



children's
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child rights in focus
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Submission on the draft regulations for the 2022/23 SRD Grant

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Thank-you for the opportunity to comment on the draft regulations. Our comments are focussed on four issues:

- (1) Ensuring that two vulnerable groups continue to be eligible for the SRD grant through express inclusion in the regulations:**
 - (a) CSG caregivers with SASSA generated 'quad 7' numbers, and**
 - (b) youth over 18 who have birth certificates but have not been able to access their identity documents**
- (2) Ensuring that the principles of transparency and participation are protected for all decisions that substantively affect eligibility and access to the SRD-IMG such as the income threshold and the duration of the grant**
- (3) Ensuring that SRD grant beneficiaries do not have to re-apply every three months over the next year.**
- (4) Addressing the continual exclusion of vulnerable people without cell phones**

(1) The regulations should expressly state that caregivers with SASSA generated ‘quad 7’ numbers, and youth with birth certificates are eligible for the SRD grant

The South African Social Security Agency has on its grant system, beneficiaries who do not have identification from Home Affairs but are receiving social grants. This is because South African citizens, permanent residents and refugees who do not yet have their own IDs are currently eligible in terms of Regulation 11(1) of the Social Assistance Act to apply for a social grant using alternative proof of identity. Once on the system, they are allocated a unique system generated ‘quad 7 number’ [the number starts with 7777...]. There are currently a significant number of such grant beneficiaries on the SASSA system, including unemployed caregivers who are receiving the Child Support Grant (CSG) for children in their care and youth who do not yet have their IDs but do have birth certificates

On 30 July 2021, the Children’s Institute sent a letter to the Minister, DG, Department and SASSA requesting that CSG caregivers who do not have IDs but are already in receipt of a CSG using a SASSA generated ‘quad 7’ number, be included in the eligibility criteria for the SRD R350 grant. The Minister responded on 25 August 2021 noting that SASSA had adjusted its online portal to include these caregivers. On 27 August 2021, the CI and Legal Resources Centre wrote back to the Minister, welcoming the agreement to include quad 7 caregivers and alerting the Minister to the need to amend the Directions so as to clarify their eligibility in law. We note that this amendment was not done, yet quad 7 caregivers were enabled to apply on the online application system using their quad 7 numbers. As a result there are a number of CSG Caregivers currently receiving the SRD R350 grant using their quad 7 numbers.

We note that Regulation 9 of the draft regulations, which clarifies who is eligible for SRD, does not include quad 7 CSG caregivers in the eligibility criteria but continues to expressly exclude them because it requires all applicants to be.....’*registered on the Home Affairs database*’ or ‘*a holder of a special permit....*’, or an ‘*asylum seeker whose section 22 permit or visa is valid*’.

We note that the Regs and Procedure Manual do recognise that alternative forms of identity may be accepted by SASSA, but we are concerned that there is no detail provided on what suffices, thereby preventing potentially eligible applicants from knowing what they need to provide and leaving what suffices as alternative proof in the discretion of the Agency, and subject to being changed on a whim with no transparency or participation for those affected.

Recommended amendments:

We recommend that regulation 9 be amended to expressly include quad 7 caregivers. Insert the underlined text in bold.

Regulation 9. Persons eligible for social relief of distress

(b) a South African citizen or a permanent resident or a refugee registered on the Home Affairs database **or registered on SASSA’s grant database with a unique system generated identifying number for people without identity documents**, or a person who is a holder of a special permit under the Special Angolan Dispensation, the Lesotho Exemption Permit Dispensation and the Zimbabwe Exemption Permit Dispensation or an asylum seeker whose section 22 permit or visa is valid, and who-

- (i) is between the ages of 18 and 60; and
- (ii) has insufficient means; and
- (iii) does not unreasonably refuse to accept employment or educational opportunities.

We further recommend that regulation 15 be amended to clarify that what suffices as alternative proof of identity will be set out in the procedure manual so as to be clear and transparent to all potential applicants.

Regulation 15. Documents to accompany application for social relief of distress

(1) The following documents or certified copies thereof must, subject to regulation 14(3)(a), accompany an application for social relief of distress, where applicable-

- (a) the identity document or birth certificate or any other document acceptable to the Agency, which proves the identity of-
 - (i) the applicant;
 - (ii) his or her spouse; and
 - (iii) children dependent on the applicant;
- (b) proof of spousal relationship;
- (c) for the purposes of insufficient means, a declaration of insufficient means and an assessment provided for in the procedure manual;
- (d) alternative proof to what is contemplated in paragraphs (a),(b), and (c) **as provided for in the Procedure Manual** [approved by the Agency]; and

We recommend that what suffices as sufficient alternative proof should not be decided by the agency on its own and left untransparent to potential applicants. It should rather be clarified in the procedure manual which would ensure it is clear, consistent and transparent.

