Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 666 | Cape Town Kaapstad | 23 December 2020 | No. 44035

THE PRESIDENCY

No. 1414 23 December 2020

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

Act No. 16 of 2020: Social Assistance Amendment Act, 2020

DIE PRESIDENSIE

No. 1414 23 Desember 2020

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 16 van 2020: Wysigingswet op Maatskaplike Bystand, 2020

ISSN 1682-5843

44035

9 771682 584003

AIDS HELPLINE: 0800-0123-22 Prevention is the cure

(English text signed by the President)
(Assented to 20 December 2020)

2

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

________ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Social Assistance Act, 2004, so as to insert new definitions; to provide for additional payments linked to social grants; to provide for payment of benefits to a child-headed household; to provide for social relief of distress in the event of a disaster; to repeal the internal reconsideration process; to provide for an Independent Tribunal to consider appeals against decisions of the Agency; to provide for the establishment of the Inspectorate as a government component; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 13 of 2004, as amended by section 99 of Act 75 of 2008

1. Section 1 of the Social Assistance Act, 2004 (''the principal Act''), is hereby amended—

(a) by the insertion after the definition of ''disabled person'' of the following definitions:

'' **'disaster'** means 'disaster' as defined in section 1 of the Disaster Management Act;
'Disaster Management Act' means the Disaster Management Act, 2002 (Act No. 57 of 2002);'';

(b) by the insertion after the definition of ''grant-in-aid'' of the following definition:

'' **'Independent Tribunal'** means the Independent Tribunal appointed by the Minister as contemplated in section 18(1);'';

(c) by the insertion after the definition of ''parent'' of the following definition:

'' **'person'** for the purpose of social relief of distress in the event of disaster means the head of the household or anyone within the household acting on his or her behalf or an organisation rendering disaster relief services;''; and

(d) by the substitution for the definition of ''social assistance'' of the following definition:

'' **'social assistance'** means a social grant, social relief of distress or an additional payment contemplated in section 12A;''.

(Engelse teks deur die President geteken)
(Goedgekeur op 20 Desember 2020)

ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk in vierkantige hakies dui op weglatings uit bestaande verordeninge.

__________ Woorde met 'n volstreep daaronder dui op invoegings in bestaande verordeninge

WET

Tot wysiging van die Wet op Maatskaplike Bystand, 2004, ten einde nuwe omskrywings in te voeg; vir bykomende betalings gekoppel aan maatskaplike toelaes voorsiening te maak; voorsiening te maak vir betaling van voordele aan 'n huishouding met 'n kind aan die hoof daarvan; voorsiening te maak vir maatskaplike noodleniging in die geval van 'n ramp; die interne heroorwegingsproses te herroep; voorsiening te maak vir 'n Onafhanklike Tribunaal om appèlle teen besluite van die Agentskap te oorweeg; voorsiening te maak vir die instelling van die Inspektoraat as 'n regeringskomponent; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR word bepaal deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 13 van 2004, soos gewysig deur artikel 99 van Wet 75 van 2008

1. Artikel 1 van die Wet op Maatskaplike Bystand, 2004 (''die Hoofwet''), word hierby gewysig—

(a) deur die omskrywing van ''maatskaplike bystand'' deur die volgende omskrywing te vervang:
  '' **'maatskaplike bystand'** 'n maatskaplike toelaag, maatskaplike noodleniging of 'n bykomende betaling in artikel 12A beoog;'';

(b) deur die volgende omskrywing na die omskrywing van ''Minister'' in te voeg:
  '' **'Onafhanklike Tribunaal'** die Onafhanklike Tribunaal deur die Minister aangestel soos in artikel 18(1) beoog;'';

(c) deur die volgende omskrywing na die omskrywing van ''ouer persoon'' in te voeg:
  '' **'persoon'** vir die doel van maatskaplike noodleniging in die geval van 'n ramp, die hoof van die huishouding of enigiemand in die huishouding wat namens hom of haar optree of 'n organisasie wat noodlenigingsdienste lewer;'';

(d) deur die volgende omskrywing na die omskrywing van ''prokurator'' in te voeg:
  '' **'ramp'** 'ramp' soos omskryf in artikel 1 van die Wet op Rampbestuur;''; en

(e) deur die volgende omskrywing na die omskrywing van ''voorgeskryf'' in te voeg:
  '' **'Wet op Rampbestuur'** die Wet op Rampbestuur, 2002 (Wet No. 57 van 2002);''.

