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## **SUBMISSION ON AMENDMENTS TO THE REGULATIONS RELATING TO COVID-19 SOCIAL RELIEF OF DISTRESS ISSUED IN TERMS OF THE SOCIAL ASSISTANCE ACT**

**(Regulation Gazette No. 48056, 14 February 2023)**

*7 March 2023*

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### **Introduction**

The Institute for Economic Justice (IEJ) and the Socio-Economic Rights Institute (SERI) welcome the opportunity to comment on the proposed amendments to the 2022 Regulations relating to the Covid-19 Social Relief of Distress (SRD) grant issued in terms of the Social Assistance Act.

The process of amending the Regulations provides an opportunity to address key areas of concern which have been raised repeatedly by civil society, including the exclusion of large numbers of beneficiaries, the imposition of a low means test, and the continued inadequate level of the grant. However, aside from the expiry date, no other aspects of the Regulations have been amended. This is deeply concerning, given that specific provisions in the Regulations have led to very high levels of exclusion, and that the value of the grant continues to be eroded, and highly inadequate. Our submission details these areas of concern and provides key recommendations to address exclusion and unfairness.

We first provide a summary of recommendations, before discussing each area of concern in further detail.

## **Summary of recommendations**

### ***On the amended end date:***

- The SRD grant must be kept in place indefinitely, until it can be replaced by a more extensive and comprehensive social assistance framework for those aged between 18-59, set at at least the value of the food poverty line (FPL) and rise over time to the upper-bound poverty line (UBPL).
- We recommend that the word “temporary” is removed from the Regulations, to reflect the Government’s policy to use the SRD grant as the basis for expanded basic income support, and its mandate to progressively realise social assistance for those who need it.

### ***On the value of the grant:***

- The value of R350 is widely regarded as baseless, and is not tied to any objective or scientific measure of need. Since the grant was introduced in 2020, high inflation has eroded its value substantially in real terms. There has thus been a reduction in the grant value and a retrogression. The value of the grant should be raised immediately to at minimum R413 to account for inflation since 2020, and a plan put in place to increase it progressively until it reaches the current FPL.

### ***On bank verification, re-application and appeals:***

- The Regulations must state clearly in which order verification checks are performed, and which information takes precedence. Given the multiple problems with bank checks, and government databases, highlighted below, precedence should be given to the personal information provided by applicants (provided also that the issues of unfair self-exclusion, detailed below, are addressed).
- Government should commit to clean and update the databases used for verification within a specified period (say six months) and to continuously maintain these so that they are kept up-to-date. In the interim where an applicant disputes the accuracy of UIF or SARS information, an affidavit to this effect should be accepted as proof, as part of a reformed appeals process (see below) .
- So long as the verification process remains in place, applicants must be given the right to provide new extenuating information on appeal through a simple and easily accessible process. Such information may include proof that deposits into bank accounts were not personal income or evidence that databases are not up to date/are inaccurate. The regulatory framework must stipulate that when an appeal is successful, payment is due from the date of the initial application.

- If regular re-verification by SASSA is continued, it should take place at most every three months, and monthly verification should be terminated. Verification should be done on a rolling average of the previous three months' income.
- The use of monthly bank verification systems also raise privacy and data protection concerns. Not enough is known currently about the collection, storage and usage of applicants' data, and the protocols in place to ensure it is being responsibly and securely shared between public and private entities, in compliance with both the POPI Act and best practice principles of data protection. It is important not only that strong safeguards are put in place, but also that these are communicated transparently to the public and civil society.
- We recommend a systematic review of the entire verification process, to address the numerous concerns raised by civil society.

***On the income threshold and the budget cap***

- The means-test threshold must be indexed to the poverty lines so that thresholds are non-arbitrary and able to account for changes in the cost of living especially at a time of strong inflationary pressures and so that thresholds are not subject to regression.
- The means-test must be raised to the current UBPL of R1417, so that everyone with an income below the poverty line is brought into the system.
- The budget allocation for the SRD should cover all those who rightfully qualify for the grant and the budget should more adequately accommodate for outreach and administration costs to ensure that rightful applicants have access to the grant.

