

STATE PRESIDENT'S OFFICE

No. 1243.
6 May 1992

It is hereby notified that the State President has assented to the following Act which is hereby published for general information: -

NO. 59 OF 1992: SOCIAL ASSISTANCE ACT, 1992

ACT

To provide for the rendering of social assistance to persons, national councils and welfare organizations; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 26 April 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:

Definitions

1. In this Act, unless the context otherwise indicates

- (i) "aged person" means any person who has attained the prescribed age; (iii)
- (ii) "applicant" means any person who applies for social assistance in terms of this Act; (i)
- (iii) "beneficiary" means any person to whom social assistance is rendered under this Act; (ii)
- (iv) "capitation grant" means a grant made in terms of section 2(f); (x)
- (v) "child" means any person under the age of 18 years; (xii)
- (vi) "Director-General", in relation to any provision of this Act, means a head of a State Department administered by a Minister to whom the administration of that provision has been assigned under section 21; (v)
- (vii) "disabled person" means any person who has attained the prescribed age and is, owing to his physical or mental disability, unfit to obtain by virtue of any service, employment or profession the means needed to enable him to provide for his maintenance; (viii)
- (viii) "financial award" means a financial award contemplated in section 5; (vi)
- (ix) "foster child" means any child who has been placed in the custody of a foster parent in terms of Chapter 3 or 6 of the Child Care Act, 1983 (Act No. 74 of 1983), or section 290 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); (xxii)
- (x) "foster child grant" means a grant made in terms of section 2(e); (xxiii)

- (xi) "grant" means a social grant, a maintenance grant, a foster child grant, a capitation grant, a supplementary grant or a grant-in-aid; (xxvi)
- (xii) "grant-in-aid" means a grant made in terms of section 2(b); (xi)
- (xiii) "maintenance grant" means a grant made in terms of section 2(d); (xi x)
- (xiv) "medical officer" means any medical practitioner in the service of the State, including a provincial administration; (xvi)
- (xv) "medical practitioner" means any person registered as a medical practitioner or intern under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974); (vii)
- (xvi) "Minister" means the Minister concerned by virtue of a proclamation under section 21; (xvii)
- (xvii) "national council" means a national council as defined in section 1 of the National Welfare Act, 1978 (Act No. 100 of 1978); (xviii)
- (xviii) "parent" means the legal parent of a child; (xxi)
- (xix) "place of safety" means a place of safety as defined in section 1 of the Child Care Act, 1983 (Act No. 74 of 1983); (xxvii)
- (xx) "prescribe" means prescribe by regulation; (xxviii)
- (xxi) "regulation" means any regulation made under section 19; (xxiv)
- (xxii) "social assistance" means a social grant, a capitation grant, a supplementary grant, a grant-in-aid, a maintenance grant, a foster child grant or financial award granted under this Act; (xiii)
- (xxiii) "social grant" means a grant made in terms of section 2(a); (xv)
- (xxiv) "social relief of distress" means social relief of distress as defined in section 15 of the Fund-raising Act, 1978 (Act No. 107 of 1978); (xiv)
- (xxv) "South African citizen" includes any person who
 - (a) is a citizen of a state or area which formerly formed part of the Republic and who is not in receipt of a benefit similar to a grant from the government of such state or area;
 - (b) is not a South African citizen and who immediately prior to the commencement of this Act was in receipt of a benefit similar to a grant in terms of any law repealed by this Act; or
 - (c) is a member of a group or category of persons defined by

the Minister, with the concurrence of the Minister of State Expenditure, by notice in the Gazette; (xxv)

- (xxvi) "supplementary grant" means a grant made in terms of section 2(c); (iv)
- (xxvii) "this Act" includes the regulations; (ix)
- (xxviii) "war veteran" means any person who has attained the age of 60 years or who is, owing to any physical or mental disability, unable to provide for his maintenance, and-
- (a) who performed any military or naval service in South Africa during the Anglo-Boer War, 1899-1902, in any British Force or any force of the former South African Republic or the former Republic of the Orange Free State; or
 - (b) who performed duties in connection with the Zulu rebellion in 1906 in Natal as a member of a permanent or voluntary military unit; or
 - (c) who performed any naval, military or air force service during the Great War of 1914-1918 as a member of any Union or British Force or who was a member of the protesting burgher forces during the period September 1914 to February 1915; or
 - (d) who performed any naval, military or air force service during the war which commenced on 6 September 1939 as a member of the Union Defence Forces or, in the case of a Union national, as a member of any British or Dominion Force or any force of a government which was allied to the Government of the Union during that war; or
 - (e) who, while he was not a Union national, performed any naval, military or air force service during such last-mentioned war as a member of any British or Dominion Force and who is a South African citizen on the date on which he applies for a veteran's pension; or
 - (f) who, while he was a member of the Union Defence Forces, signed an undertaking to serve in connection with the hostilities in Korea and who during such hostilities performed any naval, military or air force service on or after the date on which he had been detailed for duty in connection therewith; (xx) and
- (xxix) "welfare organization" means a welfare organization registered under section 13(1) of the National Welfare Act, 1978 (Act No. 100 of 1978). (xxix)