Amendment of section 4 of Act 13 of 2004

2. Section 4 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Provision of social [grants] assistance**";

(b) by the deletion of "and" at the end of paragraph *(f)*, the substitution of the expression "; and" for the full stop at the end of paragraph *(g)* and the addition of the following paragraph:

"*(h)* social relief of distress.".

Substitution of section 6 of Act 13 of 2004

3. The following section is hereby substituted for section 6 of the principal Act:

"**Child support grant**

6. Subject to section 5—

(a) a person who is the primary care giver of a child; or

(b) a child who heads a child-headed household, as contemplated in section 137 of the Children's Act, 2005 (Act No. 38 of 2005),

is eligible for a child support grant.".

Insertion of section 12A in Act 13 of 2004

4. The following section is hereby inserted in the principal Act after section 12:

"**Additional payments**

12A. (1) The Minister, with the concurrence of the Minister of Finance, may prescribe an additional payment linked to a social grant.

(2) The Minister may, in prescribing an additional payment, differentiate on the basis of need between beneficiaries of social grants.".

Substitution of section 13 of Act 13 of 2004

5. The following section is hereby substituted for section 13 of the principal Act:

"**Social relief of distress**

13. (1) A person is, subject to section 5, eligible for social relief of distress if the person qualifies as prescribed.

(2) Notwithstanding subsection (1) and sections 27, 41 and 55 of the Disaster Management Act, any person may qualify for social relief of distress if his or her household has been affected by a disaster.

(3) The Agency must, subject to subsections (1) and (2), disburse the social relief of distress as prescribed.

(4) Notwithstanding subsection (2), the Agency may in the event of a disaster and depending on the magnitude of the disaster and the availability of resources, determine as prescribed, the needs of the affected communities and disburse the social relief of distress.".

Amendment of section 14 of Act 13 of 2004, as amended by section 2 of Act 5 of 2010

6. Section 14 of the principal Act is hereby amended by the substitution in subsection (3)*(b)* for subparagraph (iii) of the following subparagraph:

Wysiging van artikel 4 van Wet 13 van 2004

2. Artikel 4 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“**Verskaffing van maatskaplike [toelaes] bystand**”;

(b) deur “en” aan die einde van paragraaf *(f)* te skrap, die punt aan die einde van paragraaf *(g)* deur die uitdrukking “; en” te vervang en die volgende paragraaf by te voeg:

“*(h)* maatskaplike noodleniging.”.

Vervanging van artikel 6 van Wet 13 van 2004

3. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang:

“**Kinderonderhoudstoelae**

6. Behoudens artikel 5 kom—

(a) ’n persoon wat ’n kind se primêre versorger is; of

(b) ’n kind wat aan die hoof van ’n kinderaangevoerde huishouding is, soos beoog in artikel 137 van die ‘Children’s Act, 2005’ (Wet No. 38 van 2005),

in aanmerking vir ’n kinderonderhoudstoelaag.”.

Invoeging van artikel 12A in Wet 13 van 2004

4. Die volgende artikel word hierby na artikel 12 in die Hoofwet ingevoeg:

“**Bykomende betalings**

12A. (1) Die Minister, met die instemming van die Minister van Finansies, kan ’n bykomende betaling gekoppel aan ’n maatskaplike toelaag, voorskryf.

(2) Die Minister kan, by die voorskryf van ’n bykomende betaling, op grond van behoefte onderskeid tref tussen begunstigdes van maatskaplike toelaes.”.

Vervanging van artikel 13 van Wet 13 van 2004

5. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang:

“**Maatskaplike noodleniging**

13. (1) ’n Persoon kom in aanmerking, behoudens artikel 5, vir maatskaplike noodleniging as die persoon soos voorgeskryf kwalifiseer.

(2) Ondanks subartikel (1) en artikels 27, 41 en 55 van die Wet op Rampbestuur, kan enigiemand kwalifiseer vir maatskaplike noodleniging as sy of haar huishouding deur ’n ramp geraak is.

(3) Die Agentskap moet, behoudens subartikels (1) en (2), die maatskaplike noodleniging soos voorgeskryf uitbetaal.

(4) Ondanks subartikel (2), kan die Agentskap in die geval van ’n ramp en afhangende van die omvang van die ramp en die beskikbaarheid van hulpbronne, soos voorgeskryf, die behoeftes van die geraakte gemeenskappe vasstel en die maatskaplike noodleniging uitbetaal.”.

