

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 2023/071891

In the matter between:

INSTITUTE FOR ECONOMIC JUSTICE First Applicant

#PAYTHEGRANTS Second Applicant

And

MINISTER OF SOCIAL DEVELOPMENT First Respondent

SOUTH AFRICA SOCIAL SECURITY AGENCY Second Respondent

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DOCUMENT: FIRST RESPONDENT'S ANSWERING AFFIDAVIT

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0002**



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In the matter between:

INSTITUTE FOR ECONOMIC JUSTICE

First Applicant

#PAYTHEGRANTS

Second Applicant

And

MINISTER OF SOCIAL DEVELOPMENT

First Respondent

SOUTH AFRICA SOCIAL SECURITY AGENCY

Second Respondent

ANSWERING AFFIDAVIT

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I, the undersigned,

EBENEZER NKOSINATHI DLADLA

do hereby state under oath as set out below:

INTRODUCTION

1. I am a major male person employed as a Chief Director: Legal Services in the National Department of Social Development ("DSD"), with its principal place of business situated at 134 Pretorius Street, HSRC Building, Pretoria, Gauteng Province.
2. The facts contained in this affidavit are within my personal knowledge, save where otherwise stated or is apparent from the context, and are to the best of my knowledge and belief, both true and correct. To the extent that I rely on the contents of documents, such documents are attached hereto, and I truly believe that the contents thereof are true and correct taking into account the source of such documents.
3. I am duly authorised to depose to this affidavit on behalf of the First Respondent by virtue of my position within the DSD.

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4. DSD enjoys the power through the Minister of Social Development to make regulations pertinent to Second Respondent in terms of Section 32 of the Social Assistance Act 13 of 2004 and for that, I am duly authorised to respond on behalf of the Second Respondent and to that end I attach as Annexure "END1" supporting affidavit of Brenton van Vrede, a representative of the Second Respondent, on matters relating to the administration of the Second Respondent.
5. Where I refer to matters of law, I do so on the advice of the legal representatives; which advice I have accepted as correct.
6. I have read the affidavit deposed to by **GILAD LEE ISAACS ("Applicant")** dated 17 July 2023, filed in support of the application.
7. In this affidavit, I will first deal with the preliminary issue of the late filing of this answering affidavit. Thereafter, I will set out a general response to the application followed by an *ad seriatim* response to the averments in the application.

CONDONATION

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8. The application was served on the offices of State Attorney, Pretoria and on the Second Respondent on 24 July 2023. A notice of intention to oppose the application was served on the Applicant on 14 August 2023. Accordingly, the Respondents' answering affidavit was due to be filed on or about 26 September 2023. In this regard, I humbly request this Court's condonation for the late filing of the answering affidavit. The Respondents' reasons for failing to file the answering affidavit timeously are set out below.

9. This application has far-reaching consequences in that the Applicants are seeking an order declaring regulation 3(2) of the Regulations relating to Covid-19 Social Relief of Distress (GN3210 in GG46271 of 22 April 2022) [*"the Regulations"*] as inconsistent with the Constitution of the Republic of South Africa and therefore invalid, to the extent that it provides for the Social Relief of Distress grant applications to be made or lodged on an electronic platform only.

10. Secondly, the Applicants seek an order that the regulation 3(2) of the Regulations to be amended to include the word "or at the offices of the Agency" after the words of the 'electronic platform'.

11. Thirdly, the Applicants are seeking an order declaring the word 'income' in regulation 1 of the Regulations to mean 'money received on a regular basis from formal and informal employment, business activities or investments'.

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12. Lastly, the Applicants seek that the words 'financial support' in regulation 1 of the Regulations to mean money received on a regular basis which benefits the recipient, that does not constitute income, and which the recipient has a legal right to receive.

13. Upon the application being received and instructions being provided to the office of the State Attorney, the file was allocated to Mr Thabo Letageng, an attorney from the State Attorney office, Pretoria, on 26 July 2023, who was requested to appoint counsel to assist with the matter.

14. In appointing counsel, as required by the tender processes within the Department of Justice, Mr Letageng sent quotations to three counsel to bid for the brief. The three counsel had to return the brief with the following documents:
 - 14.1 completed SBD forms wherein counsel must declare whether they are associated with the State in any form and confirm that there will be no conflict of interest in accepting the brief,

 - 14.2 the request for quotation form with counsel's full details,

 - 14.3 counsel's brief resume,

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- 14.4 tax clearance certificate,
 - 14.5 counsel's letter of good standing with the Legal Practice Council,
 - 14.6 BBBE certificate, Counsel's CSD form confirming that they are tax compliant with SARS and the copy of their identity document.
15. Upon Mr Letageng receiving the above documents, he had to check if all the requested documents were received and that they reflect the current date, he is, in terms of the process, required to send them to the briefing committee within the State Attorney office, who will then go through all the documents once and ensure that all the documents are up to date, thereafter they will deliberate and appoint one counsel from the three counsels who submitted their documents.
16. On 29 August 2023, the briefing committee appointed counsel, who was thereafter briefed by Mr Letageng to assist with the matter. Unfortunately, that counsel, became unavailable due to her acceptance of the acting position as a judge in Polokwane High Court. This resulted in Mr Letageng having to seek another counsel and which meant going through the tender process again of sending out the quotation to three counsel.

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17. It is important to mention that Mr Letageng could not appoint counsel from the other two who submitted their quotes because the required CSD forms and the SBD forms must be recent and reflecting a date of not more than 48hrs.
18. It was only on 6 September 2023 that the briefing committee finalised their decision and recommended Advocate Ntoane to assist in this matter.
19. Counsel was appointed on 6 September 2023. Thereafter, counsel had to peruse the file, which is voluminous with the Applicants' Founding Affidavit, excluding the annexures being 105 pages.
20. On 13 September 2023, consultation was held with counsel, the office of the State Attorney, the Department of Social Development and officials from SASSA. Further documentations were given to counsel by the officials after the consultation, thus requiring more time for counsel to consider same prior to drafting the Respondents' answering affidavit.
21. Counsel only finished drafting the first draft of the Respondents' answering affidavit on 09 October 2023, which she sent by email to Mr Letageng, who circulated to all the stakeholders for consideration and input. Thereafter, it was sent to Counsel to be settled on 20 October 2023. However, due to the technical issues within the offices of State Attorneys in the country,

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counsel only received the draft answering affidavit on Monday, 24 October 2023 and she was able, after having received further inputs, to settle it on 31 October 2023.

