insurance benefit; not receiving a stipend from the National Student Financial Aid Scheme and other financial aid; not receiving any other government COVID-19 response support; and not a resident in a government funded or subsidised institution.
3. The introduction of the COVID-19 Social Relief of Distress Grant is an important response and lifeline to many impoverished and unemployed adults who were already struggling prior to, as well as those who have fallen on hard times due to the Coronavirus pandemic.
4. The Black Sash has put in place a COVID-19 Social Relief of Distress grant monitoring project approved by SASSA with partners: the Community Advice Offices of South Africa (CAOSA)

¹ In accordance with the Regulations issued on 9th May 2020, the Minister of Social Development made an *amendment to the Directions issued in terms of Regulation 4(5) of the Regulations made under section 27 (2) of the Disaster Management Act, 2002 (Act No.57 of 2002); Measures to prevent and Combat the Spread of COVID-19.*

and Social Change Assistance Trust (SCAT) involving 66 organisations² to assess whether the grant achieved its aim to reach the most vulnerable in the country negatively affected by food insecurity and poverty.

5. We make this submission based on the trends we are observing from the monitoring project. The cases we present below speak to a representative phenomenon.

REJECTIONS: BASED ON AN ASSUMPTION THAT THE APPLICANT IS RECEIVING ANOTHER FORM OF INCOME

6. The Regulation No. R 517 issued on 09 May 2020 titled *Amendment to the Directions issued in terms of Regulation 4(5) of the Regulations made under section 27 (2) of the Disaster Management Act, 2002 (Act No.57 of 2002); Measures to prevent and Combat the Spread of COVID-19* refers:

6.1 (k) the addition in subparagraph (l) after item (vi) of the following items: (viii) (dd) In order to access the benefit referred to in the subitem (cc), through an application, an applicant must grant consent for SASSA to verify his or her identity, residency, source of income or social security benefit with:

- i. The Department of Home Affairs;
- ii. The Unemployment Insurance Fund;
- iii. Banking Institutions;
- iv. NSFAS
- v. SARS; or
- vi. Any other government institution deemed necessary by SASSA

7. Unemployment Insurance Fund (UIF)

7.1 *Mr X*³ applied for the COVID-19 SRD grant in May 2020. He received an automated message informing him that his application was declined as he has another sources of income. The application was declined without any substantiated reasons.

7.2 *Mr X* was last employed in July 2016 when his fixed term contract came to an end. He received the final UIF benefit payment in January 2019. *Mr X* is unemployed and currently has no source of income.

² The project is underpinned by government's Citizen-Based Monitoring programme spearheaded by the Department of Planning Monitoring and Evaluation (DPME).

³ Name has been withheld to protect identity

7.3 It would appear that the UIF's database is inaccurate/and or not updated and cannot be the used as reliable criteria to determine eligibility. *Mr X* is an example of many whose application has been wrongly rejected.

7.4 **Recommendation:** It is clear from our sample of cases including *Mr X* that the UIF database is dated. Our recommendation is that the UIF database be exclude, alternatively not use as the only means of verification from the "back-end" for this round of applications and until such time that the database is upgraded and updated. The alternative is to ask applicants to supply an Affidavit confirming their status of unemployment however, this will lengthen the assessment process. All eligible applicants must receive the COVID-19 SRD grant retrospectively.

8. National Student Financial Aid Scheme (NSFAS)

8.1 *Ms Y₄* was a student at the Eastern Cape Midlands College. She benefitted from a NSFAS bursary between May 2017 and June 2019. She completed her studies in 2019.

8.2 She applied in May 2020 for the Covid-19 Social Relief of Distress grant and was declined. The Automated SMS reply stated that she has income from other sources. She is unemployed and deny that she has income from other sources.

8.3 If *Ms Y* affidavit is correct. it would appear that the NSFAS database is inaccurate and or dated.

8.4 **Recommendation:** It is clear from *Ms Y* case that the NSFAS database may be inaccurate and dated. Our recommendation is that the NSFAS database be excluded from the "back-end" assessment for this round of applications and until that database is upgraded and updated. The alternative is to ask NSFAS bursary holders to supply an Affidavit confirming their unemployment status however, this will lengthen the assessment process.

⁴ Name has been withheld to protect identity

NO APPEALS PROCEDURE FOR THE COVID-19 SOCIAL RELIEF OF DISTRESS GRANT

9. All the cases cited above received a generic and standardised automated responses that they have another sources of income. SASSA has an internal regulated appeal processes, namely, '*Regulations Relating to the Lodging and Consideration of Applications for Reconsideration of Social Assistance Application by the Agency and Social Assistance Appeals by the Independent Tribunal*' for all other social grants. SASSA is required to provide reasons for all rejected applications within a given timeframe.

