

STATUTES OF THE REPUBLIC OF SOUTH AFRICA-SALARIES AND PENSIONS
SOCIAL ASSISTANCE ACT
NO. 59 OF 1992

[ASSENTED To 26 APRIL, 1992] [DATE OF COMMENCEMENT: 1
MARCH, 1996]

(Afrikaans text signed by the State President)

as amended by

Health and Welfare Matters Amendment Act, No. 118 of 1993
(with effect from 20 July, 1993-see title PUBLIC HEALTH)

Health and Welfare Matters Second Amendment Act, No. 180 of 1993
[with effect from 29 December, 1993-see title MEDICINE, DENTISTRY AND
PHARMACY)

Social Assistance Amendment Act, No. 45 of 1994

Proclamation No. R.7 of 1996

Welfare Laws Amendment Act, No. 106 of 1996

[with effect from 27 November, 1996-see title WELFARE ORGANIZATIONS)
Welfare Laws Amendment Act, No. 106 of 1997

[with effect from 1 April, 1998-see title WELFARE ORGANIZATIONS)

ACT

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

1. **Definitions.**-In this Act, unless the context indicates otherwise-

"**aged person**" means any person who has attained the prescribed age;

"**applicant**" means any person who applies for social assistance in terms of this Act;

"**beneficiary**" means any person to whom social assistance is rendered under this Act;

"**care-dependency grant**" means a grant made in terms of section 2 (f);

"**care-dependent child**" means a child between the ages of one and 18 years who requires and receives permanent home care due to his or her severe mental or physical disability,

"**child**" means any person under the age of 18 years,

"**child support grant**" means a grant made in terms of section 2 (d);

"**Director-General**" means the Director-General: Welfare;

"**disabled person**" means any person who has attained the prescribed age and is, owing to his or her physical or mental disability, unfit to obtain by virtue of any service,

employment or profession the means needed to enable him or her to provide for his or her maintenance;
"financial award" means a financial award contemplated in section 5;
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s. 1 Social Assistance Act, No. 59 of 1992 s. 1

"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);

"foster child grant" means a grant made in terms of section 2 (e);

"foster parent" means any person, except a parent of the child concerned, in whose custody a foster child has been placed under Chapter 3 or 6 of the Child Care Act, 1983, or section 290 of the Criminal Procedure Act, 1977, or a tutor to whom a letter of tutorship has been issued in terms of Chapter IV of the Administration of Estates Act, 1965 (Act No. 66 - of 1965);

"grant" means a social grant, a grant-in-aid, a supplementary grant, a child support grant, a foster child grant or a care-dependency grant;

"grant-in-aid" means a grant made in terms of section 2 (b);

"Minister" means the Minister for Welfare and Population Development;

"parent" means the legal parent of a child;

"prescribe" means prescribe by regulation;

"primary care-giver", in relation to a child, means a person, whether or not related to the child, who takes primary responsibility for meeting the daily care needs of the child, but excludes-

(a) a person who receives remuneration, or an institution which receives an award,

for taking care of the child; or
(b) a person who does not have an implied or express consent of a parent, guardian or custodian of the child;

"regulation" means any regulation made under section 19;

"social assistance" means a social grant, a supplementary grant, a grant-in-aid, a foster child grant, a child-support grant, a care-dependency grant or a financial award granted under this Act;

"social grant" means a grant made in terms of section 2 (a);

"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);

"South African citizen" includes any person who-
(a) is not a South African citizen and who prior to 1 March, 1996 was in receipt of a benefit similar to a grant in terms of any law repealed by section 20 of the Social Assistance Act, 1992, as assigned by Proclamation R.7 of 1996; or
(b) is a member of a group or category of persons defined by the Minister, with the concurrence of the Minister of Finance, by notice in the Gazette;

"supplementary grant" means a grant made in terms of section 2 (c);
"this Act" includes the regulations;

"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 or her maintenance, and-

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(a) 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

(b) 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

(c) who, while he or she 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 or she applies for a veteran's pension; or

(d) who, while he or she 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 or she had been detailed for duty in connection therewith;

"welfare organization" means-

(a) a welfare organization registered under section 13 (1) of the National Welfare Act, 1978 (Act No. 100 of 1978);

(b) an organization not so registered and which renders social welfare services for non-profitable purposes.