22. I received the settled answering affidavit on 31 October 2023, I had to read it, which is approximately 110 pages, to confirm that all the inputs from the relevant officials within DSD and SASSA were well captured in the answering affidavit, thereafter, have it properly commissioned and returned to Mr Letageng for filing. I attach hereto, marked "Annexure END2", confirmatory affidavit by Mr Thabo Letageng confirming the processes and issues that led to the delay in the finalisation, service and filing of the Respondents' answering affidavit.
23. In light of the above, I respectfully submit that there was no wilful delay in the filing of this answering affidavit.
24. Further, I respectfully submit the late filing of this affidavit will not prejudice the Applicants.
25. In the circumstances as stated above, I humbly submit that the Respondents have made out a proper case for condonation and that it will be in the best interests of justice for the Court to condone the late filing of the Respondents' answering affidavit.

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GENERAL RESPONSE

26. Before responding to the averments in the Founding Affidavit *ad seriatim* I deem it prudent to provide a general response to this application.

The purpose of the COVID-19 Social Relief Distress (the SRD).

27. On 15 March 2020 the Minister of Co-operative Governance and Traditional Affairs ("the COGTA Minister"), declared a national state of disaster in the Republic of South Africa in terms of section 27 (1) of the Disaster Management Act 57 of 2002, as the result of the COVID-19 pandemic.
28. With the view to curtail the spread of Covid-19 virus the COGTA Minister amended the relevant Regulations on 23 March 2020 to introduce a nationwide lockdown effective from midnight on 26 March 2020.
29. The nationwide lockdown was subsequently extended with the COGTA Minister introducing further regulations which prescribed various levels of restrictions of movement in the Republic.

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30. The declaration of a National State of Disaster and the subsequent lockdown brought untold suffering to significant sections of the South African population.

31. On 21 April 2020 the President of the Republic of South Africa announced a new Social Relief of Distress for persons who were financially distressed to the extent that they were unable to provide for basic needs for themselves and or their families.

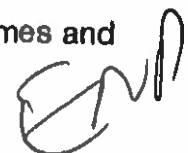
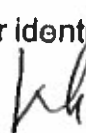
32. The First Applicant, as a consequent, was requested to draft relevant Regulations to govern the COVID-19 Social Relief of Distress related to COVID-19 (SRD) and it was explicitly explained that the provision was aimed at redressing the deepening and increase of hunger as well as devastating and catastrophic human and social effect of the Covid-19 pandemic.

33. Accordingly, the SRD was to be made available to persons who were financially impacted by the national disaster and were distressed as the result thereof. The value of the grant was set at R350 per month per person which was to be payable by 15 May 2020 after the promulgation of the relevant Regulations by the DSD.

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34. The SRD was a COVID-19 related special grant that was supposed to be a short term intervention for 6 months. However, due to the COVID-19 pandemic taking longer than 6 months to subside and the state of disaster being extended, the economic fallout continued beyond that period, therefore the grant was continued for that financial year ending in March 2021.
35. At the time the grant was introduced it was during the period where the country was under strict lockdown and the SASSA offices were not open to the public, the only way for the grant to be rolled out, it was decided that it would be online, which meant that the applications will be processed only online.
36. As the result thereof, SASSA set up an online system for the application where the applicants could be able to apply for the R350 grant. The applications were to be made either via the special SRD website; USSD; special email address for SRD provided by SASSA or via the SRD applicants' cell phones following the guidelines provided by SASSA, without any documents to be submitted or applicants going to the SASSA offices. It should be noted that the special email address for SRD and USSD were subsequently discontinued.
37. In applying for the SRD one of the most important requirements at that stage was that the applicants will provide their identity number, names and



surname. SASSA would, thereafter, verify the applicants' identity using the Home Affairs system to confirm that such a person exists.

38. Thereafter, in further verifying the SRD applicants, SASSA would do the checks through government systems including, amongst others, the Unemployment Insurance Fund (UIF), South African Revenue Service systems (SARS), the National Student Financial Aid Scheme (NSFAS), to name a few, to confirm the financial means of the SRD applicant.
39. At this initial implementation of the SRD there were no bank checks done.
40. The information received from the SRD applicants was verified against the database of the above-mentioned data base institutions to confirm whether the applicants met the qualifying criteria.
41. Further, the information that was sought from the applicants when making the application for the SRD was also for the purposes of enabling the Government to gather information of the SRD applicants in order to assist them with job opportunities and other economic opportunities, because the main intention of the Government is to assist the people to become employed.

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42. The gathering of the SRD applicants' information was also intended to be used by the Government to develop the economic inclusion programmes for the applicants. For example, referring the SRD applicants to the Expanded Public Works Programme and the Presidential Job Stimulus Programme where the people could be assisted to get jobs.
43. After verification of the SRD applicants' information and it is found that they qualify, the SRD applicant will then receive a message in their cellular phones informing them that they qualify for the R350 grant payment. Thereafter, they will be requested to provide their banking details wherein the funds will be paid into.
44. In making the application for the SRD, one cell phone could be used to make application for five different applicants, this is so because consideration was taken that some applicants did not own a smart phone, thus they could ask their family members or neighbours with smart phone to assist them. Also, the fact that the test for eligibility is their identity numbers not a cell phone number.
45. In the overall, the SRD was successfully rolled out, this is so because the Government was able to reach out to over 15 million people who applied within a short period of just over 6 months. This was very effective compared to other social grants, for example the Child Support Grant

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(CSG) which took over 15 years to be rolled out and reached only over 7 million people, which was also the position with the other social grants.

The extension of the SRD after lockdown

46. After COVID-19 had subsided and the lockdown regulations relaxed, most companies went back into operation and people returned to their work, unfortunately not everyone was able to go back to work as some of the companies did not survive the COVID-19 pandemic and had to close down.
47. Subsequent to the state of National Disaster coming to an end and at the beginning of the 2022/2023 financial year, the President of the Country announced that the SRD will continue to be offered as a temporarily provision for a period of 12 months. Although the same name, SRD, is continuously used, this was a new provision with new regulations promulgated to govern it.
48. Due to the new circumstances, that the country was no longer under the nationwide lockdown and most businesses back in operation, new Regulation for the SRD were promulgated with the qualifying criteria being different to the previous SRD. However, the DSD used the Social Assistance Act as the basis to create the new Regulations for the SRD that was temporarily made available for the 2022/2023 financial year.

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49. Thereafter, the DSD created the Regulations that will govern the new temporary provision stating, amongst other things, who will qualify for the grant, taking into consideration the new circumstances that the country is no longer under the state of National Disaster and the financial circumstances of many had changed.