Payment of grants

2. The Minister may, subject to the provisions of this Act and with the concurrence of the Minister of State Expenditure, out of moneys appropriated by Parliament for that purpose, make-

- (a) social grants to aged and disabled persons and to war veterans;
- (b) in addition to a social grant, a grant-in-aid to or on behalf of any person referred to in paragraph (a) or a war veteran who is in such a physical or mental condition that he requires regular

attendance by any person;

- (c) in addition to social grants and grants-in-aid, supplementary grants to war veterans;
- (d) a maintenance grant to a parent for the maintenance of a child in his custody;
- (e) a foster child grant to a foster parent;
- (f) to prescribed institutions, including places of safety, capitation grants for the care of persons admitted to such an institution or place of safety in terms of an order of court or with the approval of the Director-General.

Social grants

3. Subject to the provisions of this Act, any person shall be entitled to the appropriate social grant if he satisfies the Director-General that he-

- (a) is an aged or disabled person or a war veteran;
- (b) is resident in the Republic at the time of the application in question;
- (c) is a South African citizen; and
- (d) complies with the prescribed conditions.

Maintenance grants

4. Subject to the provisions of this Act, any person shall be entitled to a maintenance grant if he satisfies the Director-General that he-

- (a) is the parent of the child whom he supports;
- (b) as well as the child concerned is a South African citizen; and
- (c) as well as the child complies with the prescribed conditions.

Financial awards to national councils, welfare organizations and persons

5. (1) The Minister may, subject to the provisions of this Act and with the concurrence of the Minister of State Expenditure, out of moneys appropriated by Parliament for that purpose, make financial awards to

- (a) national councils or welfare organizations which undertake or take or co-ordinate organized activities, measures or social welfare programmes regarding
 - (i) family care;
 - (ii) care of the aged;
 - (iii) social security;
 - (iv) care of the disabled;
 - (v) alcohol and drug dependency; and
 - (vi) care of the offender;

(b) any organization contemplated in section 1 of the Fund-raising Act, 1978 (Act No. 107 of 1978), which in terms of its constitution has the care of mentally or psychiatrically disabled persons as one of its objects.

(2) The Director-General may, subject to the provisions of this Act, make a financial award to a person if he is satisfied that such person is in need of social relief of distress.

Application for social assistance

6. (1) Any person who desires social assistance shall in the prescribed manner apply to the Director-General for such assistance, furnishing the prescribed information and such information as the Director-General may require.

(2) In considering an application under subsection (1) the Director-General may conduct such investigation as he may deem necessary in respect of the applicant concerned.

(3) If the Director-General is of the opinion that the applicant is entitled to the social assistance applied for, he may authorize the rendering of the relevant social assistance.

Stopping of payment of grants to persons who are absent from Republic

7. The payment of a grant to or on behalf of any person who is absent from the Republic for a continuous period of six months or longer shall be stopped as from the first day of the seventh month following upon the month in which he last left the Republic: Provided that if the Director-General is, for reasons advanced by such person, of the opinion that it is just that payment of such grant be continued or resumed, the Director-General may permit payment of that grant to be continued or resumed for such period or periods and subject to such conditions as he may determine.

Misspending of grants

8. If in the opinion of the Director-General a beneficiary misspends his grant or if the Director-General for any other reason deems it expedient, he may

- (a) suspend payment of the grant in question; or
- (b) appoint a person to receive the grant on behalf of the beneficiary and to apply it, subject to the prescribed conditions and such further conditions as the Director-General may determine, for the benefit of that beneficiary.

Repayment of sums overpaid

9. (1) If an amount of money is paid to a person in the belief that he is entitled thereto in terms of this Act, such amount shall be an amount due to the State by such person or, if he is deceased, his estate.