Wysiging van artikel 14 van Wet 13 van 2004, soos gewysig deur artikel 2 van Wet 5 van 2010

6. Artikel 14 van die Hoofwet word hierby gewysig deur in subartikel (3)*(b)* subparagraaf (iii) deur die volgende subparagraaf te vervang:

"(iii) of his or her right **[to request reconsideration and his or her rights]** of appeal contemplated in section 18 and of the mechanism and procedure to invoke **[any]** such right.".

Substitution of section 18 of Act 13 of 2004

7. The following section is substituted for section 18 of the principal Act:

"**Appeal against decision of Agency**

18. (1) The Minister must, after consultation with Parliament, appoint an Independent Tribunal comprised of appropriately qualified persons, as may be prescribed, to serve as members of the Independent Tribunal, to consider appeals against decisions of the Agency contemplated in subsection (2), in the prescribed manner.

(2) If an applicant or a beneficiary disagrees with the decision of the Agency in relation to an application contemplated in section 14, that person or a person acting on his or her behalf may, within 90 days of the decision being made, lodge a written appeal with the Independent Tribunal in the prescribed manner.

(3) The appeal contemplated in subsection (2) must set out the reasons for the appeal against such a decision and why the Independent Tribunal should vary or set aside such decision or make any other decision which is just.

(4) The Independent Tribunal must, upon receipt of the written appeal contemplated in subsection (2), request the Agency to provide the reasons and all relevant records which informed the decision, to the Independent Tribunal.

(5) The Agency must submit the reasons and all relevant records to the Independent Tribunal in the prescribed manner.

(6) The Independent Tribunal must, upon receipt of the reasons and all relevant records contemplated in subsection (5), consider the appeal and may confirm, vary or set aside the decision of the Agency or make any other decision which is just.

(7) Notwithstanding subsection (2), the Independent Tribunal may, in the prescribed manner, condone any late lodgement of an appeal.".

Amendment of section 24 of Act 13 of 2004, as amended by section 43 of Act 30 of 2007

8. Section 24 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) **[The]** There is an Inspectorate for Social Assistance **[is hereby established as a national department contemplated in Schedule 1 to]** which must be a national government component contemplated in section 7(2)*(c)* of the Public Service Act, 1994 (Proclamation No. 103 of 1994), **[and is headed by a person designated as Executive Director]** and established in accordance with section 7(5)*(c)* of that Act."; and

(b) by the deletion in subsection (5) of the word "and" at the end of paragraph *(a)*, the substitution for the full-stop at the end of paragraph *(b)* of the expression "; and", and the addition of the following paragraph:

"*(c)* furnish him or her with recommendations with regard to any matter relating to the functions of the Inspectorate.".

Amendment of section 29 of Act 13 of 2004

9. Section 29 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"*(a)* delegate to a staff member **[of the Inspectorate]** or any officer of the Department any power delegated to him or her in terms of subsection (1)*(a)*;";

''(iii) van sy of haar reg **[om vir heroorweging aansoek te doen en sy of haar reg]** tot appèl beoog in artikel **[19]** 18 en van die meganisme en prosedure om hom of haar op **[enige]** sodanige reg te beroep.''.

Vervanging van artikel 18 van Wet 13 van 2004

7. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

''**Appèl teen besluit van Agentskap**

18. (1) Die Minister moet, na oorleg met die Parlement, 'n Onafhanklike Tribunaal aanstel wat bestaan uit persone met gepaste kwalifikasies, soos voorgeskryf kan word, om as lede van die Onafhanklike Tribunaal te dien om appèlle teen besluite van die Agentskap in subartikel (2) beoog, op die voorgeskrewe wyse te oorweeg.

(2) Indien 'n aansoeker of 'n begunstigde nie saamstem met 'n besluit van die Agentskap rakende 'n aansoek in artikel 14 beoog nie, kan daardie persoon of 'n persoon wat namens hom of haar optree, binne 90 dae nadat die besluit geneem is, op die voorgeskrewe wyse skriftelik by die Onafhanklike Tribunaal appèl aanteken.

(3) Die appèl in subartikel (2) beoog, moet die redes vir die appèl teen daardie besluit uiteensit en hoekom die Onafhanklike Tribunaal daardie besluit moet wysig of tersyde stel of enige ander besluit moet neem wat regverdig is.

(4) Die Onafhanklike Tribunaal moet, by ontvangs van die skriftelike appèl in subartikel (2) beoog, versoek dat die Agentskap die redes en alle tersaaklike rekords wat die besluit gerig het, aan die Onafhanklike Tribunaal verstrek.

