

## CHAPTER 17:06

# SOCIAL WELFARE ASSISTANCE ACT

Act 10/1988, 22/2001 (s. 4)

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**AN ACT to provide for the granting of social welfare assistance to persons in need and their dependants; and to provide for matters incidental thereto or connected therewith.**

[Date of commencement: 1st June, 1990.]

#### **1 Short title**

This Act may be cited as the Social Welfare Assistance Act [*Chapter 17:06*].

#### **2 Interpretation**

In this Act—

“beneficiary” means any person who receives social welfare assistance;

“dependant”, in relation to an applicant for or beneficiary receiving social welfare assistance, means—

- (a) any child of the applicant or beneficiary, including a step child, legally adopted child or child born posthumously who is under eighteen years of age; or
- (b) any other person not referred to in paragraph (a) who is wholly or partly maintained by the applicant or beneficiary;

“destitute or indigent person” means any person who lacks means of subsistence;

“Director” means the Director of Social Welfare;

“Minister” means the Minister of Public Service, Labour and Social Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“social welfare assistance” means assistance referred to in section *five*.

#### **3 Application for social welfare assistance**

Any destitute or indigent person or any person on his behalf may apply to the Director in the prescribed form for social welfare assistance in terms of this Act.

#### **4 Consideration of application for social welfare assistance**

(1) Subject to this Act, the Director or any person acting in his behalf shall, on receipt of an application made in terms of section *three*, consider the application and—

- (a) if he is satisfied that the applicant is eligible in terms of section *six* to receive social welfare assistance, register the applicant and give directions in terms of subsection (2); or
- (b) if he is not satisfied that the applicant is eligible in terms of section *six* to receive social welfare assistance, reject the application;

and notify the applicant of his decision within a reasonable time.

(2) Directions given in terms of this section by the Director or any person acting on his behalf may relate to—

- (a) the nature of social welfare assistance;
- (b) in the case of financial assistance, subject to paragraph (a) of section *five*, the amount and duration of such assistance;

and may include such conditions as he considers necessary or desirable to impose.

(3) The Director may from time to time review any determination made in terms of this section concerning the eligibility of any person to receive social welfare assistance or the amount or level of social welfare assistance to be given to any person.

## **5 Form of social welfare assistance**

Social welfare assistance granted—

- (a) in financial form shall be in such amount as, having regard to the circumstances of the beneficiary, the Director deems reasonable and sufficient, but shall not exceed such rate as may be prescribed;
- (b) otherwise than in financial form may take any of the following forms—
  - (i) rehabilitation, institutional nursing, boarding or foster home care;
  - (ii) counselling services;
  - (iii) the provision of orthopaedic and orthoptic appliances;
  - (iv) occupational training;
  - (v) pauper burials;
  - (vi) the supply of food or clothing;
  - (vii) any other assistance necessary to relieve destitution.

## **6 Eligibility for social welfare assistance**

(1) The Director, or any person acting on his behalf, may grant social welfare assistance to a destitute or indigent person where he is satisfied that such person—

- (a) is over sixty years of age; or
- (b) is handicapped physically or mentally; or
- (c) suffers continuous ill-health; or
- (d) is a dependant of a person who is destitute or indigent or incapable of looking after himself; or
- (e) otherwise has need of social welfare assistance.

(2) In determining whether a person qualifies to receive or to continue receiving social welfare assistance, the Director or any person acting on his behalf shall assess—

- (a) the degree of financial hardship of the applicant and his dependants; and
- (b) the availability to the applicant and his dependants of any assistance, financial or otherwise, from any source; and
- (c) the suitability of the applicant and his dependants for resettlement or rehabilitation; and
- (d) the state of health, educational level and the level of skills for purposes of the employment prospects of the person applying for social welfare assistance.

(3) For the purpose of making his decision in terms of subsection (1), the Director, or any other person acting on his behalf, may require the applicant—

- (a) to furnish such information as is necessary to verify the facts of the application;
- (b) to appear personally before the Director or any other person acting on his behalf.

## **7 Beneficiary to report receipt of assistance from any other source**

(1) If, at any time while receiving social welfare assistance, a beneficiary or his dependant receives social welfare assistance from any other source or the circumstances of a beneficiary or his dependant change to the extent of affecting his entitlement to receive social welfare assistance, such beneficiary shall immediately report to the Director the receipt of such other assistance or such change of his circumstances.

(2) Any beneficiary who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

## **8 Social welfare assistance to be provided from moneys appropriated by Parliament or otherwise acquired**

Any social welfare assistance granted in terms of this Act shall be charged upon and paid out of such moneys as may be appropriated for the purpose by Parliament or otherwise acquired.

## **9 Social welfare assistance not assignable or executable**

(1) No financial assistance given under this Act shall be capable of being assigned or transferred or otherwise ceded, pledged or hypothecated, nor shall it be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and if a beneficiary attempts to assign, transfer or otherwise cede, pledge or hypothecate such financial assistance or right thereto, payment of the financial assistance may be withheld, suspended or entirely discontinued, if the Director so determines.

(2) In any proceedings for the execution of civil imprisonment against a person receiving social welfare assistance, his means shall not be deemed to include any sum received by him by virtue of this Act.

## 10 Appeals

Any person who is aggrieved by a decision of the Director in terms of this Act may, within thirty days of being notified of such decision, appeal to the Minister, who may give such decision or direction as he thinks fit.

## 11 Offences and penalties

(1) Any person who—

- (a) ...
- (b) ...

[Paragraphs repealed by section 4 of Act No. 22 of 2001]

- (c) in or in connection with any application in terms of section *three*, makes a false statement which he knows to be false or does not believe on reasonable grounds to be true; or
- (d) fails or refuses to provide any information or to appear personally before the Director if requested to do so by the Director in terms of subsection (3) of section *six*; or
- (e) ...

[Paragraph repealed by section 4 of Act No. 22 of 2001]

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(2) Any person who fails to apply any social welfare assistance granted to him under this Act for the purposes for which it was granted shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

## 12 Repayment of sums overpaid

(1) If any person has received by way of social welfare assistance any sum to which he was not entitled, he, or, in the case of his death, his estate, shall be liable to repay such sum to the State, unless the Director is satisfied that such person received it without knowing he was not entitled thereto.

(2) A sum referred to in subsection (1) may be recovered, without prejudice to any other remedy, by means of deductions from any financial assistance granted by the State and due to the person liable to make such repayment.

(3) This section shall apply, *mutatis mutandis*, to the case of a person to whom financial assistance is paid under this Act for or for the benefit of any other person.

## 13 Regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the form and manner of application to be made in terms of this Act;
- (b) the information and other evidence required to be furnished by an applicant or beneficiary for social welfare assistance in terms of this Act;
- (c) the duration for which social welfare assistance may be granted in respect of different categories of beneficiaries;
- (d) the rates and amounts of financial assistance that may be granted in respect of different categories of beneficiaries;

Provided that before making any regulations in terms of this paragraph the Minister shall obtain the approval of the Minister responsible for finance.