The current SRD under new Regulations

50. After the first extension, another announcement was made by the Minister of Finance that there will be another extension of the SRD for the current financial year; that is from 1 April 2023 to 31 March 2024, which would be implemented after the new Regulations governing same are promulgated. These are current Regulations in issue and being challenged by the Applicants before the above Honourable Court.

51. The current Regulations relating to COVID-19 Social Relief of Distress, issued in terms of section 32, read with section 13 of the Social Assistance Act, 2004 (Act No 13 of 2004), as amended provides *inter alia* as follows:

- 51.1 The applicant must be South African citizens, permanent residents or refugees registered with Home Affairs;

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51.2 Between the ages of 18 and 59 years;

51.3 Not receiving any income;

51.4 Not receiving any social grant;

51.5 Not receiving any unemployment insurance benefit and does not qualify to receive unemployment insurance benefit;

51.6 Not receiving a stipend from the National Student Financial Aid Scheme;

51.7 Not receiving any other Government COVID-19 response support; and

51.8 Not resident in a Government funded or subsidised institution.

52. The Regulations further provides that:

52.1 The grant is payable monthly for the period between 01 April 2023 to 31 March 2024;



52.2 The income threshold for insufficient means is R624 per person per month;

52.3 For the purpose of validating insufficient means, the Agency may use- (regulation2 (3)):

52.3.1 a declaration from the applicant attesting to such;

52.3.2 a screening questionnaire; and

52.3.3 a proxy means consisting of –

52.3.3.1 checks against databases that may indicate income or alternative financial assistance; and

52.3.3.2 verification of insufficient means with banks.

53. The only key information required from the SRD applicant in applying for SRD is, *inter alia*, Identity number, name and surname of the applicant as

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captured on the ID (including initials), banking details and contact details for verification of the applicants' information against other institutions' databases. The other questions asked on the application platform relate to socio-economic and demographic information on individuals for statistics purposes, including referral to other institutions that may offer applicants job opportunities.

54. By lodging an application, the SRD applicants give consent for SASSA to validate the financial and other information against data sources held by government and financial institutions – including SARS and banks.

55. In making the application the SRD applicants only need a cell phone and or electronic device. No paperwork is required in any form, there is no need for the SRD applicants to submit any of their bank statements or salary slip and or copies of their Identity Documents. The cell phone does not even require data and one cell phone number can be used by 5 applicants.

56. The process is so easy, in that all SRD applicants can choose their method of application being either the special SRD website which guides them with questions through the process or WhatsApp channel which does the same. This process does not even take more than 20 minutes.

57. Once the application is approved, SASSA will request confirmation of a bank account if not provided yet by the applicant to be provided through a

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secure site, this is done electronically as well. The SRD applicants are cautioned not to provide their banking details to anyone.

58. The SRD applicants can change from one payment method to another, they can opt from receiving the grant over the counter at the Post Office or into a bank account at a bank of their choice; or vice versa and or choose a cash send option using a cell phone registered in their name only.
59. There is no need to withdraw all the cash at once, or to go to points where large numbers of people congregate. Once the grant money is in the account, it will remain there, regardless of when it is accessed.
60. The new SRD is a temporary provision available for a period of 12 months and the amount is R350.00 per month.
61. The purpose of the SRD is to assist individuals, between the ages of 18 and 59 years old, who are employable, and currently seeking employment and are temporarily in financial distress with no financial means from any source whatsoever.
62. In August 2023, SASSA assessed approximately 15 million SRD applications which, after being verified, only around 8 million individuals met the qualifying criteria. These qualifying beneficiaries have been paid

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- the R350 for that month. With the exception of those approved beneficiaries who have not provided their banking details to SASSA yet, who have opted for the monies to be paid by cash send and SASSA is unable to verify their cell phone numbers to ensure that SASSA pays to correct beneficiaries.
63. The SRD is one of the most successful grants in the country which has been achieved within a short period of six months, wherein the Government was able to reach out to the targeted individuals of over 15 million nationwide. This proves, that the online method used in applying for the SRD, to be the most effective and efficient manner ever and cannot be faulted in anyway and or be said to be unconstitutional.
64. The entire world is technologically transforming, so is South Africa as seen by the establishment of the Presidential Commission on the Fourth Industrial Revolution as well as other interventions to prepare the country for the digital economy. SASSA is gradually digitizing its processes and eventually, even the other social grants will be applied for online. That is also the reason the number of beneficiaries who are getting their social grants at the manual cash pay points is decreasing.
65. The Applicants in this application, want to hold SASSA at ransom from automating its systems when there is evidence that the online application

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for the SRD is effective. Therefore this conduct by the Applicants should be frown upon by the above Honourable Court.

ALLEGATIONS OF UNCONSTITUTIONALITY HAVE NO MERIT

66. The Applicants alleges that certain provision (sub regulations) of Regulations relating to the SRD are unconstitutional and invalid and subject to be reviewed and set aside.

67. The Applicant's allegations have no merit for the reasons as set out below.

Online Application

68. After the successful outcome of the first iteration of SRD that was rolled out on May 2020, a decision was taken by the DSD to leave the mechanism of accessing the grant the same as in the initial SRD.

69. SASSA created an online system whereby the SRD applicants will go onto the SASSA website or can apply using their cellular phones wherein they will be required to submit their identity numbers and indicate the grant they are applying for.

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70. The online format of applying for the SRD has been very successful and the Government is able to reach millions of individuals nationwide and it has proved to be the most efficient and effective way to cover the huge number of the SRD applicants targeted.
71. Although the number of the SRD applicants is currently sitting around 15 million, it is being accessed by approximately 8.7 million people who meet the qualifying required criteria and are receiving the R350.
72. All the 15 million applicants have applied online by using their cellular phone or the website, thereafter, the personal information they have provided gets verified from the different databases as set out in the Regulations and mentioned above in this answering affidavit.
73. It is important to mention that once the SRD applicant has applied and their information is obtained, that information remains in SASSA's database for the year concerned. Thereafter, SASSA will conduct its verification using all the databases as mentioned above, including the bank account, to verify on whether the applicant qualifies or not. The verification is done on a monthly basis.
74. It is important to mention that the applicants who do not have access to a smart phone can use their family members, neighbours and peers' cell

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phones, whereby one cell phone number is limited, for security purposes, to be used for five different applicants. This is so because for the SRD applicant to be tested for eligibility, the identity number will be used and not a cell phone number.