(5) Die Agentskap moet die redes en alle tersaaklike rekords op die voorgeskrewe wyse by die Onafhanklike Tribunaal indien.

(6) Die Onafhanklike Tribunaal moet, by ontvangs van die redes en alle tersaaklike rekords in subartikel (5) beoog, die appèl oorweeg en kan die besluit van die Agentskap bevestig, wysig of tersyde stel of enige ander besluit neem wat regverdig is.

(7) Ondanks subartikel (2), kan die Onafhanklike Tribunaal, op die voorgeskrewe wyse, enige laat indiening van 'n appèl kondoneer.''.

Wysiging van artikel 24 van Wet 13 van 2004, soos gewysig deur artikel 43 van Wet 30 van 2007

8. Artikel 24 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

''(1) Die Inspektoraat vir Maatskaplike Bystand **[word hierby ingestel as 'n nasionale departement beoog in Bylae 1 by]** moet 'n nasionale regeringskomponent beoog in artikel 7(2)*(c)* van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994),**[en 'n persoon aangewys as Uitvoerende Direkteur staan aan die hoof daarvan]** wees en moet ingevolge artikel 7(5)*(c)* van daardie Wet gestig wees.''; en

(b) deur in subartikel (5) die woord ''en'' aan die einde van paragraaf *(a)* te skrap, die punt aan die einde van paragraaf *(b)* te skrap en dit deur die uitdrukking ''; en'' te vervang en die volgende paragraaf by te voeg:

''*(c)* hom of haar aanbevelings gee oor enige aangeleentheid wat met die werksaamhede van die Inspektoraat verband hou.''.

Wysiging van artikel 29 van Wet 13 van 2004

9. Artikel 29 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (2) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* enige bevoegdheid wat aan hom of haar ingevolge subartikel (1)*(a)* gedelegeer is, aan 'n personeellid **[van die Inspektoraat]** of enige beampte van die Departement delegeer;'';

(b) by the insertion after subsection (2) of the following subsection:

"(2A) The Executive Director may in writing—

(a) delegate to a staff member or any officer of the Inspectorate any power conferred upon the Executive Director by this Act;

(b) authorise a staff member or officer of the Inspectorate to perform any duty which he or she has been authorised to perform by this Act or in terms of subsection (1)*(b)*."; and

(c) by the substitution for subsection (3) of the following subsection:

"(3) Any person to whom a power has been delegated or who has been authorised to perform a duty in terms of subsections (1) **[or]**, (2) or (2A), must exercise that power or perform that duty subject to the conditions determined by the person who effected the delegation or granted the authorisation.".

Amendment of section 32 of Act 13 of 2004

10. Section 32 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"*(a)* the application for and payment of **[grants, including maximum amounts of such grants]** social assistance;";

(b) by the substitution at the end of subsection 2*(c)* for the full stop of a semicolon and the addition of the following paragraphs:

"*(d)* additional requirements or conditions in respect of a payment contemplated in section 12A; and

(e) differentiation on the basis of need between beneficiaries of social grants as contemplated in section 12A(2)."; and

(c) by the addition of the following subsection:

"(3) The Minister, with the concurrence of the Minister of Finance—

(a) must determine amounts payable in respect of social assistance; and

(b) may determine additional payments linked to a social grant, by notice in the *Gazette*.".

Transitional arrangements

11. (1) For the purposes of this section, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Social Assistance Act, 2004 (Act No. 13 of 2004), has the meaning assigned to it in that Act, and "this Act" means the Social Assistance Amendment Act, 2020.

(2) Notwithstanding the amendment to section 14(3)*(b)*(iii) of the Social Assistance Act, 2004, by section 6 of this Act which repeals the reconsideration provisions of the Agency, the Agency must reconsider any application received from an applicant, beneficiary or person acting on his or her behalf in relation to a decision which was made by the Agency before the commencement of this Act.

(3) The Agency must reconsider any application contemplated in subsection (2) within 90 days of receipt thereof.

(4) If an application for reconsideration contemplated in subsection (2) was not lodged within 90 days of the date of the decision by the Agency during grant application or review, such applicant, beneficiary or person acting on his or her behalf must lodge a new application for a social grant with the Agency.

(5) An appeal contemplated in section 18 of the Social Assistance Act, 2004, in respect of a decision made by the Agency during a grant application or review after the commencement of this Act, must be lodged directly with the Independent Tribunal.