***On the problems of self-exclusion, online-only applications and accessibility***

- The problems with the application questionnaire must be addressed including that: only mandatory questions be included; the questions regarding how applicants obtain basic necessities without the grant should be removed; and the form be made available in the official languages other than English. A further review of the various problems with accessibility should be undertaken and subsequent changes made as a matter of urgency to address these.
- A commitment to equity and inclusion in the context of digital barriers should be reflected in the Regulations and/or in the Procedure Manual and these should deal explicitly with the cost of access to electronic systems (data costs, mobile phone costs, etc.). The provisions should ensure that these costs are not a barrier to an individual applying for or receiving their entitlements.
- The removal of the South African Post Office as a means of accessing monies should be reversed.
- Provision must be made enabling those without digital access to apply physically.

***On the work conditionality clause***

- We continue to oppose the inclusion of clause 2.(f) which states that an applicant is ineligible for the grant if they have unreasonably refused to accept work or educational opportunities. We recommend the deletion of this clause given that it may be coercive, entails greater costs than benefits and is nearly impossible to enforce. Alternatively, it needs to be reformulated to adequately mitigate and address the significant risks to applicant/recipient welfare, as well as administrative issues. This must include a clear and considered definition of “reasonable” that addresses our below concerns.

***On access to beneficiaries’ bank accounts and the recovery of funds***

- Recovery of monies paid must not have a direct impact on the recipient receiving their full level of monthly entitlements from their approved grant; i.e. the approved grant must be effectively back-paid to the date of initial application in order to recover the SRD payments without impacting the recipients’ ongoing income. This should be made clear in the Regulations.
- There should be no provision or scenario whereby a grant recipient is in debt to DSD, where debt is either recoverable through future grant payments, or out of the recipient’s pocket. This will result in hardship. If payments are recovered through deductions from ongoing grants (which we do not recommend), the level of deduction (as a percentage of income) and timeframe for repayment must be stipulated.

**Discussion of key areas of concern**

***1. Amended end date***

The amendments are confined to the extension of the expiry date of the SRD grant to March 2024. While the extension of the grant is welcome, the IEJ and SERI are extremely concerned that it is limited to twelve months. The implication of this is that the grant will cease to be provided after March 2024. This, and the lack of provision for the grant beyond 2024 in the 2023/24 National Budget tabled by the Minister of Finance, could signal Government’s intention to remove what has become a key pillar of South Africa’s social security system, upon which millions of people have relied to survive, despite statements *inter alia* by the President suggesting that the grant will remain in place until a permanent system of basic income is established.

Research has demonstrated that the SRD grant has played a critical role in reducing food poverty, and

that the vast majority of recipients spend their grant monies on food.<sup>1</sup>

In the context of an ongoing crisis of unemployment whereby a large proportion of able-bodied people of working age remain locked out of the labour market, the removal of the SRD grant will have a disastrous impact on food poverty and hunger, and is likely to adversely affect South Africa's social stability.

Section 27 of the South African Constitution provides that “everyone has the right of access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance”. The Constitution obliges the government to progressively realise this right within available resources. The removal of the SRD grant in March 2024 would, in our view, constitute a retrogression of this right and a failure to meet the mandate of progressive realisation of social assistance.

The IEJ and SERI submit that the SRD grant must be kept in place indefinitely, until it can be replaced by a more extensive and comprehensive social assistance framework for those aged between 18-59, set at at least the value of the food poverty line (FPL) and rising over time to the upper-bound poverty line (UBPL).

## **2. Value of the grant**

Of chief concern also is the maintenance of the value of the grant at R350 in the amended Regulations. This amount is arbitrary, and is not tied to any objective or scientific measure of need. Since the grant was introduced in 2020, high inflation has eroded its value substantially. If the grant had kept pace with (headline CPI) inflation since its introduction, it would now have a value of at least R413. In addition, food inflation is much higher than headline inflation—at 13.4% (as of January 2023). As beneficiary households spend a much greater proportion of their budget on food, this represents a larger real reduction in spending power and an increase in hunger, than suggested by nominal CPI inflation.