(S. 1 amended by s. 14 (a) and (b) of Act No. 118 of 1993, by s. I of Act No.45 of 1994, by Proclamation No. R.7 of 1996, and by s. 6 of Act No. 106 of 1996 and substituted by s. 3 of Act No. 106 of 1997.]

2. Payment of grants.-The Minister shall, subject to the provisions of this Act and with the concurrence of the Minister of Finance, out of moneys appropriated by the Provincial Legislature concerned 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) who is in such a physical or mental condition that he requires regular attendance by any person;

[Para. (b) substituted by s. 15 (a) of Act No. 118 of 1993.]

(c) in addition to social grants and grants-in-aid, supplementary grants to war veterans;

(d) a child-support grant to a primary care-giver of a child who is under the age of seven years or such higher age as the Minister may determine by notice in the Gazette;

[Para. (d) substituted by s. 3 of Act No. 106 of 1997.]

(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;

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(g) a care-dependency grant to a parent or foster parent in respect of a care-dependent child.

[S. 2 amended by s. 2 (a) of Act No. 45 of 1994 and by Proclamation No. R.7 of 1996.

Para. (g)

inserted by s. 15 (b) of Act No. 18 of 1993 and substituted by s. 3 of Act No. 180 of 1993 and by s.

2 (b) of Act No. 45 of 1994.]

3. Social grants.-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.

4. Child-support grants.-Subject to the provisions of this Act, any person shall be entitled to a child-support grant if that person satisfies the Director-General that-

- (a) he or she is the primary care-giver of a child; and
- (b) he or she and that child-
- (i) are resident in the Republic at the time of the application for the grant in question;
- (ii) are South African citizens; and
- (iii) comply with the prescribed conditions.

[S. 4 substituted by s. 3 of Act No. 106 of 1997.]

5. Financial awards to welfare organizations and persons.--(1) The Minister may, subject to the provisions of this Act and with the concurrence of the Minister of Finance, out of moneys appropriated by the Provincial Legislature concerned for that purpose, make

financial
awards to----

(a) any welfare organization which undertakes or takes or co-ordinates organized activities, measures or programmes in the field of developmental social welfare services;

[Para. (a) substituted by s. 7 of Act No. 106 of 1996.]

(b) any organization contemplated in section I 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 or she is satisfied that such person is in need of social relief of distress.

(S. 5 substituted by Proclamation No. R.7 of 1996.)

6. Application for social assistance.- { 1) Any person who desires social assistance, shall in the prescribed manner apply to the Director-General or 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 or she 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 or she may authorize the rendering of the relevant social assistance.

[S. 6 substituted by s 3 of Act No. 106 of 1997.]

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, -g ss. 7 - 10 Social Assistance Act, No. 59 of 1992 ss. 7 - 10

7. Stopping of payment of grants to persons who are absent from Republic.-

(1) Subject to subsection (2), the payment of a grant to or on behalf of any person who is ab-

sent 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 or she last left

the Republic.

(2) 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 or she may determine.

* IS. 7 substituted by s. 3 of Act No. 106 of 1997.]