75. There is no physical document requested and or provided and the SRD applicants do not have to go to SASSA offices, all of this happens in the comfort of the SRD applicants' home, thus there is no need for the SRD applicants to spend money on transport fare to go to the SASSA offices and standing in the long queues, with the possibility of not being assisted on that day due to the long queues and offline systems caused by the load shedding, amongst the technical glitches that can take place.
76. The online application for the SRD is not complicated at all. The applicants can go to their family members for assistance by requesting to use the family member's phone to make the application, if they are in the rural areas they can go to the tribal authority and or the community leader in the village to request assistance. They can also ask assistance from their neighbours. All these options are still far easier and cheaper than going to the SASSA offices.
77. Although there are SASSA offices across the country, the online application is a much easier option as compared to the option of physically going to SASSA offices. The online method allows for the Government to

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reach out to millions of individuals nationwide rather than the limited number of the targeted people who are able to go to the SASSA offices.

78. Once approved, the SRD applicants will be notified on the same cell phone number they have used to apply and will be requested to provide their banking details (if not yet provided) to which the money will be paid into and for security purposes the banking details will be verified to ensure that the correct beneficiary is paid.
79. The SRD is the most successful grant to be rolled out and its success was achieved in a very short period of time and credit for its success being mostly to the online method of application.
80. The other social grants, for example the Child Support Grant, which the manual method is used to apply for it i.e., going to SASSA offices filling in the forms and submitting the required documents that will need to be verified, the verification process can take time to be completed. It took 15 years for the Child Support Grant to reach over 7 million people. However, with the SRD, in using the online method of applying Government was able to reach out to approximately 8.7 million individuals within the short period of 6 months.
81. The manual application used when applying for the other social grants is not as effective as the online method used in the SRD, thus, to require the

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manual method to be used in the application of the SRD would be regressive and cause unnecessary delays in processing the application to its finality. The delay will in the process defeat the whole purpose of the SRD, which is reaching out to assist individuals who are temporarily and immediately in financial distress with no financial means at all.

82. SASSA has within its available resources, implemented community outreaches where communities are assisted with SRD applications. SASSA is currently piloting the use of self-help kiosks within its offices. Depending on beneficiary usage, the self-help kiosks may be rolled out in key strategic areas outside of SASSA offices.

83. If it were to be decided that the SRD should be applied using the manual methods as the other social grants, that will mean that the SRD should be put on hold while more SASSA offices are fully set up, including the administration of setting up the systems and human resources. Thus, rolling out the SRD will take years before the physical set up will be fully achieved. This will result in unnecessary delays and the purpose of the SRD to temporarily assist people who are currently in dire financial distress with no financial means be completely defeated. It should also be highlighted that the provision is temporary and is set to expire on 31 March 2024 and therefore, there is no justification to employ new resources with no guarantee that it will be a permanent feature taking in consideration the fiscal constraints.



84. The SRD is the easiest that had been rolled out. It is a temporary social relief targeted at the working age individuals who are currently and temporarily in financial distress and are reasonably capable and expected to fill out a simple online application on the SASSA website and own cellular phones or know someone close with the cellular phones that can be borrowed to make the SRD application.

85. The individuals that the SRD is aimed at assisting are those who technically, ought to be working or are looking for employment and are capable of using or owning phones where the potential employer would be able to reach them. Thus, it cannot be said that the grant is not accessible to these individuals. In addition, when regard is had to the number of the application received thus far in a very short period, it is clear that there is no access problem for the SRD.

86. According to ICASA, smart phone penetration in the country is 90%, which should be higher in this working age targeted group of individuals with the exception of the few, who are however, able to get assistance from their family members, friends and or neighbours.

87. Therefore, from the access point of view, the SRD is the highest accessible relief measure compared to other social grant in the country.

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88. The current method being used in applying for the SRD has proven to be working very effective to achieve the intended purpose of the provision.
89. The SRD grew so fast in a very short period of time and it is the first social assistance program that Government was able to roll out in less than a year, reaching around 8 million targeted individuals who are in financial distress and in need of immediate financial assistance.
90. By far the SRD is the most successful, efficient and easily accessible grant. The Government has successfully managed to fulfil its constitutional obligation as required in terms of section 27 of the Constitution of the Republic of South Africa.
91. In the circumstances as stated above, regulations 2(3) of the current Regulations relating to the COVID-19 Social Relief of Distress is rationally connected to the Government purpose, that is reaching the targeted individuals who are temporarily in financial distress, thus the online application for the of the SRD passes constitutional muster.

Income and financial support

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92. The SRD is a temporary provision made available for individuals who are temporarily in financial distress and whose financial circumstances are amenable to change at any given time.
93. The SRD is aimed at assisting individuals between the ages of 18 and 59 years old, who are employable and are seeking employment and are temporarily in financial distress with no financial means from any source whatsoever.
94. "Insufficient means" is defined in the SRD Regulations to mean that a person is not in receipt of income or financial support. The purpose of the SRD is to give the targeted individuals, who are financially vulnerable, financial assistance without any delays.
95. In determining the means criteria for the SRD application, SASSA does not assess income of the individuals but assess the financial data for the preceding month as an indicator for insufficient means. Therefore, if an individual is getting support from family members or friends or from any other institutions or have other financial means to survive above the poverty line, that individual will not qualify as they would have financial means to survive in that particular month.

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96. SASSA makes verification every month and one of the rules is that an individual who has a cash inflow exceeding R624 for that month will be excluded and will not qualify for the R350 in that particular month. However, this does not mean that the same individual would be permanently disqualified. The verification is conducted every month to check on whether the same individual's financial means have changed and if it is found that the same individual's financial position has changed and they do not have any source of income in that month, they may qualify for that month and receive the R350.
97. The legislation makes provisions for what is referred to proxy means testing, which is the indicator of insufficient means.
98. The proxy means testing that is used as one of the qualifying criteria is a measure that has been proven to be successful, where the indicators are used to measure vulnerability as opposed to a proper full on income test.
99. The normal means test used for other social grant cannot come into place with the SRD because it will be an onerous system to implement and to put a universal income test instead of using the means test, will be to restrict the targeted individuals and less people will qualify. In addition, the verification of the individual income using the manual process will take longer, resulting in delays, defeating the whole purpose of the SRD, i.e. to provide financial assistance to individuals who are in immediate financial need.

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100. The SRD is different from the other permanent social grants which requires a full blown application process to be made by submitting salary advices, bank statements and having to sit down to manually go through line by line from the applicant's bank statement to determine the individuals income, deductions and so forth.
101. In using the income test, it will have the adverse implication of regressing what the Government has successfully achieved in a very short period of time, being reaching out to the targeted individuals.
102. The roll out of the SRD as proposed by the Applicants will most probably take 10 years to partly succeed to reach out the current over 8 million people who are in financial distress and causing those individuals' financial positions to deteriorate. This approach will completely defeat the whole purpose of the SRD which promotes immediate access to financial assistance from Government.
103. In the circumstances as stated above, regulation 1 of the Regulations Relating to COVID-19 Social Relief of Distress introduced on 29 March 2023 is reasonably and justifiably related to the Government's purpose, that is to provisionally assist individuals who are temporarily in financial distress with no financial means whatsoever and whose financial

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circumstances can change at any time, for the reason that they can be employed on any day. Thus, the regulation passes constitutional muster and ought not to be interfered with.