This gazette is also available free online at **www.gpwonline.co.za**

(b) deur die volgende subartikel na subartikel (2) in te voeg:

"(2A) Die Uitvoerende Direkteur kan skriftelik—

(a) enige bevoegdheid deur hierdie Wet aan die Uitvoerende Direkteur opgelê, aan 'n personeellid of enige beampte van die Inspektoraat delegeer;

(b) 'n personeellid of beampte van die Inspektoraat magtig om enige plig te verrig wat hy of sy deur hierdie Wet of ingevolge subartikel (1)*(b)* gemagtig is om te verrig."; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Enige persoon aan wie 'n bevoegdheid gedelegeer is of wat gemagtig is om 'n plig ingevolge subartikels (1), **[of]** (2) of (2A) uit te voer, moet daardie bevoegdheid uitoefen of daardie plig uitvoer onderhewig aan die voorwaardes wat bepaal word deur die persoon wat die delegasie teweeg gebring het of magtiging uitgereik het.".

Wysiging van artikel 32 van Wet 13 van 2004

10. Artikel 32 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (2) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die aansoek om en betaling van **[toelaes, met inbegrip van die maksimum bedrae van sodanige toelaes]** maatskaplike bystand;";

(b) deur aan die einde van subartikel 2*(c)* die punt deur 'n kommapunt te vervang en die volgende paragrawe by te voeg:

"*(d)* bykomende vereistes of voorwaardes ten opsigte van 'n betaling in artikel 12A beoog; en

(e) onderskeid tref op grond van behoefte tussen begunstigdes van maatskaplike toelaes soos in artikel 12A(2) beoog."; en

(c) deur die volgende subartikel by te voeg:

"(3) Die Minister, met die instemming van die Minister van Finansies—

(a) moet bedrae betaalbaar ten opsigte van maatskaplike bystand vasstel; en

(b) kan bykomende betalings gekoppel aan 'n maatskaplike toelaag by kennisgewing in die *Staatskoerant* bepaal.".

Oorgangsbepalings

11. (1) By die toepassing van hierdie artikel, tensy die samehang anders aandui, het enige woord of uitdrukking waaraan 'n betekenis in die Wet op Maatskaplike Bystand, 2004 (Wet No. 13 van 2004), toegeken is, die betekenis in daardie Wet daaraan toegeken en "hierdie Wet" beteken die Wysigingswet op Maatskaplike Bystand, 2020.

(2) Ondanks die wysiging aan artikel 14(3)*(b)*(iii) van die Wet op Maatskaplike Bystand, 2004, deur artikel 6 van hierdie Wet wat die heroorwegingsbepalings van die Agentskap herroep, moet die Agentskap enige aansoek van 'n applikant, begunstigde of persoon wat namens hom of haar optree, in verband met 'n besluit wat deur die Agentskap geneem is voordat hierdie Wet in werking getree het, heroorweeg.

(3) Die Agentskap moet enige aansoek in subartikel (2) beoog binne 90 dae van ontvangs daarvan, heroorweeg.

(4) Indien 'n aansoek om heroorweging in subartikel (2) beoog nie binne 90 dae vanaf die datum van die besluit van die Agentskap tydens aansoek om 'n toelaag of hersiening, ingedien is nie, moet daardie applikant, begunstigde of persoon wat namens hom of haar optree, 'n nuwe aansoek om 'n maatskaplike toelaag by die Agentskap indien.

(5) 'n Appèl in artikel 18 van die Wet op Maatskaplike Bystand, 2004, ten opsigte van 'n besluit deur die Agentskap geneem tydens 'n aansoek om 'n toelaag of hersiening na inwerkingtreding van hierdie Wet, moet regstreeks by die Onafhanklike Tribunaal aangeteken word.

10

Short title and commencement

12. (1) This Act is called the Social Assistance Amendment Act, 2020, and takes effect on a date fixed by the President by proclamation in the *Gazette*.

(2) Different dates may, under subsection (1), be so fixed in respect of different provisions of this Act.

11

Kort titel en inwerkingtreding

12. (1) Hierdie Wet heet die Wysigingswet op Maatskaplike Bystand, 2020, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

(2) Verskillende datums kan, kragtens subartikel (1), aldus vasgestel word ten opsigte van verskillende bepalings van hierdie Wet.

This gazette is also available free online at **www.gpwonline.co.za**

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

This gazette is also available free online at **www.gpwonline.co.za**