8. Misspending of grants.-If in the opinion of the Director-General a beneficiary mispends his or her grant or if the Director-General for any other reason deems it expedient, he or she 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.
- [S. 8 substituted by s. 3 of Act No. 106 of 1997.]
9. Repayment of sums overpaid.---(1) If an amount of money is paid to a person in the belief that he or she is entitled thereto in terms of this Act, or any law repealed by section 20 of the Social Assistance Act, 1992, as assigned by Proclamation R.7 of 1996, while he or she was in fact not entitled thereto, such amount shall be an amount due to the State by such person or, if he or she is deceased, his or her 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 or she received the amount without knowing that he or she 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 or her discretion recover such amount from such person by way of legal proceedings or in such other manner as he or she may deem expedient.
- (4) 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 National Treasury, or any person authorized thereto by that Treasury, may in its or his or her discretion write off the whole or any portion of an amount owing to the State in terms of this section, if that Treasury or assignee is satisfied that recovery of such amount would be uneconomical or cause undue hardship to the debtor concerned or his or her dependants because they would be deprived of the minimum essential means of livelihood. (S 9 amended by Proclamation No R.7 of 1996 and substituted by s 3 of Act No. 106 of 1997.)
10. Appeal to Minister.-(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 or she 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 or her decision.
- [S 10 substituted by s. 3 of Act No. 106 of 1997.]

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ss. 11 - 14 Social Assistance Act, No. 59 of 1992 ss. 11 - 14

11. Restrictions regarding rights to amounts payable, and disposal of such amounts in case of death or insolvency.-(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 exe-

cution 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 sequestrated; 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.

[S. 11 substituted by s. 3 of Act No, 106 of 1997.]

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

order that he or she or another person-

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

(b) may obtain more social assistance than that to which he or she is entitled under this Act,

he or she shall be guilty of an offence.

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

[S. 12 substituted by s. 3 of Act No. (06 of 1997).]

13. Exemption from stamp duty.-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 assis-

tance 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.

14. Powers of Director-General in respect of investigation.---(1) The Director-General may, if he or she deems it necessary in the performance of his or her

functions, inquire

into any matter concerning the rendering of social assistance, and may for such purpose-

(a) subpoena any person who in his or her opinion may furnish information of ma-

terial importance concerning the matter under investigation, or who is suspected of having in his or her possession or care or under his or her control a book, document or thing that may have a bearing on the investigation, to appear before him or her,

(6) 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 or she 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.

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ss. 14 - 16 Social Assistance Act, No. 59 of 1992 ss. 14 - 16

(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).

[S. 14 substituted by s. 4 of Act No. 106 of 1997.]

15. Information to be furnished to Director-General.-Notwithstanding anything to the contrary in any law contained, the Director-General: Home Affairs, any registrar of deeds

or any other officer in the service of the State shall at the request of the Director-General fur-

nish him or her 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.

[S. 15 substituted by s. 4 of Act No. 106 of 1997.]

16. Delegation of powers and assignment of duties.---(1) The Minister may-

(a) delegate to any officer of the Department of Welfare any power conferred upon the Minister by this Act, except the power to make regulations under section 19;

(b) authorize any such officer to perform any duty imposed upon the Minister by this Act.

(2) The Minister may, with the concurrence of, and shall, if so requested by, the Premier of a province-

(a) delegate to the member of the Executive Council responsible for welfare matters in the province any power conferred on the Minister by this Act, except the

- power to make regulations under section 19;
- (b) authorize that member of the Executive Council to perform any duty imposed upon the Minister by this Act:
- Provided that the province has the necessary administrative capacity to exercise that power or perform that duty, as the case may be.
- (3) That member of the Executive Council of a province responsible for welfare matters may-
- (a) delegate to any officer of the provincial administration concerned any power delegated to that member under subsection (2);
- (b) authorize that officer to perform any duty imposed which that member is authorized to perform under subsection (2).
- (4) The Director-General may-
- (a) delegate to any other officer of the Department of Welfare any power conferred upon the Director-General by this Act;
- (b) authorize any such officer to perform any duty imposed upon the Director-General by this Act.
- (5) The Director-General may, with the concurrence of, and shall, if so requested by, the Director-General of a provincial administration (in this section referred to as the provincial Director-General)-
- (a) delegate to the provincial Director-General any power conferred upon the Director-General by this Act;
- (b) authorize the provincial Director-General to perform any duty imposed upon the Director-General by this Act:
- Provided that the province has the necessary administrative capacity to exercise that power or perform that duty, as the case may be.
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ss. 16 - 17 Social Assistance Act, No. 59 of 1992 ss. 16 - 17