Verifications through various databases

104. The SRD differs from the other social grants in that it is a temporary provision put in place to assist employable individuals seeking employment and who are temporarily in financial distress with no financial means and whose financial circumstances can change at any given date, by being employed, unlike with the circumstances of the individuals receiving the other social grants, whose circumstances are permanent and are unlikely to change, e.g. the targeted individuals receiving the disability or older persons' grants.

105. The whole purpose of the SRD is to assist individuals who were employed but for the COVID-19 pandemic, have been left unemployed due to many companies closing down temporarily and others permanently. These are individuals who are employable and currently seeking employment and will participate in the labour market given the opportunity and this opportunity can present itself at any time.

106. The SRD is only applicable for the current financial year and will expire on 31 March 2024. Although the mechanism of assessing the current SRD is

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the same as the one that was used in the initial SRD granted in May 2020, it does not mean that it is the same SRD which is being governed by the same Regulations, it is different. The main reason for using the same method, besides the fact of it proven to be a success, consideration was taken of the number of the applicants involved, which is about 15 million applicants. Thus the verification method being used has proven to be the most efficient and effective way of the SRD applications.

107. All the approximately 15 million individuals who have applied for the SRD, have done so using online application and have been effectively assessed in terms of the qualification criteria through the information received from the various databases. In addition to the information received from the various databases, SASSA also conduct checks using various banks.
108. The Bank verification is one of the most effective and accurate mechanism used to retrieve the SRD applicants' financial means for the particular month concerned.
109. The legislation provides that for the purpose of validating insufficient means, SASSA may use (i) a declaration from the applicant attesting to such, (ii) screening questionnaire; and (iii) a proxy means consisting of – checks against databases that may indicate income or alternative financial assistance and verification of insufficient means with banks.

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110. The databases used by SASSA to conduct the checks are the UIF; SARS, Home Affairs, NSFAS and the Banks.
111. In the past when checks were made in verifying the SRD applicants, information was retrieved from other various databases. It was discovered that the information retrieved using only the UIF was not accurate and there were a lot of exclusion errors, for example it will be stated on the UIF database that a person is employed whereas that person had since been unemployed and the said database was not updated with that particular individual's current position.
112. To mitigate such errors, SASSA introduced the verification from the Banks in order to receive accurate financial position of the SRD applicants for the particular month concerned.
113. SASSA has an agreement with the banking institutions where the banks inform SASSA of the inflow or lack of, funds into the SRD applicant's bank account, including other social grant money that is being paid into that account. However, money coming from the child support grant are not counted for the purposes of determining the R624 threshold in the SRD application.
114. The bank verification is used to check whether there has been any inflow of the funds into the bank account of the SRD applicant for the month

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involved. This being in alignment with the SRD purpose, to temporarily assist individuals, who are currently without the financial means and whose financial circumstances are capable of changing, when they get employed or run their businesses. The bank verification can accurately confirm the current financial position of the SRD applicant.

115. The purpose of bank verification is to ensure that to the extent that a person may not have disclosed his or her income, the Agency is able to get the most current and reliable information. It is important to make sure that only those who qualify in terms of the impugned regulations receive this grant.
116. Thus, the bank verification is one of the most effective way of checking the financial means of the SRD applicants and is more accurate and used by SASSA to ensure that the qualifying applicants are approved. The bank verification serves the legitimate purpose of the SRD and is in alignment with the means test.
117. The verification is done every month by SASSA to ensure that the latest financial position of the SRD applicant is correctly verified throughout the concerned financial year. In addition, to ensure that those who did not qualify in one month for whatever reasons are not prevented from

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qualifying the following month when they do not have any financial means in that following month.

118. It is important to mention that once the SRD applicant has applied and their information is obtained, that information remains within SASSA's database. Thereafter, the monthly verification checks will be conducted every month using all the databases against the SRD applicant's information, including the bank verifications.
119. It is important that the SRD applicants ensure that their personal information is updated on the various databases, for example if there is a change in their marital status, it is the concerned individual's responsibility to notify Home Affairs and request that their information be updated. This would ensure that there are no errors when the verification is conducted e.g. there may be instances where an individual gets married and does not register their marriage with Home Affairs, thereby when SASSA conducts the applicant's identity verification against the Home Affairs database, the application will be declined due to differing surnames.
120. It needs to be emphasised that it is the SRD applicants' responsibility to ensure that their personal information is updated on the various databases as this will assist with their accurate information being retrieved from the various databases when checks are conducted for the purposes of processing their application.

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121. There is unfortunately, no mechanism in the country that can be used to reflect the accurate financial position of the individuals. This is so because there is a challenge with the databases not being updated with the latest information of the individuals, the primary cause of this being that the said individuals fails or neglect to update their information with the various Government institutions. As the result thereof there will always be a room for inaccuracy.

122. The responsibility to provide current information is left to the SRD applicants to declare their full financial positions. Thus, the online questionnaire for the SRD application is relevant, reasonable, valid and is rationally connected to the Government's purpose in the SRD application.

123. The Applicants alleges that the SRD applicants come from households whereby all the members of the particular household uses one bank account, which then result in the bank verification mechanism not being accurate as the funds in the bank account may not belong to the SRD applicant but that of another family member or a friend. The Respondents submit that this hypothetical scenario is highly improbable.

124. Taking into consideration the targeted individuals, the SRD is aimed at assisting the working age people, actively looking for employment, who would then once employed be required to provide or have their own bank

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accounts. The alleged hypothetical scenario alleged by the Applicants cannot be legally sustainable and it is very far-fetched.

125. The verification is conducted every month to ensure that the latest financial position of the SRD applicant is correctly verified and for as long as the individuals qualify, they will be paid every month for that financial year concerned.

126. In the circumstances as stated above, the various methods, including the bank verification, used in verifying the financial means in support of the SRD application is the most efficient and effective way to retrieve the SRD applicants' information for the purposes of verifying financial means of the SRD applicants.

127. In the circumstances as stated above, regulation 2(3)(c)(i) (ii) and all regulation 2(3) as a whole are reasonable and justifiable and passes the Constitutional muster.