The IEJ and SERI submit that the value of the grant should be raised immediately to at minimum R413 to account for inflationary increases since 2020, and a plan put in place to increase it progressively until it reaches the current food poverty line.

In the medium term, and as South Africa transitions out of a regulatory framework designed to respond to the pandemic, we propose that this grant be transitioned into a Universal Basic Income (UBI) at the value of the UBPL. We note that this regulatory framework has the potential to form a policy and

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<sup>1</sup> Department of Social Development. (2021). The Rapid Assessment of the Implementation and Utilisation of the special COVID-19 SRD Grant. [https://www.gov.za/sites/default/files/gcis\\_documents/Final%20Special%20COVID19%20SRD%20Grant%20Report.pdf](https://www.gov.za/sites/default/files/gcis_documents/Final%20Special%20COVID19%20SRD%20Grant%20Report.pdf)

administrative foundation for a UBI, and we welcome this step towards institutionalising comprehensive social security.

### **3. Verification**

We remain concerned about the use of bank verification to determine eligibility as laid out in the Regulations. This issue is not addressed by the amendments. Bank verification practices treat any money deposited in an applicant's bank account as income. There are multiple reasons why this is not always the case—see responses to SASSA on Twitter [here](#). Many applicants receive money into their account on behalf of family members or friends who may not have bank accounts themselves or because they are making payments on behalf of such people. Others receive payments for maintenance of a child, rather than support for the parent. There are even [reports](#) of applicants receiving delayed payments from SASSA and then having subsequent applications denied on the basis that they are now above the income threshold. See below for detailed concerns regarding the definition of income.

The use of monthly bank verification systems also raise privacy and data-protection concerns. Not enough is known currently about the collection, storage and usage of applicants' data, and the protocols in place to ensure it is being responsibly and securely shared between public and private entities, in compliance with both the POPI Act and best practice principles of data protection. It is important not only that strong safeguards are put in place, but also that these are communicated transparently to the public and civil society.<sup>2</sup>

While the current Regulations remove the use of bank verification as the ultimate determination over information provided by applicants, its use in the approvals process remains, leaving the system open to the kind of problems highlighted above.

We are also concerned that the current verification process remains reliant on databases which have been shown to include outdated or incorrect information and which researchers at SALDRU, in research prepared for National Treasury, find may unfairly exclude up to one third of SRD applicants.<sup>3</sup>

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<sup>2</sup> An example of the risks of poor data protection safeguards in social protection was seen in the Net1 scandal whereby beneficiaries' data was used by a private company to facilitate predatory lending, using social grants as collateral. See Torkelson, E. (2020). Collateral damages: Cash transfer and debt transfer in South Africa. *World Development*, 1-11. Available at <http://www.erinmtorkelson.com/uploads/1/1/2/0/112020995/1-s2.0-s0305750x19303596-main.pdf>

<sup>3</sup> WIDER Working Paper 2021/165 *Simulation of options to replace the special COVID-19 Social Relief of Distress grant and close the poverty gap at the food poverty line* <https://www.wider.unu.edu/publication/simulation-options-replace-special-covid-19-social-relief-distress-grant-and-close>

Under the current regulations, the relationship between bank verification and the use of these other databases is unclear and there do not seem to be any measures in place to address the problems that have been encountered by their use in previous months.

We seek clarity on the relationship between bank verification and other means tests - including the submission of information by applicants and the use of other databases in the carrying out of the verification process. We also seek clarity on what the Department of Social Development (DSD), National Treasury and/or SASSA is doing to address the problems in the other databases.

We recommend that the Regulations state clearly in which order verification checks are performed, and which information takes precedence. Given the multiple problems with bank checks, and government databases, highlighted above, precedence should be given to the personal information provided by applicants.

Furthermore, we recommend that so long as the current verification process remains in place, applicants are given the right to provide new extenuating information on appeal through a simple and easily accessible process. Such information may include proof that deposits into bank accounts were not personal income or evidence that databases are not up to date/are inaccurate.