- (6) A provincial Director-General may-
- (a) delegate to any other officer of the provincial administration any power delegated to him or her under subsection (5);
- (b) authorize any such officer to perform any duty he or she is authorized to perform under subsection (5).
- (7) Any person to whom a power has been delegated or who has been authorized to perform a duty under this section, shall exercise that power or perform that duty subject to the conditions the person who effected the delegation or granted the authorization considers necessary.
- (8) Any delegation of a power or authorization to perform a duty under this section

shall be done in writing.

(9) Any delegation of a power or authorization to perform a duty under subsection (1), (3), (4) or (6)-

* (a) shall not prevent the person who effected the delegation or granted the authorization from exercising that power or performing that duty himself or herself;

(b) may at any time be withdrawn in writing by that person.

(10) (a) If a power is delegated or the performance of a duty authorized in terms of subsection (2) or (5), the person who effected the delegation or granted the authorization may

only perform that power or duty, as the case may be, himself or herself, if the power or duty is

not exercised or performed in accordance with this Act.

(b) Any delegation of a power or authorization to perform a duty in terms of subsection (2) or (5) may only be withdrawn in writing if-

(i) that power or duty, as the case may be, is not duly exercised or performed in accordance with this Act; or

(ii) the province ceases to have the necessary administrative capacity to exercise that power or perform that duty, as the case may be.

[S. 16 substituted by s. 4 of Act No. 106 of 1997.]

17. Offences relating to functions of Director-General.-Any person who-

(a) hinders or obstructs the Director-General in the performance of his or her 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 or her functions under this Act put to him or her; 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.

(S. 17 substituted by s. 4 of Act No. 106 of 1997.)

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ss. 18 - 19 Social Assistance Act, No. 59 of 1992 ss. 18 - 19

18. Penalties.-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 exceed-

ing 12 months, or to both a fine and such imprisonment.

[S. 18 substituted by s. 4 of Act No. 106 of 1997.]

19. Regulations.-(1) The Minister may after consultation with the Minister for Welfare and Population Development, in the national government, 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 application 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;
 - (1) 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.

(Sub-s. (1) amended by Proclamation No. R.7 of 1996.)

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(2) The Minister shall not make any regulation under subsection (1), except a regulation referred to in paragraphs (a), (d), (f), (i), (i), (k), (l), (n), (p), (q) and (r) of the said subsec-

tion, without the concurrence of the Minister of Finance.

[Sub-s. (2) substituted by s. 3 of Act No. 45 of 1994.]

(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 the

Provincial Legislature concerned.

[Sub-s. (3) amended by Proclamation No. R.7 of 1996.]

(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.

a 20. Repeal of Acts, and savings.-(1) This Act shall apply throughout the Republic.

[Sub-s. (1) substituted by s. 4 of Act No. 106 of 1997.]

(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.

21. .

[S. 21 repealed by Proclamation No. R.7 of 1996.]

22. Short title.-This Act shall be called the Social Assistance Act, 1992.

[S. 22 amended by Proclamation No. R.7 of 1996 and substituted by s. 4 of Act No. 106 of 1997.]

Schedule

(Schedule amended, and subsequently amended again, by s. 16 of Act No. 118 of 1993 and by

Proclamation No. R.7 of 1996.)

ACTS REPEALED

Number and Short title Extent of repeal

year of Act

25 of 1968 War Veterans' Pensions Act, 1968 The whole

26 of 1968 Blind Persons Act, 1968 The whole

27 of 1968 Disability Grants Act, 1968 In so far as is unrepealed

37 of 1973 Social Pensions Act, 1973 The whole

96 of 1983 Pension Laws Amendment Act, 1983	Sections 12, 13, 14, 15 and 16
37 of 1989 Social Aid Act (House of Assembly), 1989	The whole
I 18 of 1993 Health and Welfare Matters Antendment Act, 1993	Section 16
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