New information to the appeal tribunal

128. When a SRD applicant in a particular month is being rejected they can lodge an appeal to challenge the rejection decision made for that particular month and they can do so for all the months that they have been rejected.

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129. The appeal process is very simple, the individual would log into the Appeals Tribunal's website or use their phones and go to the confirmation message that state the rejection and on the same message scroll down for the reasons, thereafter, go to the part where they are asked to select the reasons why they want to appeal the decision which was made by SASSA. The appeal process does not even take 5 minutes.

130. Once the appeal is received an assessment will be done through the verification and validation of the information obtained of the SRD appellant's application against the latest and updated information that would have been received from the database resources to check whether indeed in that specific month(s) the appellant did not qualify, then a determination will be done. If there was no income received above the threshold for that specific month for that appellant, then that appellant's information will be pushed back to SASSA for payment, provided that all the other criteria is met.

131. As already stated above elsewhere in this affidavit, there is no mechanism that can be used to reflect the accurate financial position of the individuals and it is the responsibility of the SRD applicants to ensure that their personal information is updated on the various databases as this will assist with their accurate information being retrieved from the various databases.

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132. The Appeal Tribunal's role is not to assess new applications or sit as a panel dealing with new applications, rather their purpose is to verify whether the SRD applicant, using the same information as provided to SASSA but verified against the latest available and relevant information relating to the specific month of decline, was correctly declined and there was no system / data error.

133. If at the appeal stage the SRD applicants were to be allowed to submit new information it would simply mean that the Appeal Tribunal will not be sitting as the body of appeal but will be sitting as a body deliberating with new applications. That in itself will be defeating the Appeal Tribunal's purpose as they will be concerned with reprocessing all the new information. This will cause unnecessary delays which will make it highly impossible for everyone to be attended to on time, thus causing the delays in attending the individuals whose SRD applications ought to be attended to immediately and be financially assisted. This will defeat the whole purpose of the SRD.

134. It should be taken into consideration that there is currently about 15 million SRD applications that SASSA has received (it ought to be noted that the figures differs every month), and about 8 million successful applications. If all the applicants whose applications were declined would refer the rejection to the Appeal Tribunal and be allowed to present their new information manually, that would mean that the Appeal Tribunal must sit

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and process those application, over 7 million of them, manually. This will cause so much delays and will not be effective, resulting in the 3 months turnaround time within which the appeal process to be finalised not being met.

135. The duty remains on the SRD applicants to provide their full information and to have their records updated with the various Government institutions and ensure that their information is current when applying for the SRD. The appellants are allowed to update their details even after the rejection because the verification is done monthly, thus they can still qualify thereafter.

136. The whole purpose of the Appeal Tribunal is to ensure that the appellants' information is verified against the updated databases. For example in the case where the databases have provided incorrect information regarding the true position of the SRD applicants, the error will be picked up by the Appeal Tribunal as their duty is not only to verify the appellants against the specific databases but also against the banking databases.

137. Another example would be in the case where the appellant was found to be on the UIF database and declined as the result thereof, the Appeal Tribunal would validate the appellant's information against the banking databases in which case, if the appellant indeed did not receive any income above the threshold in a particular month, the Appeal Tribunal will

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dismiss the original declined decision by SASSA and accordingly award the SRD applicant for that particular month with approval status and be paid the R350 for that month in question. This enables the appeal process to be done efficiently within the required three months, as compared to the Applicants' suggestion that the Appeal Tribunal to sit and process new applications.

138. It should be noted that the duty still lies with the SRD applicant, after being informed that they were declined for whatever the reasons, to go to the relevant Government institution to provide their correct information, including correcting Identification details with Department of Home Affairs.
139. Once the SRD applicant has corrected the issues with the various institutions, during the subsequent months their application may be considered favourably by SASSA and or the Appeal Tribunal during consideration of their appeals
140. According to the Applicants, they want the appeal process to be used primarily for purposes of the means test, wherein the SRD appellants would be allowed to raise disputes based on new information, for example in order for the appellants to prove that the money sent into their bank account is not theirs but belong to someone else or the funds jointly belong to their spouses. This, with respect, will cause unnecessary delays and will defeat the purpose of the Appeal Tribunal by making the Appeal Tribunal to be a committee dealing with new applications and new facts.

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141. The Appeal Tribunal cannot, with respect, be expected to manually verify each and every individual SRD application to assess where the funds in their bank account come from. This will be time consuming and require additional resources which will result in high administrative costs and may lead to no payments being effected at all. This protracted delay will defeat the whole purpose of the SRD which is meant to quickly assist those who are in financial distress at that particular time.
142. It should be taken into consideration that the individuals whom the SRD is aimed at assisting are those looking for a job and have the responsibility to have their information updated, not only for the SRD application purpose, but for their potential future employers when conducting their verification.
143. In the event that at the appeal stage the SRD appellant are allowed to bring new information, it would mean that more time and money will now have to be spent in attending to the new manual applications, which will require significantly more human resources to be implemented to manually update the information of around 15 million applicants from the data bases on a monthly basis. This will definitely take more months than the required appeal turnaround time of 3 months to deal with the appeal and in the process defeat the whole purpose of the SRD.

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144. If the Applicants allegation in this application were to be heeded it would mean that the purpose of the SRD, being quickly assist people in financial distress, will be defeated. The Applicants' suggested method would require that the limited financial resources available be used to attend to the administration and human resources who would be manually processing the appeals instead of the funds being used to assist the targeted distressed individuals.

145. It is thus submitted that the Applicants' reasons for seeking that regulation 6(c) be declared unconstitutional and invalid is legally flawed and cannot be sustainable in law.

146. In the circumstances, regulation 6(c) is reasonable and justifiable and serves the Government purpose, of providing the SRD, and passes constitutional muster.

The R350 amount

147. When the COVID-19 SRD was initially implemented, DSD had requested that it be offered at the highest value and the National Treasury, who is the decision maker, decided that the highest value is R350, this is after taking into consideration the limited available resources in the country.



148. When the social assistance Regulations are promulgated, the National Treasury has to concur to all the social grants allocations and increases; and the budget thereof, this is so by the virtue of the National Treasury being responsible for the country's public finance and fiscal matters in accordance with the Public Finance Management Act. The value that was allocated by National Treasury within the country's available resources is R350. The increase of the SRD cannot take place without realistic consideration of what the Government can afford.

149. Although DSD is responsible for the promulgation of the Regulations, which are structured in a way that it will be able to accommodate as many people as possible, the decision on the value of the SRD lies with the National Treasury.

