

South African Institute of Race Relations NPC
Submission to the
Department of Social Development,
regarding the
the Social Relief of Distress Procedure Manual
under the
Social Assistance Act of 2004,
Johannesburg, 23 March 2022

1 Introduction

This brief submission on the Social Relief of Distress Procedure Manual (the Manual) is made by the South African Institute of Race Relations NPO (the IRR), a non-profit organisation formed in 1929 to oppose racial discrimination and promote racial goodwill. Its current objects are to promote democracy, human rights, development and reconciliation between the peoples of South Africa.

This submission is a brief addendum to the IRR's submission on the Amended Regulations of 2022 (the Regulations), which was emailed to the Department of Social Development (DSD) on 11th March 2022. It should therefore be read together with the 11th March document.

2 Content of the Manual

Given major time constraints, the IRR can comment only on the most important issues raised by the Manual.

2.1 Temporary grants subject to budgetary limits

The Manual is more explicit – and thus better worded than the Regulations – in clearly stating that the social relief of distress grant for those with insufficient means (the SRD-IMG) is a temporary grant only,¹ and that it must fit within available budgets.²

2.2 Criteria for the SRD-IMG

According to Clause 6(d)(iii), the individuals eligible for the SRD-IMG are those 'who are unemployed and receiving support at a level below the food poverty line'.³ However, this is inconsistent with Clause 7(c), which – in dealing with 'qualifying criteria' for the SRD-IMG – makes no reference to the 'food poverty line'.⁴

2.3 Availability of funding

Given South Africa's persistently low growth rates, narrow tax base, and already heavy burden of unaffordable public debt, the Manual is to be applauded for explicitly stating, in

¹ Introduction, Clause 1(a), Social Relief of Distress Procedure Manual

² Clause 11, Manual

³ Clause 6(d)(iii), *ibid*

⁴ Clause 7(c), *ibid*

Clause 11(a), that ‘at all times, the provision of social relief of distress is dependent on the availability of funds’.⁵

2.4 Termination of the SRD-IMG when funding is exhausted

Various ancillary clauses seem to be intended to reinforce the Clause 11 message that the payment of the SRD-IMG is dependent on the availability of funds – but their present wording could in fact have the opposite effect.

Under Clause 9(e), the SRD-IMG ‘may’ be suspended when ‘the funding for the grant is depleted’,⁶ while under Clause 11(b), the SRD-IMG ‘may’ be suspended if the funding for the grant is depleted’.⁷ In both instances, however, the word ‘may’ should be replaced by the word ‘must’. This is necessary to guard against unbudgeted spending in breach of the Constitution and the Public Finance Management Act of 1999.

2.5 Value and duration of SRD-IMG

Like the Regulations, however, the Manual is far too vague and uncertain in giving the minister of social development an untrammelled discretion to ‘determine the value and duration’⁸ of the SRD-IMG, simply by notice in the *Gazette*, as set out in Clause 5(a)(i).

This broad and uncertain wording is echoed in Clause 12(a) of the Manual, which states – in still more impermissibly vague terms – that the ‘value’ of the SRD-IMG ‘is determined in Regulation 16 read with the corresponding amounts gazetted by the minister’.⁹

Wording as vague as this is far too uncertain to comply with the rule of law – which requires that laws of all kinds be clear and precise in their meaning.¹⁰

3 The way forward

Like the Regulations, the Manual seems to be seeking to make a small temporary grant into a large permanent one. Moreover, it seems intent on doing this via the back door: through ministerial rule making, rather than the normal parliamentary process – and hence without sufficient public debate or informed assessment of likely costs and consequences.

If the Regulations and the Manual are adopted in their current form, the fiscal cliff to which the IRR refers in its 11th March submission on the Regulations will draw closer. In these circumstances, economic growth will wither further, public debt and interest payments will expand, unemployment will worsen, and the jobless poor are likely to become ever more dependent on shrinking social grants that cannot be maintained.

⁵ Clause 11(a), *ibid*

⁶ Clause 9(e), *ibid*

⁷ Clause 11(b), *ibid*

⁸ Clause 5(a)(i), *ibid*

⁹ Clause 12(a), *ibid*

¹⁰ Section 1(c), Constitution of the Republic of South Africa, 1996

Both the Manual and the Regulations should be abandoned until such time as a proper socio-economic impact assessment has been carried out and its results made available to the public. A proper public consultation process is also still required, as what has been provided thus far has been insufficient to meet the Constitution's requirements.

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23 March 2022