10. However, the Regulations issued on 9 May 2020, introducing the COVID-19 Social Relief of Distress grant, make no provision for a shorter appeal procedure. No adequate explanation and reasons have been provided to eligible persons for their rejected applications. Furthermore, there appears to be no clear framework of recourse for the grant.

11. The South African Constitution is clear that mechanisms for administrative justices has to be put in place by SASSA. Section 33 in the South African Constitution clearly states that "*Everyone has the right to administrative action that is lawful, reasonable and procedurally fair*" and "*Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.*" Unless administrative justice is address urgently many South Africans will be dying from hunger rather than from the coronavirus.

12. **Recommendation:**
 - 12.1 We recommend that all declined and/or rejected applications with unsubstantiated reasons on unclear grounds, premised on dated verification information, be reconsidered immediately and these persons be paid accordingly, backdate to the date of application.

 - 12.2 We would also recommend and appeal to SASSA to use a truncated process and timeframes, drawing on the existing recourse and appeal and/or reconsideration mechanism to deal with all rejected and/or declined COVID-19 SRD grant applications. Given that the COVID-19 SRD Grant will come to an end in October 2020, SASSA is already empowered by the existing appeal mechanism to address and resolve any disputed applications. The Black Sash contend that there is no need to introduce a special appeal and/or recourse mechanism for COVID-19 SRD grant. Grant beneficiaries must also be able to seek assistance from a SASSA office.

⁵ The Regulations were gazetted on 19th September 2011 (Government Gazette No 34618).

THRESHOLD INCOME FOR COVID-19 SOCIAL RELIEF OF DISTRESS GRANT

13. Currently the Regulations make provision for a special COVID-19 Social Relief of Distress for Caregivers of R500 per month per Child Support Grant Caregiver. In practice means test threshold for recipients of Child Support Grant (CSG) is R4,400 or R52 800 for a single person per annum.
14. The Regulations for the COVID-19 Social Relief of Distress of R350 per month is for distressed individual who are not receiving any form of income. The vulnerable in our country may be receiving meagre forms of income, insufficient for the individual to provide for their families and to survive.
15. **Recommendation:** We recommend that the Regulation introduces a means test threshold for the COVID-19 SRD grant, equivalent to the Child Support Grant (CSG) as cited above or lower.

OPEN THE OFFICES FOR ELIGIBLE CANDIDATE TO LODGE APPLICATIONS

16. The Regulation states that.... *(aa) An application for social relief of distress or a social grant may be lodged electronically over and above any other available means of lodging such applications.*
17. The Regulation also states that *(ee) The benefit provided for in sub-item (cc) will be paid to those who qualify for the period from the date of the application, but not earlier than May 2020, up to the end of October 2020, provided the applicant continues to meet the qualifying criteria provided for in sub-item (cc).*
18. The primary method for submitting applications for the COVID-19 SRD grant is through electronic means via USSD, SMS and email.
19. In May, during a public briefing on eNCA and SABC TV, Ms Khambula, the SASSA CEO stated that eligible applicants, with no access to ITC (i.e. devices – laptop, cellphone, data and interconnectivity) would be serviced via “NDA volunteers”. This process would commence from 1 June 2020, almost a month after the registration for those who can lodge electronically. The rollout of submission for this cohort of eligible applicants has been painstakingly slow and the date, in several provinces, have been pushed back to 1 July 2020. The process followed to date is denying the very poor people particularly in rural and peri-urban access to the COVID-19 Social Relief of Distress grant.

20. **Recommendations:** We recommend that those eligible for the COVID-19 SRD grant applies at the SASSA, adhering to the necessary COVID-19 health precautions, to improve accessibility. We also recommend that the cohort registered via “NDA volunteer” is paid backdated to May 2020.

RECEIPT OF GRANT

21. The Regulation also states that the benefit provided for will be paid to those who qualify for the period *from the date of the application*, but not earlier than May 2020, up to the end of October 2020, provided the applicant continues to meet the qualifying criteria.

22. **Recommendation:** All qualifying applicants should receive the grant for the full six-month period.

CONCLUSION

It is evident from our cases that the both the UIF and NSFAS databases used for verification are dated and should be removed or replaced with an alternative that is not onerous or add to the administrative burden of the applicant.

There must be a proper recourse and appeal process in place for the COVID-19 SRD grant that is simple and effective. We would also like to see the introduction of a threshold level for the COVID-19 SRD that is equivalent to the Child Support Grant or lower.

THANK YOU for the opportunity to make this submission.