150. All the Regulations with financial implications have to be ratified by the Minister of Finance, in doing so he or she will look into whether the financial and statistical information put in the proposed Regulations by the DSD is done in terms of the law and within the allocated budget that the DSD has received in the previous years, this will be the guiding basis of the value of the SRD.

151. With the allocation of the budget that the SRD has been approved for by the National Treasury, the DSD is limited to use the given budget and even

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if DSD had wanted to increase the amount it is unable to do because of the allocated budget by the National Treasury.

152. Social assistance in the country is offered in terms of section 27 of the Constitution and the provision of this section is very clear that the financial assistance, including SRD, ought to be offered within the country's available resources. DSD and SASSA cannot go over the budget that has been provided by National Treasury as guided by the PFMA.

153. The value of the amount is based on what is available in the fiscus and the body who would have more information of this and can take a decision thereof is the National Treasury.

154. Therefore, Section 27 of the Constitution requires the Government to fulfil the stated therein constitutional right within the available resources. Thus, there is nothing unconstitutional about the SRD amount. It is submitted that the Applicants' allegation that regulation 5(3)(a) is unconstitutional is flawed and ought to be rejected.

155. Further, the Applicants ought to have joined National Treasury to answer to the question in relation to allocation of the budget and the determination of the value of the SRD to be paid out monthly. The Respondents cannot in law be able to expand on this issue of the value of the SRD more than

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is stated above. The decision of the budget allocation lies with National Treasury.

Depleted Funds

156. Due to the fact that there is no specific database that can be used alone to provide accurate information on the value of income that is received by every individual in our country, thus the estimate used to determine the means test is based on the statistics relevant at that particular time.

157. The means threshold used for the SRD is informed by the statistics that is available to the Respondents at that particular period in question, which can give an estimate on the number of individuals who would qualify for the SRD. In promulgating the current Regulations and the information that was given to the National Treasury by DSD was an estimated number of beneficiaries who would qualify for the SRD, that number was 10.5 million based on the allocated budget of R44 billion.

158. Initially the means threshold was set at R350 per month with the primary motivation to improve the targeted individuals for the SRD and to allow DSD to offer the SRD within the allocated R44 billion, while still ensuring that the most vulnerable individuals receive financial assistance. This meant that anyone who received financial inflow of more than R350 per month into their bank account would not qualify for the SRD.

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159. The R350 threshold was intended to be used by the DSD to monitor and revise as needed based on the uptake and the budget that was available. On around April, May and June 2022 all applications for the SRD were checked to assess whether the applicants had received more than R350 in their account. Those who received more than R350 were declined. Based on the number of applications approved for the first three months, it became clear that the number of people who qualified were below the 10.5 million allocation that was provided by the National Treasury.
160. Upon realizing that there was sufficient scope within the allocation to increase the means test threshold, DSD then realized and made the decision to increase the threshold from R350 to R624 which was the Food Poverty Line in 2022 to enable more individuals to qualify for the SRD. As the result thereof the DSD opted for the higher threshold of R624 a month and this is the current position.
161. Further, it was estimated that around 16 million people with the income below the poverty line threshold of R624 a month would apply and this was based on the statistics in the past and due to the fact that the country was no longer under the National Lockdown and that less people, as compared to 2020, may apply and qualify for the SRD. However, this was not the case as the application for the SRD that were received were less than the estimated number.

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162. This led to the income threshold being increased to R624 per month, and this increased the number of people who then qualified for the SRD in the previous financial year. When the statistics were looked at in the middle of that year it could be seen that less people applied for the SRD. In determining the value of the SRD for the current year, National Treasury, in considering the previous year's statistics, made a decision of reducing the amount allocated to the SRD to be R35 billion, which is only able to cover over 8 million people.
163. This affidavit is drafted when there is only a few months left in the current financial year which means that the SRD will be expiring soon, that is on 31 March 2024. The current position of the SRD applications received and approved covers over 8 million individuals. This means that the current allocated budget will be sufficient to cover all the targeted individuals. As such SASSA has been able to pay-out the grant to over 8 million individuals.
164. Thus, the Applicants' allegation that the DSD has contributed to the National Treasury in decreasing the budget for the SRD which could result in the funds being depleted is not realistic and remains hypothetical. This allegation by the Applicants cannot be factually and legally sustained and ought to be rejected. The budgeted amount is reasonable and is able to cover the targeted individuals for the current financial year.

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The delay in the payment

165. Although the SRD is called by the same name as the one implemented on May 2020, it is actually not the same grant because every time there is a new iteration of the SRD, there must be new Regulations promulgated providing for that new SRD. SASSA continuously improves its systems to ensure that the funds are paid on time to the correct recipients.
166. In the teething period of the implementation of the current SRD as the result of the technical glitches that were experienced by SASSA there were delays in the payment of the SRD. However, those technical glitches have since been resolved and the Applicants have been informed of this position during the numerous public committees that were held between the Respondents and the Applicants.
167. All the approved SRD applicants have since been paid, with the exceptions of the few approved beneficiaries, who have since failed to submit their bank details to SASSA or those that SASSA has not been able to verify their cellphone numbers that they want the funds to be sent to and those cases that has been linked and identified as "*perpetrators of fraud*".
168. Upon the SRD applicants being approved, they are requested to provide their bank account details where the money should be paid into and or the cellular number for the cash to be sent; if not already provided at the

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application stage. However, there has been instances when SASSA upon verifying the bank account, it has found that the bank account provided does not match the identity number of the approved beneficiary. Thus, in those instances SASSA cannot make the payment as it may be highly probable to be paid to the wrong beneficiary.

169. The funds of the approved beneficiaries do not expire and will be held within SASSA and as soon as the current banking details are verified the funds will be paid to the verified true recipient of the SRD. This is done to protect the SRD individuals against the potential fraudsters.
170. SASSA will continuously make contact with those approved SRD beneficiaries using the same contact numbers that they provided when applying for the SRD to request their banking details prior to paying those funds.
171. Where there are technical glitches including issues with the bank account the beneficiaries will be notified and the money remain in their account until the glitches are resolved; the banking details are being verified and the money is eventually paid into the beneficiary account.
172. It is thus important to be emphasised that the duty lies with the SRD approved beneficiaries to give the correct payment details, the longer they take to provide the correct verifiable banking details, the greater the delays.

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173. There are a few instances where there are cases of fraud informed to the Respondents by the banks and in such instances there will be no payment made and that the account become suspended until the correct approved beneficiary comes to the fore.

174. It is important to be mentioned that besides the exceptional cases as mentioned above, all the approved SRD beneficiaries have been paid.

175. The allegations by the Applicants that insinuate that SASSA has deliberately delayed in paying the approved beneficiaries is misleading and is not the correct position.

