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GOVERNMENT NOTICE

DEPARTMENT OF SOCIAL DEVELOPMENT**No. R. 1233****23 November 2001****AMENDMENT: REGULATIONS REGARDING GRANTS AND FINANCIAL AWARDS TO WELFARE ORGANISATIONS AND TO PERSONS IN NEED OF SOCIAL RELIEF OF DISTRESS IN TERMS OF THE SOCIAL ASSISTANCE ACT, 1992 (ACT NO. 59 OF 1992)**

The Minister for Social Development has, in terms of section 19 of the Social Assistance Act, 1992 (Act No. 59 of 1992), made the regulations set out in the Schedule hereto.

SCHEDULE

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R.418 of 31 March 1998, as amended by the regulations published by Government Notice No. R.813 of 25 June 1999.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended –
 - (a) by the substitution for the definition of "approved" of the following definition:

“ ‘approved’ for the purpose of regulation 12 (1) (i), means approved by the Minister with the concurrence of the Minister of Finance, and “approve” has a corresponding meaning;”;

- (b) by the insertion before the definition of “attesting officer” of the following definitions:

“ ‘assess’ means the evaluation of information provided on the forms prescribed by the Director-General or the physical examination of a person in order to determine disability or care-dependency for the purposes of recommending a finding for the awarding of grants;

‘assessment panel’ means a group of individuals appointed by the Director-General in accordance with regulation 2(4), who have the relevant experience and expertise to assess disability and care dependency;”;

- (c) by the substitution for the definition of “biometric identification” of the following definition:

“ ‘biometric identification’ means a fingerprint or, where a fingerprint cannot be obtained, such other form of biometric identification as may be determined by the Director-General with the concurrence of the Director-General of Home Affairs;”;

- (d) by the substitution for the definition of “custodian” of the following definition:

“ ‘custodian’ means a person who is responsible for the supervision and care of a child, and “custody” has a corresponding meaning;”;

- (e) by the deletion of the definitions of “household”, “household income” and “identity document”;

- (f) by the insertion before the definition of "implied consent" of the following definition:

" 'identity card' means the identity card referred to in section 14 of the Identification Act, 1997 (Act No. 68 of 1997) and, unless clearly inconsistent with the provisions of that Act, includes an identity document referred to in section 25 (1) or (2) of that Act;";

- (g) by the substitution for the definition of "life certificate" of the following definition:

" 'life certificate' means a certificate or an affidavit signed and produced by a beneficiary or signed by both a beneficiary and a person referred to in regulation 17(4) and produced by such a person or a biometric identification produced by a beneficiary or produced by a person referred to in regulation 17(4) to confirm that the beneficiary is alive;";

- (h) by the deletion of the definition of "medical pensions officer";

- (i) by the substitution for the definition of "personal income" of the following definition:

" 'personal income' means the income of the primary care-giver and his or her spouse, as referred to in regulation 14 (1), after all the permissible deductions referred to in regulation 15 have been made;";

- (j) by the insertion before the definition of "rural area" of the following definition:

“ ‘review’ means the appearance of a beneficiary before an attesting officer to verify that the beneficiary complies with the prescribed conditions for the continuation of the grant;”;

- (k) by the insertion before the definition of ‘social worker’ of the following definition:

“ ‘social relief of distress’ means the alleviation of the need of persons by means of the temporary and immediate rendering of material assistance to them;” and

- (l) by the insertion after the definition of “the Act” of the following definition:

“ ‘verify’ means the scrutinizing of the completed application in order to ensure that the information provided is true and correct.”.

Amendment of regulation 2 of the Regulations

3. Regulation 2 of the Regulations is hereby amended –

- (a) by the substitution for paragraph (a) of subregulation (1) of the following paragraph:

“(a) he or she and his or her spouse pass the means test as prescribed in regulation 12;”;

- (b) by the substitution for paragraph (a) of subregulation (3) of the following paragraph:

“(a) he or she is a disabled person who has attained the age of 18 years and whose disability is confirmed by a medical report from a medical officer or by a report from an assessment panel: Provided that such report shall only be valid for a period of three

months from the date of assessment: Provided further that the assessment has confirmed whether the disability is –

- (i) permanent in that the disability will continue for more than 12 months; or
 - (ii) temporary in that the disability will continue for a continuous period of not less than six months or for a continuous period of not more than 12 months, as the case may be;”;
- (c) by the substitution for paragraph (c) of subregulation (3) of the following paragraph:
- “(c) he or she does not without good reason refuse to undergo the necessary medical or other treatment recommended by a medical officer, a medical practitioner, psychiatrist or an assessment panel: Provided that refusal to undergo treatment which is or may be life threatening shall be accepted by the Director General as adequate reason for not undergoing such treatment; and;”;
- (d) by the addition of the following subregulation:
- “(4)(a) The assessment panel referred to in subregulation (3) shall be appointed by the Director General and may consist of the following persons:
- (i) a senior social security official;
 - (ii) any rehabilitation therapist namely a nurse, social worker, physiotherapist, psychologist, occupational therapist or audio-visual therapist;
 - (iii) a representative from the disability sector or a reputable member of the community namely a priest, chief, magistrate or any other reputable person who is familiar with the community and its circumstances;