Government should commit to clean and update the databases within a specified period (say six months) and put in place clear procedures for how these databases will be kept up to date through regular maintenance. In the interim where an applicant disputes the accuracy of UIF or SARS information, an affidavit to this effect should be accepted as proof. Penalties for false information could include disqualification from access to the grant for a specified period.

Finally, we recommend a systematic review of the entire verification process, to address the numerous issues of exclusion raised by civil society.

### ***3.a. Monthly re-verification***

There has not been any change made by this amendment to the requirement for SASSA to re-verify eligibility on a monthly basis. As long as the current bank verification model remains in place, we continue to argue that monthly assessments are unnecessary and intrusive, increase the administrative burden on the State and the applicant and have the potential to lead to continued delays in the payments to beneficiaries, and therefore should be terminated in favour of (at most) a three-monthly verification process—although, if bank verifications are continued, the verification process could reasonably be six monthly or annual, given that this stringent requirement is not in place with other grants, and is unnecessarily onerous, for the state and the beneficiary.

A number of uncertainties about this process remain. In the event that monthly verification is retained (which we oppose) we request clarity on the following:

1. Whether these monthly verifications will be limited to bank checks, or include databases.
2. If a monthly verification determines that an existing recipient has become ineligible, how will this be communicated to them, and how will they be informed of the right and ability to appeal?
3. Whether recipients are permanently excluded if verification checks find them ineligible for one month, whether they are required re-apply for the month following the month in which they were deemed ineligible, or whether they will be automatically re-verified in the following month.
4. Whether the approval of an initial application means that the recipient is approved for every month until the expiry of the SRD grant, unless the monthly verification finds they have become ineligible.
5. Whether the disqualification of an applicant on the basis of monthly verification is signed off by a human, or happens automatically/algorithmically. If the latter, what are the details of this process and what checks are in place to ensure accuracy.

We recommend that if regular verification is continued—verification undertaken of SASSA’s own accord and not because of a beneficiary reapplying—it happens every three months at most, and that monthly verification is terminated. If re-verification is continued it should be done on a rolling average of the previous three months income (or a longer period if so chosen). This will allow a more accurate account of need and not prejudice applicants who may receive irregular non-income payments.

SASSA and DSD should commit to clear and timeous communication to applicants that have been found ineligible as a result of the verification process. This should include communicating a clear process for appeals.

#### ***4. Income eligibility threshold***

There was no change in the income eligibility threshold in the current amendments and it remains at R624 per month. This level is now baseless, given it no longer reflects the food poverty line, which has been adjusted to R663. We continue to advance – in line with other civil society organisations and our previous comments on Regulations<sup>4</sup> – that the means-test be raised and indexed to the UBPL, currently at R1417. Anyone living below this line is classified as living in poverty by the state’s own classification system. Using the UBPL as the means-test would thus ensure the SRD grant reaches all those living in poverty in South Africa, who do not receive other forms of social assistance.

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<sup>4</sup> Which states: “Civil Society partners have recommended that this grant should be means-tested at the Upper Bound Poverty Line in order to reach all in South Africa currently living in poverty”. See: IEJ. 23 March 2022. Submission on Amendments to the Regulations to the Social Assistance Act, 2004. Available: <https://www.iej.org.za/submission-on-amendments-to-the-regulations-to-the-social-assistance-act-2004/>



We further recommend that the threshold be *indexed* to the poverty lines so that thresholds are able to account for changes in the cost of living especially at a time of strong inflationary pressures and so that thresholds are not subject to regression.

We will continue to advocate for the expansion of the SRD grant to all people living below the UBPL, as well as the increase of the grant above the current wholly inadequate level of R350p/m, to the value of the FPL.

### **5. The definition of income and the problems of “self-exclusion”**

The amendments to the Regulations do not address the problems related to the “self-exclusions” which arose in June 2022 (on which basis SASSA stated that around two million applications had been rejected) and which stem primarily from the application form currently being used and the questions contained within it. The Regulations require SASSA to obtain information regarding the “income” and “financial support” of applicants in order to determine if it exceeds the prescribed threshold (currently R624) to constitute “a person with insufficient means” in terms of Reg 2(1). “Income” and “financial support” are not defined, but given the text of the rest of the Regulations and the context of their use, they are best interpreted as follows: The two terms should be interpreted to mean distinct things, since both are used in the same regulation and in line with the interpretive principle that avoids rendering words redundant; “Income” means payment arising from employment and other regular, formal legal relationships; “Financial support” includes regular payments that do not constitute income, such as maintenance payments or support from a family member. However, it does not include once-off or *ad hoc* payments, such as gifts or funds from the sale of an asset.