(2) The Minister shall remit an amount owing by a person in terms of subsection (1) if such person satisfies the Minister that he received the amount without knowing that he was not entitled thereto.

(3) Unless an amount owing under subsection (1) is remitted in terms of subsection (2), the Director-General may in his discretion recover such amount from such person by way of legal proceedings or in such other manner as he may deem expedient.

(4) The provisions of this section shall mutatis mutandis apply in respect of a person to whom an amount was paid on behalf of or for the benefit of any other person.

(5) The Treasury referred to in paragraph (b) of the definition of "Treasury" in section 1(1) of the Exchequer Act, 1975 (Act No. 66 of 1975), or any person authorized thereto by the Treasury may in its or his discretion write off the whole or any portion of an amount owing to the State in terms of this section, if the Treasury or assignee is satisfied that recovery of such amount would be uneconomical or cause undue hardship to the debtor concerned or his dependants because they would be deprived of the minimum essential means of livelihood.

Appeal to Minister

10. (1) If an applicant is aggrieved by a decision of the Director-General in the administration of this Act, such applicant may within 90 days after the date on which he was notified of the decision, appeal in writing against such decision to the Minister, who may confirm, vary or set aside that decision.

(2) The Minister may at any time reconsider and vary his decision.

Restrictions regarding rights to amounts payable, and disposal of such amounts in case of death or insolvency

11. (1) Any right to an amount payable in terms of this Act shall not be transferred or ceded or pledged, nor shall it be liable to attachment or any form of execution under a judgment or order of a court of law, and if a beneficiary attempts to transfer or cede or pledge such right, payment of the amount in question may by order of the Minister be withheld, suspended or stopped.

(2) If-

(a) the estate of a beneficiary is sequestered; or

(b) a beneficiary dies, an amount payable to such beneficiary by virtue of the rendering of social assistance, shall not form part of the insolvent or deceased estate, as the case may be.

False representations

12. (1) If any person in or in connection with an application for social assistance furnishes information which to his knowledge is untrue or misleading in any material respect, or makes a representation which to his knowledge is false, in order that he or another person

(a) may obtain or retain social assistance to which he is not entitled under this Act; or

(b) may obtain more social assistance than that to which he is entitled under this Act, he shall be guilty of an offence.

(2) If any person receives any social assistance knowing that he is not entitled thereto he shall be guilty of an offence.

Exemption from stamp duty

13. No stamp duty shall be payable in respect of any power of attorney given by an applicant to any person to apply on his behalf for social assistance or in respect of any power of attorney given by a beneficiary to any person to receive payment of any grant or financial award on his

behalf.

Powers of Director-General in respect of investigation

14. (1) The Director-General may, if he deems it necessary in the performance of his functions, inquire into any matter concerning the rendering of social assistance, and may for such purpose

- (a) subpoena any person who in his opinion may furnish information of material importance concerning the matter under investigation, or who is suspected of having in his possession or care or under his control a book, document or thing that may have a bearing on the investigation, to appear before him;
- (b) administer an oath to or take an affirmation from any person who is present at the investigation and who was or could have been subpoenaed in terms of paragraph (a) ;
- (c) examine any person referred to in paragraph (b) or require that he produce at the investigation any book, document or thing referred to in paragraph (a).

(2) A subpoena to appear before the Director-General shall be in the prescribed form and shall be served on the person by registered post or in the same manner in which it would have been served if it were a subpoena issued by a magistrate's court.

(3) The legal rules with regard to privilege which are applicable in the case of a person who has been subpoenaed to give evidence or to produce a book, document or thing before a court of law, shall apply in respect of the examination of a person or the production of a book, document or thing under subsection (1)(c).

Information to be furnished to Director-General

15. Notwithstanding anything to the contrary in any law contained, the Director-General: Interior Affairs, any registrar of deeds or any other officer in the service of the State shall at the request of the Director-General furnish him with such information relating to an applicant as may be prescribed or any other information relating to the applicant concerned which the Director-General may require.

Delegation of powers and functions and assignment of duties

16. (1) The Minister may, subject to such conditions as he may deem necessary, in writing delegate or assign any power, function or duty conferred or imposed on him by this Act, except the power under section 19 to make regulations, to the Director-General or any other officer in the service of the State.

(2) The Director-General may, subject to such conditions as he may deem necessary, delegate or assign any power, function or duty conferred or imposed on him by this Act or delegated or assigned to him under subsection (1) to an officer in the service of the State.