- (iv) any additional persons as it may be deemed appropriate for a particular application.
- (b) A panel member shall serve on the panel for such period as the Director-General deems fit.
- (c) The meetings of the assessment panel shall be convened by the senior social security official who shall also be the chairperson.
- (d) The secretariat for the panel will be provided by the Department.
- (e) A member of an assessment panel, excluding a member who is in the employ of the State, shall be paid allowances and disbursements as may be determined by the Minister in consultation with the Minister of Finance.”.

Amendment of regulation 3 of the Regulations

4. Regulation 3 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) A person shall be eligible for a child support grant in respect of all his or her own children: Provided that if some or all of the children in respect of whom the application for the grant is made are not his or her biological or legally adopted children, he or she shall be entitled to such grant in respect of a maximum of six children.”.

Amendment of regulation 5 of the Regulations

5. Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) A parent or parents, custodian, guardian, foster parent or foster parents shall be eligible for a care-dependency grant in respect of a care-dependent child for a maximum amount per annum as approved by the Minister with the concurrence of the Minister of Finance: Provided that

the medical report from a medical officer or the report from the assessment panel confirms that the child in question is a care dependent child as defined in the Act and the combined annual income of the applicant and his or her spouse, after all permissible deductions referred to in regulation 15, shall not exceed R48 000 or such higher amount as the Minister may from time to time determine: Provided further that if the income of the child exceeds twice the annual amount of the care dependency grant, such grant shall not be payable.”.

Amendment of regulation 8 of the Regulations

6. Regulation 8 of the Regulations is hereby amended -

- (a) by the substitution in paragraph (c) of subregulation (2) for the word “certified” of the word “verified”;
- (b) by the substitution for paragraph (a) of subregulation (4) of the following paragraph:

“(a) The Director-General may approve that another person may apply for a grant on behalf of the applicant on condition that such person is appointed the procurator, in which case the provisions of subregulation (2) shall apply to such person: Provided that such person shall not apply for a grant on behalf of more than five applicants and that such person shall furnish the Director-General with proof that he or she is resident in South Africa;” and

Amendment of regulation 9 of the Regulations

7. Regulation 9 of the Regulations is hereby amended -

- (a) by the substitution for paragraph (b) of subregulation (2) of the following paragraph:

“(b) in the case of a disabled person, a medical report from a medical officer or a report from the assessment panel;”;

- (b) by the substitution for paragraph (b) of subregulation (5) of the following paragraph:

“(b) a medical report from a medical officer or a report from the assessment panel;”;

- (c) by the substitution for subregulation (6) of the following subregulation:

“(6) The Director-General may accept alternative proof of any of the documents required in terms of subregulations (1) (c) to (5), including, where applicable, a statement or statements made by the applicant under oath.”.

Substitution of regulation 10 of the Regulations

8. Regulation 10 of the Regulations is hereby substituted by the following regulation:

“Date of application for grants

10. (1) The date on which an application for a grant is signed in accordance with regulation 8 (2)(a) shall be deemed the date on which the application was made.

(2) Notwithstanding the provisions of subregulation (1), the date of the court order in terms of which the child was placed in foster care shall be deemed to be the date of application.”.

Amendment of regulation 11 of the Regulations

9. Regulation 11 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) A grant, if approved, shall be paid from the date upon which the application is deemed to have been made in terms of regulation 10 (1): Provided that a person referred to in Regulation 2(1)(c) may apply for a grant at a time when he or she is so maintained, and the grant will only be paid from the date when he or she is no longer so maintained.”.

Amendment of regulation 12 of the Regulations

10. Regulation 12 of the Regulations is hereby amended by the substitution for paragraph (a) of subregulation (5) of the following paragraph:

“(a) The income of a married person and his or her spouse shall be taken into account when applying the formulae prescribed in subregulation (1), irrespective of whether the couple is married in or out of community of property.”.

Amendment of regulation 13 of the Regulations

11. Regulation 13 of the Regulations is hereby amended by the substitution for paragraph (d) of subregulation (1) of the following paragraph:

“(d) the municipal or the market value of immovable property owned and occupied by the applicant and his or her spouse shall not be taken into account in determining the grant payable. The municipal value of property owned and not occupied by the applicant and his or her spouse shall be taken into account in calculating the amount of the grant payable, provided that any outstanding bond payments are deducted for grant purposes.”.