The questions and declarations on incomes, and gifts of relatives also give the impression that your relatives’ financial resources may lead to your exclusion. It is not clear what purpose this data serves. The online application asks nine questions that relate to this issue. Of the nine questions, seven appear to be legitimate as they enquire into whether applicants receive income or financial support exceeding R624 per month. However, the following two questions go beyond enquiring into monthly income and financial support, and are therefore potentially *ultra vires* and invalid:

- a. how do you usually obtain your basic necessities on a monthly basis or where do you get money to support yourself if there is no R350 grant \*
- b. how much money did you receive in the last month, including gifts, assistance from anyone, donations, dividends, earnings from formal or informal employment, but excluding the R350 grant \*

Considering the interpretation of “income” and “financial support” provided above, these two questions would elicit information about money that constitutes neither income nor financial support. The first

question invites only two possible answers: either “I do not access basic necessities and I starve” or “I borrow, depend on donations, etc”. The second answer would reflect money received by the applicant that sustains them in a particular month but does not constitute income or financial support in terms of the Regulations because it is not reasonably regular, but a once-off. The second question is problematic for similar reasons, explicitly asking about gifts, assistance and donations. These are funds received, but they do not constitute income or financial support.

Both questions are therefore *ultra vires* the Regulations and will tend to lead applicants to self-exclude. The application form currently also has a number of onerous and unnecessary questions and does not distinguish clearly between those which are mandatory and those which are optional. Requirements to provide identification numbers for partners and parents are particularly onerous and the rationale for the collection of this information is unclear and questionable.

We recommend that only mandatory questions are included in the form.

We recommend that the questions regarding how applicants obtain basic necessities without the grant should be removed in line with the objections to the definition of income highlighted above.

We further recommend that the form be made available in the official languages other than English.

## **6. Budget Cap**

The current amendments leave in place sub-regulation 11 which states that payments are subject to available funds and that the Agency may limit disbursements when funds are depleted.

We remain concerned that the funding allocated for the grant is insufficient to cover both those who should qualify for the grant on the basis of need, and those who do qualify for the grant on the basis of the criteria laid out in the Regulations. Treasury in the 2022/3 budget provided for 10.5 million applicants to receive a SRD grant over the financial year ending March 2023 at R350 per month (totalling a R44 billion allocation). This was revised downwards by approximately R8 billion, to R36 billion, in the tabled 2023/23 budget to cover only 8.49 million people. However, DSD’s own figures show that 18.3 million people in South Africa live below the FPL, and 13.4 million have no income. The revenue overrun of over R90 billion could easily have financed an expansion and improvement of the grant if it was made a political priority. Despite this, the grant was cut.

This clause suggests that even if a higher number of applicants qualify for the SRD grant, the number of recipients will remain capped. This could be implemented either through an arbitrary cut-off (provided for in sub-regulation 2(11) of the amendments to the Regulations to the Social Assistance Act, 2004, Government Gazette No. 11396; 22 February 2022); or deliberate tightening of qualifying criteria and

administrative requirements to artificially constrain eligibility. In either event - using a cut-off or deliberately suppressing numbers of beneficiaries - would be grossly unfair and unlawful. The Constitution requires that social assistance be provided on the basis of a needs-based approach to identify those with a right to the grant, and that all such persons be treated consistently and equally.

The budget cap needs to be seen in the context of the fact that in March 2022, a total of 15.86 million applications had been received by SASSA, while slightly over 10.9 million had been approved (data supplied by SASSA). The number of approvals had hovered around the 10.5 million figure from December 2021 to mid-February 2022.<sup>5</sup> As indicated elsewhere in this submission—and accepted by SASSA itself — many people have been excluded based on inaccurate databases particularly in relation to UIF and PAYE, which incorrectly reflect applicants as employed, or as having received UIF benefits.