(3) Any delegation or assignment under subsection (1) or (2) shall not divest the Minister or the Director-General, as the case may be, of any power, function or duty so delegated or assigned.

Offences relating to functions of Director-General

17. Any person who

- (a) hinders or obstructs the Director-General in the performance of his functions under this Act; or
- (b) refuses or without sufficient cause fails to comply satisfactorily with a requirement or request which the Director-General has in the performance of his functions under this Act put to him; or
- (c) intentionally furnishes the Director-General with false or misleading information; or
- (d) has been duly subpoenaed under section 14(1)(a) and who fails, without sufficient cause
 - (i) to appear at the time and place specified in the subpoena; or
 - (ii) to remain in attendance until excused by the Director-General or the person presiding at the inquiry from further attendance; or
- (e) has been called under section 14(1)(b) and who refuses to be sworn or to make an affirmation as a witness, shall be guilty of an offence.

Penalties

18. Except where this Act provides otherwise, any person convicted of any offence in terms of this Act shall be liable to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.

Regulations

19. (1) The Minister may make regulations as to
- (a) the form of any application, authority, certificate, consent, notice, order, register, process or subpoena in terms of this Act or any other document required in the administration of the provisions of this Act;
 - (b) the payment of grants, including
 - (i) the maximum amount that may be paid;
 - (ii) the determination of the amount to be paid in any particular case;
 - (iii) payment to a person other than the beneficiary; and
 - (iv) the stopping of payment;
 - (c) the requirements or conditions, including the age, in addition to those specified elsewhere in this Act, to be complied with by a person in order to be entitled to a grant or financial award, and the circumstances in which a person shall not be so entitled;
 - (d) applications for grants, including the particulars and information to be furnished by applicants or any category of applicants;
 - (e) applications for financial awards, including the particulars and information to be furnished by applicants, and the method of payment of financial awards;

- (f) the consideration, granting or refusal of any application for a grant;
- (g) the income and assets of an applicant to be taken into account in determining the amount of a grant;
- (h) the circumstances in which grants may be paid to persons maintained or receiving treatment in State or State-aided institutions;
- (i) the date of accrual of any grant;
- (j) the method of payment of grants;
- (k) the cancellation, lapsing or suspension of any grant or financial award or the variation of the amount thereof;
- (l) the procedure of any inquiry under section 14;
- (m) the exercise of control over the payment of grants and financial awards;
- (n) information which may from time to time be required of any beneficiary;
- (o) the repayment of sums overpaid;
- (p) information to be furnished in terms of section 15;
- (q) any matter which shall or may be prescribed by regulation in terms of this Act; and
- (r) in general, any matter which the Minister may deem necessary or expedient to prescribe for achieving the objects of this Act, and the generality of this paragraph shall not be limited by the preceding paragraphs.

(2) The Minister shall not make any regulation under subsection (1), except a regulation referred to in paragraphs (a), (d), (f), (i), (j), (k), (l), (n), (p), (q) and (r) of the said subsection, without the concurrence of the Minister of State Expenditure.

(3) if a regulation would have the effect that the total amount of grants to which a person at any time has been entitled in terms of this Act is reduced, without his income or assets having increased, such regulation shall not be made without the approval, by resolution, of Parliament.

(4) A regulation made under subsection (1) may for a contravention thereof or a failure to comply therewith prescribe a penalty of a fine or imprisonment for a period not exceeding two years.

(5) Regulations made under subsection (1) may-

- (a) differentiate between different categories of persons; and
- (b) be made with retrospective effect.

Repeal of Acts, and savings

20. (1) Subject to the provisions of subsection (2), the Acts specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

(2) Anything done or deemed to have been done under any provision of an

Act repealed by subsection (1) and which may be done under any provision of this Act, shall be deemed to have been done under the last-mentioned provision, and any matter which has commenced under a provision so repealed, shall be disposed of as if the provision concerned was not repealed, unless the Minister provides otherwise.

Administration of Act

21. (1) The State President may by proclamation in the Gazette assign the administration of the provisions of this Act, either generally or in respect of persons belonging to any specific class or category as defined in the said proclamation, to any Minister or partly to one Minister and partly to another Minister or other Ministers, and may in such proclamation specify the powers and functions which shall be exercised and performed by the several Ministers, and may further specify that the powers conferred and functions imposed by this Act on any Minister shall be exercised or performed by the Minister acting with the concurrence of another Minister.

(2) The State President may vary or amend any such proclamation.

Short title and commencement

22. This Act shall be called the Social Assistance Act, 1992, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.