Amendment of regulation 14 of the Regulations

12. Regulation 14 of the Regulations is hereby amended -

- (a) by the substitution for the heading to regulation 14 of the following heading:

“Determining income in respect of social grants, foster child grants, care-dependency grants and child support grants”;

- (b) by the substitution in subregulation (1) for the words preceding paragraph (a) of the following words:

“(1) For the purposes of determining means regarding a social grant or a foster child grant or a care-dependency grant or a child support grant, “income” shall mean – ”;

- (c) by the addition in subregulation (2) of the following paragraph:

“(c) Notwithstanding the provisions of paragraphs (a) to (i) of subregulation (1), the income from social assistance shall not be taken into consideration.”.

Amendment of regulation 15 of the Regulations

13. Regulation 15 of the Regulations is hereby amended -

- (a) by the substitution for the heading to regulation 15 of the following heading:

Amendment of regulation 15 of the Regulations

- (b) by the substitution for the words preceding paragraph (1) of the following words:

“ The Director-General shall, on submission of acceptable documentary proof when determining the income of an applicant and his or her spouse in the case of a social grant, care-dependency grant and the personal income of the primary caregiver and his or her spouse in the case of a child support grant, allow the following deductions or contributions;”.

- (c) by the substitution for subregulation (1) of the following subregulation:

“(1) Current obligatory contributions of the employee to a pension, provident or retirement annuity fund established in terms of an Act or, in the absence of such an obligatory contribution, another contribution which does not exceed 22 per cent of the nett income of the applicant;”.

Amendment of regulation 22 of the Regulations

14. Regulation 22 of the Regulations is hereby amended by the deletion of paragraph (c).

Amendment of regulation 23 of the Regulations

15. Regulation 23 of the Regulations is hereby amended:

- (a) by the substitution for subregulation (2) of the following subregulation:

“(2)(a) The Director-General shall review a grant as follows:

- (i) annually in situations where there is documentary evidence that changes in the beneficiary's financial circumstances may occur: Provided that every foster child

grant shall be reviewed on expiry of the date of the court order or an extension order as the case may be;

- (ii) where there is documentary evidence that changes in the medical circumstances of a disabled person may occur, then such review may be done in terms of regulation 23(8)(a);

(b) The Director General may, when taking the circumstances of each case into consideration, increase, decrease or suspend a grant from the date he or she determines, and shall inform the beneficiary of the reasons in writing at least three months before such increase, decrease or suspension is effected and inform him or her of the 90 day period referred to in subregulation(6) for an application for the restoration of the grant and the procedures thereof.”.

- (b) by the substitution for subregulation (3) of the following subregulation:

“(3) The Director General shall request all beneficiaries, where there is no documentary evidence that changes in their financial and medical circumstances may occur, except those who take receipt of his or her grant through biometric identification, to submit acceptable proof or a life certificate annually to him or her, of the beneficiary’s being alive.”.

- (c) by the substitution for paragraph (a) of subregulation (8) of the following paragraph:

“(a) in the case of social grants for disabled persons, no further medical assessment shall be required where a permanent classification has been made: Provided that the Director-General may, at his or her discretion, at any stage after the lapsing of a period of five years from the date of application of such a grant

require the beneficiary to undergo a medical examination in terms of regulation 2 (3) (a);”.

Amendment of regulation 24 of the Regulations

16. Regulation 24 of the Regulations is hereby amended by the substitution for subparagraph (ii) of paragraph (e) of subregulation (3) of the following subparagraph:

“(ii) in the case of a foster child who has attained the age of eighteen years but not yet attained the age of twenty one years, in terms of section 33(3) of the Child Care Act, 1983(Act No. 74 of 1983), on submission of the required documentation, to enable the child to complete his or her secondary school training or, in the case of a disabled child, his or her special educational training on condition that the grant shall not be continued after the end of the year in which the child attains the age of twenty one years: Provided that a person shall be authorised by the Director General to administer the grant for the benefit of a foster child.”.

Amendment of regulation 26 of the Regulations

17. Regulation 26 of the Regulations is hereby amended by the addition in subregulation (1) of the following paragraphs:

“(h) the person has appealed the suspension of his or her grant; and

(i) the person is not a member of a household that is already receiving social assistance.”.

Amendment of regulation 27 of the Regulations

18. Regulation 27 of the Regulations is hereby amended by the deletion of paragraphs (c) and (d) of subregulation (6).

Amendment of regulation 29 of the Regulations

19. Regulation 29 of the Regulations is hereby amended -

- (a) by the substitution for subregulation (2) of the following subregulation:

“(2) Social relief of distress shall be issued monthly or for such periods as determined by the Director-General or a person assigned by him or her for a maximum period of three consecutive months.”.

Withdrawal

20. The regulations published by Government Notice No. R704 of 27 July 2001 is hereby withdrawn.

Commencement

21. These regulations shall come into effect on 1 December 2001.

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