Therefore many (and possibly the majority) of the more than 5 million applicants whose applications were rejected in the previous iteration of the SRD grant were falsely excluded. Prior to the tabling of the 2022/23 National Budget, Government had access to research from SALDRU quantifying the likely scale of false exclusions. However, despite being aware that the number of around 10.6 million approvals in February was artificially low, Treasury took this number as the basis for its budget allocation for the next year. This decision resulted in the false exclusion of people who are eligible for the grant, and led to a drop in both approvals and the applications. Subsequently, this has been used to justify a further proposed cut to the SRD allocation in the Budget tabled for the 2023/24 financial year as detailed above.

Starting in April 2022, approvals began dropping significantly followed by a decline in applications (see attached table and graph). Although there was some recovery in approvals, by December 2022, approvals (at 7,853,102) had still not returned to pre-March 2022 levels—indeed they remained below March levels by approximately 3 million approvals. In percentage terms (approvals as a percentage of applications) dropped from ~68% in November 2021 to ~59% a year later. These low approval levels are misleading as an indication of legitimate need given the problems with the application process laid out in this submission, including, the impact of the low means test threshold of R350 per month, subsequently increased to R624. DSD itself cites concern about the low numbers of approvals in its statement of 14 July 2022 and links this to the low means test threshold. However, while this is an important contributor, the problems go way beyond this, as the persistent under-delivery of the grant shows, despite the means test threshold being raised.

Underspend on the part of DSD should be understood in the context of the restrictions that the Regulations have placed on people's ability to receive the grant – themselves a product of a limited budget – as well as the administrative difficulties that arise from managing a system with extensive, complex and at times irrational rules and procedures. Further cutting the budget will only exacerbate

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<sup>5</sup> See numbers in December- February IEJ statement [here](#), drawn from official SASSA figures as well as in the table attached in appendix A.

this. Rather, National Treasury should ensure that the grant is adequately funded and staffed in such a way that it can serve its primary purpose: to alleviate poverty and provide support for the most vulnerable in our society.

The 'available' budget is not a static, fixed amount but has needed to be repeatedly adjusted to address the depth of the crisis which the SRD grant is attempting to ameliorate, as we have seen since the grant was introduced in April 2020. Unplanned extensions of the SRD grant have happened on multiple occasions, and the funding has duly been found. There can be no justification for arbitrarily excluding applicants who otherwise qualify, on the basis of budget allocation decisions. This provision is inconsistent with the Constitution, and we call for its deletion as a matter of priority.

The Government has an obligation to continue to progressively fund social protection and assistance which has been enshrined in practice and in legislation. Section 27 of the Constitution provides that everyone has the right to have access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance. This is reinforced by the International Covenant on Economic, Social and Cultural Rights which South Africa has ratified. The SRD grant must be provided for all those who need and are eligible for it, in the current as well as in future budgets and adjustment budgets. As recent experience has shown, with the political will the necessary resources can be found. But it would be inconsistent with these constitutional and international law obligations for Government to refuse to assist people in South Africa who have no other means of support, and are facing dire hunger and distress, in the context of current large revenue overruns.

Further, it is bad policy to plan based on one year. As we have seen previously, the stop-start approach to the SRD grant has caused multiple social and administrative problems, including for DSD and SASSA's ability to effectively administer the grant. A Budget allocation which implies that this is a temporary intervention is out of step with statements made by key government ministers, including the President, about the importance of permanent income support. Indeed, the Minister of Finance himself has [stated](#) in a public interview that the grant cannot be taken away. As such, sub-regulation 11 is confusing and creates further uncertainty. This clause should be removed from the Regulations.

Deleting the provision for a budget cap does not create an unfunded mandate for DSD and SASSA. There is a clear policy decision to provide the SRD grant for all eligible applicants. We recommend that an additional amount be allocated through normal budgetary processes, including the MTBPS, to provide anticipated rightful grant applications, over and above the 8.49 million provided for. In order to ensure that underspend does not happen, this should be done in conjunction with a removal of the exclusionary aspects of the Regulations as outlined in this submission.