We recommend that the procedure manual should provide for the following options as sufficient alternative proof:

- **A SA citizen birth certificate** for applicants older than 18 who have not yet managed to obtain their IDs for some reason [*for example youth who have been orphaned and do not have a parent or guardian to 'vouch' for them, are currently unable to obtain their IDs from Home Affairs despite having South African citizen birth certificates*]; OR
- In the absence of a birth certificate; a **Maternity Certificate or Road to Health Card and an affidavit** attesting to the applicant's identity and citizenship status.

2. Delegation of decisions that should be contained in the law, to a procedure manual.

We note that important decisions that affect eligibility and access have been delegated to a procedure manual. This is different to how such decisions are currently being made in relation to other social grants. This delegation in particular affects the qualifying income threshold and means test applicable to applicants.

Reg 1: “insufficient means” for purposes of social relief of distress means that a person is not in receipt of income or financial support, the determination of which is provided for in the Procedure Manual;

This delegation removes this substantive decision from the realm of ‘sub-ordinate’ legislation. Current law requires regulations to be published in draft form for public comments. This ensures that there is transparency and public participation in the decision-making process. There is no such requirement for departmental procedure manuals.

While we recognise that the Department and SASSA have opened the current procedure manual drafting process to participation by a few organisations, it has not been published for comment by the general public or other organisations who may not have been invited to participate. Furthermore, there is no legal requirement that future amendments to the procedure manual be done transparently and with participation.

Future amendments therefore could be made to substantive areas that affect eligibility and access, without public knowledge or participation. This is a dangerous precedent to set. It opens the door not only to future untransparent amendments to the SRD procedure manual but could also lead to such an approach to decision-making being taken with the permanent social grants in the Social Assistance Act such as the Old Age Pension, Disability Grant and Child Support Grant.

Recommended amendment:

The regulations should specify that there is an obligation on the Department and SASSA to enable broad public participation in any amendments to the procedure manual. This could be achieved by specifying in the regulations that any proposed revisions to the procedure manual must be published for comment on the Department and SASSA’s website and that due consideration should be given to all comments received. The Dept and SASSA should also be obliged in the regulations to publish the final procedure manual on their websites to ensure transparency.

3. Three-monthly “re-affirmation of data” procedure should be removed as it is effectively making the SRD grant a 3- month temporary grant whereas the President agreed to extend the grant for 12 months.

‘Reg 16:

(2) Social relief of distress may be issued monthly but may not be paid for a period exceeding three successive months, without confirmation that the person is still in need of assistance.

(3) Social relief of distress may, at the end of the period contemplated in sub-regulation (2), and on confirmation that the person is still in need of assistance, be extended for further periods not exceeding three months.’

The President announced that the SRD (IMG) grant would be extended for a further 12 months. However, regulation 16 effectively reduces this to a three-month grant. It is not clear why this is being proposed when SASSA already has a mechanism in place to verify each beneficiary’s income status on a monthly basis.

Recommended amendment:

(2A) ‘SRD-IMG may be issued monthly until 31 March 2023.’

If SASSA does a month-to-month verification process, then there is no need for the applicant to reapply every three months as SASSA already has all their information as reflected in the databases of Home Affairs, UIF, NASFAS, SOCPEN.

However, there is a need to amend the regulations on the appeal process to enable applicants to submit new documents to support their appeal. Currently no additional documents are allowed which thwarts many an applicant’s ability to contest the outdated information on the various databases that SASSA uses for its monthly verification processes.

4.Continual exclusion of vulnerable people without cell phones

Section 14(1) of the Regs states that an application for social relief must be made on the relevant form, manually or electronically and be completed and signed by the applicant or his or her procurator. However, in practice, access to the SRD Grant has only been via electronic platforms. People without access to cell phones have therefore been unable to apply for the SRD. This aspect of the system effectively excludes the poorest most vulnerable people, especially those in rural areas.

Recommendation:

The procedure manual should provide a clear mechanism for people without cell phones to make applications for SRD-IMGs.