A properly funded grant, including budgetary allocations for administration, can have a wide range of positive developmental and poverty alleviation outcomes.

## **7. Online-only applications**

The current amendments do not address the issue of online-only applications which prejudice the large number of potential applicants who do not have access to the internet.

We are aware of high barriers to access to electronic systems including digital exclusion and digital illiteracy which are likely to disproportionately affect grant applicants. This threatens the constitutional rights to social assistance and to equality in Sections 27 and 9 of the Constitution respectively. An inability to access or navigate electronic systems must not disadvantage applicants or cause delays compared to applicants who can access and navigate electronic systems. This is especially of concern where applicants may need to travel to access other assistance in order to apply for the grant.

We recommend that a commitment to equity and inclusion in the context of digital barriers should be reflected in the Regulations and/or in the Procedure Manual.

Moreover, we recommend that the Regulations and/or the procedure manual should deal explicitly with the cost of access to electronic systems (data costs, mobile phone costs, etc.) which could serve as a barrier to access the SRD grant. The provisions should ensure that these costs are not a barrier to an individual applying for or receiving their entitlements.

We also recommend that a review of the various problems with accessibility is undertaken and changes are made as a matter of urgency to address this.

Provision must be made enabling those without digital access to apply physically.

## **8. The narrow appeals process**

The current amendments do not address the issue of the narrow appeals process under regulation 14(1)(b) which prohibits appellants from submitting new or additional evidence during the appeals process.

The retention of this clause *inter alia* discriminates against applicants unjustly rejected on the basis of outdated or incorrect databases continuing to be used for verification, or unique circumstances such as receiving maintenance for a child, holding money for a family member or indeed receiving backpayed grants from SASSA. Applicants must be given the ability to submit new or additional evidence.

In addition, no provision within this section clarifies whether successful appeals entail payment from the month of a successful appeal, or from the month of initial application or rejection. The regulatory framework must stipulate that payment is due from the date of the initial application.

### **9. The removal of the South African Post Office (SAPO) as a means of accessing payment**

In May 2022, SAPO announced that they would no longer be serving as a place of access for SRD grant payment and that these would be shifted to *inter alia* supermarket chains. This narrows accessibility for many grant beneficiaries, especially those in areas underserved by retail providers. It also serves to further privatise the provision of grant payments. The use of private entities to administer grants has been shown to have negative impacts on beneficiaries, as was the case with the use of Net1 and Cash Paymaster Services.<sup>6</sup>

This decision should be reversed. Varied payment options which don't force people to travel long distances or pay fees, or allow private companies to capture and exploit recipient data, are crucial to protect against discriminatory or perverse outcomes.

### **10. Work Conditionality**

The current amendments leave in place the regulations stating that a person qualifies for the SRD grant if they do not “unreasonably refuse to accept employment or educational opportunities” (2.(f)). SASSA has stated that they are negotiating data sharing agreements with other agencies to verify and enforce this. We are strongly opposed to this provision, propose its deletion, and reiterate previous concerns with this process.

Without clear parameters for this requirement there is an extremely high risk of this clause being deployed in an unfair and coercive way against grant recipients, with perverse outcomes. It also carries the risk of supporting predatory and exploitative employment practices. Various documented barriers exist to persons living in poverty accessing work and educational opportunities, including the costs of transport, data and printing.<sup>7</sup> Where offered work or educational opportunities are likely to impose unreasonable costs on recipients compared to benefits, where they are characterised by unsafe and precarious conditions and do not adhere to decent work standards, and in a number of other scenarios, grant recipients should have the right to refuse such work. If a modified clause is to be retained, the Regulations should therefore define conditions such as these under which it is reasonable for beneficiaries to refuse an employment opportunity.

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<sup>6</sup> Refer to footnote 2.

<sup>7</sup> Youth Capital. 2022. Beyond the Cost: What does it really cost young people to look for work? [https://youthcapital.co.za/wp-content/uploads/2022/05/Beyond-the-Cost\\_final.pdf](https://youthcapital.co.za/wp-content/uploads/2022/05/Beyond-the-Cost_final.pdf)

It is also unclear how this clause will be monitored and enforced; will it be through public reporting, through the gathering and surveillance of applicants' personal information by SASSA or another agency, or will SASSA be responsible for offering work or educational opportunities to SRD applicants?

We continue to oppose the inclusion of this clause and propose its deletion. Alternatively, it needs to be totally reformulated to adequately mitigate and address the significant risks to applicant/recipient welfare, as well as administrative issues. This must include a clear and considered definition of "reasonable" that addresses our above concerns.

### **11. Access to Beneficiaries' Bank Accounts**

We continue to be concerned about the Regulations calling for the SRD grant to be "recovered" if it has been paid illegitimately (as in 3(c)(i)(8) of the April amendments to the Social Assistance Act, 2004). This concern has not been addressed by the current amendments. It is unclear under what circumstances SASSA or anybody else has the ability to deduct monies from people's accounts or from grant payments. We are concerned about the possibility for this to create a situation of indebtedness - and remain concerned about the ability of the Government to recover or deduct grant money.

Recovery of monies paid must not have a direct impact on the recipient receiving their full level of monthly entitlements from their approved grant; i.e. the approved grant must be effectively back-paid to the date of initial application, in order to recover the SRD payments without impacting the recipients' ongoing income. This should be made clear in the Regulations.

There should be no provision or scenario whereby a grant recipient is in debt to DSD, where debt is either recoverable through future grant payments, or out of the recipient's pocket. This will result in hardship.

Additionally, the possibility of recovery via deductions from the SRD grant may jeopardise beneficiaries' ability to service particular monthly payments if they were relying on the grant to do so. This could push beneficiaries into debt with private parties.

If payments are recovered through deductions from ongoing grants (which we do not recommend), the level of deduction (as a percentage of income) and timeframe for repayment must be stipulated.

## **Conclusion**

The IEJ and SERI welcome the opportunity to again raise these critical issues stemming from the Regulations relating to the Covid-19 Social Relief of Distress (SRD) grant issued in terms of the Social Assistance Act.

All of the issues outlined in our submission have been raised repeatedly by our organisations and others in civil society. They were raised when the Regulations were first consulted on in early 2022. It is disappointing therefore to see that the amendments have not addressed any of these issues, which directly impact millions of poor people in South Africa. Since our last submission, the scale of exclusion has grown, alongside beneficiaries' disillusionment with the administration of this grant.



## Appendix A: SRD grant applications, approvals and payments over time

	Applications	Approvals	Payments	Approvals as a % of applications	Paid as a % of approvals	No of applicants approved but not paid
August 2021+		8,307,259				
September 2021	13,787,072	9,427,082		68%		
October 2021		9,497,262				
November 2021	14,527,226	9,898,486	9,840,199	68%	99%	58,287
January 2022		10,451,045				
February 2022	15,329,512	10,681,457	10,387,108	70%	97%	294,349
March 2022*	15,860,000	10,901,236	10,381,098	69%	95%	520,138
April 2022**	8,148,777	5,612,215	5,352,959	69%	95%	259,256
May 2022	10,615,570	6,616,965	6,280,045	62%	95%	336,920
June 2022	11,369,797	8,306,129	7,844,372	73%	94%	461,757
July 2022	11,823,674	7,046,963	6,519,152	60%	93%	527,811
August 2022***	12,179,270	7,425,726	6,614,982	61%	89%	810,744
September 2022	12,491,277	7,755,866	6,853,486	62%	88%	902,380
October 2022	12,842,603	7,635,241	6,654,976	59%	87%	980,265
November 2022	13,138,694	7,806,553	6,548,044	59%	84%	1,258,509
December 2022	13,223,439	7,851,590	6,533,009	59%	83%	1,318,581
January 2023	13,546,634	7,487,351	6,274,486	55%	84%	1,212,865

+ SRD Grant reintroduced after being terminated in April 2021

\* High point of applications and approvals

\*\* New restrictive regulations are introduced

\*\*\*The means test is raised from R350- R624

### SRD applications, approvals and payments for Aug 2021 to Jan 2023