Basic Income

176. It is important to deal with the issues of the so-called basic income grant mentioned by the Applicants and their alleged existence of a 'fixture on the social Assistance Act and a permanent replacement of the SRD.

177. The Applicants alleges that the President of the country and the ruling party have confirmed that the SRD is permanent, and it has been replaced as the basic income grant. This position is not correct and is misleading to the

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above Honourable Court and certainly to the individuals that the Applicants alleges to be representing.

178. The SRD is not a basic income grant and it does differ to the currently in discussion basic income grant. Both the respective grants' purpose will surely differ and will be governed by their respective Regulations.

179. The President in the various speeches can be quoted to have said¹:

"the successful implementation of the R350 unemployment grant has shown that the government is capable of rolling out a basic income grant of similar nature..."

180. The above statement, with respect, cannot be construed to mean that there exists a basic income grant or that the SRD has been made permanent and or has been replaced by the basic income grant.

181. The correct interpretation of what the President said is that the success of the SRD has laid a foundation for the introduction of a basic income grant.

¹ the President speaking at the Sandton Convention Centre on 02 September 2023 where the ANC engaged with media, academics and analysts to review their 2019 election manifesto.

182. The basic income grant does not exist as yet, but it is currently in discussion, and it is yet to be decided and voted for by Cabinet on whether it should be approved or not.

183. The President of the country was also heard saying at a different meeting:

"..while a universal basic income grant has been an ANC policy for a long time, the ruling party has not managed to get it off the ground at government level..."

184. Again, the above statement cannot in any way be construed to mean that there exists a basic income grant as alleged by the Applicants. In addition, ANC may be the ruling party however there are protocols in place on how the decisions of the country are made and implemented in corroboration with all the parties that make up the national cabinet as a whole. It is important to highlight that President's statements are not law. SASSA administers social grants based on available legislation and Regulations thereof.

185. There is further a substantial difference between the SRD and the proposed basic income grant mentioned in the President's statements. The Applicants seem to confuse the two and misunderstands it to be the same thing and as a result thereof mislead the individuals who they allege to be representing.

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186. In order to implement the basic income grant, there will be a separate process to be followed which would include getting the policy approved by Cabinet, followed by amending legislation and the Regulations thereof that will govern the said grant to be promulgated with its own qualifying criteria and rules. The implementation of the basic income is not something that can be done overnight but the correct legal process will be followed in its implementation and the rolling out of that grant.
187. The SRD, on the other hand, is a temporary provision aimed at assisting individuals, who are seeking employment and are in a temporary financial distress with no financial means. The SRD is only valid for the current financial year, i.e., 1 April 2023 to 31 March 2024.
188. The allegation by the Applicants that the SRD is permanent and a fixture in the Social Assistance Act is incorrect and misleading.
189. It does seem that the Applicants in this application are seeking from the above Honourable Court for an implementation of the basic income grant and universalisation of such from the Government, which is a grant that is completely different to the current SRD. As the result thereof the allegations by the Applicants are unsustainable and ought to be dismissed.

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190. In the premises, all the provisions of the current Regulations Relating to COVID-19 Social Relief of Distress introduced on 29 March 2023 are reasonable and consistent with the provisions of the Constitution and passes Constitutional muster and cannot, with respect, be susceptible for review.

AD SERIATUM RESPONSE

191. In what follows, I address the individual paragraphs in the Applicant's affidavit *ad seriatim*, to the extent necessary.

192. Any allegation that is not specifically traversed, and which is not consistent with what is stated in this answer, should be taken to be denied.

193. AD PARAGRAPHS 1 TO 2

193.1 The Respondents have no knowledge of the averments contained in these paragraphs.

193.2 It is further denied that the contents of the Applicants founding affidavit are true and correct to the extent that they are at variance with the contents of this answering affidavit.

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194. AD PARAGRAPHS 3 TO 4

The contents in these paragraphs are not in dispute.

195. AD PARAGRAPHS 5 AND 6

195.1 The contents contained in this paragraph are denied.

195.2 The Respondents have no knowledge of the information referred to by the Applicants regarding the data that confirm that at least 16 million people should qualify for the SRD.

195.3 The SRD as indicated in the general response above, is not a basic income grant but rather a temporary social relief of distress measure which is clearly aimed at individuals who do not have any financial means to provide for themselves and their families. The funds received for a particular month amount to less than R 624.00. Although as many citizens may apply, it is stated clearly that not all individuals will qualify specifically those with an excess of the stipulated amount of R 624.00.

195.4 The regulations set out clearly those who are eligible for SRD and it is

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clear that it is for those in need.

195.5 Section 14 of the Social Assistance Act sets out the procedure for any person in need and wishes to apply for the social assistance.

196. AD PARAGRAPH 7

The contents contained in this paragraph are denied. The SRD is a temporary provision which is made available for a particular year. Thus, it is not a permanent social grant that has been ongoing since May 2020. Although the same name is being used for the social relief of distress grant, it is a different grant governed by different regulations as indicated herein above.

197. AD PARAGRAPHS 8 AND 9

The contents of these paragraphs are noted.

198. AD PARAGRAPHS 10 TO 11

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Save to deny that the Regulations exclude eligible beneficiaries, the contents contained in these paragraphs are noted as being the basis for the Applicants application.

199. AD PARAGRAPHS 12 TO 12.8

The contents of these paragraphs are noted.

200. AD PARAGRAPHS 13 TO 28

The contents contained in these paragraphs are not known to the Respondents, thus the Respondents are unable to plead thereto, and the Applicants are put to the proof thereto.

201. AD PARAGRAPHS 29 TO 30

The contents contained in these paragraphs are admitted.

202. AD PARAGRAPHS 31 TO 32.3

The contents of these paragraphs are noted.

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203. AD PARAGRAPHS 33 TO 38

203.1 The Respondents have no knowledge of the contents of these paragraphs and the Applicants are put to the proof thereto. It is important to state that the SRD is a temporary provision which is only valid for the current financial year, which is from 1 April 2023 – 31 March 2024.

203.2 The data used in the research provided by the Applicants, is research referring to data obtained in previous years. It therefore, does not reflect the current living conditions of the country in relation to the current year.

204. AD PARAGRAPHS 39 TO 40

The contents of these paragraphs are unknown to the Respondents and the Respondents are unable to plead thereto.

205. AD PARAGRAPH 41

The contents of this paragraph is denied and the Applicants are put to the proof thereto.

206. AD PARAGRAPHS 42 TO 46

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206.1 Save to note the contents of section 27 of the Constitution.

206.2 It is denied that the Respondents and/or the State has in any way placed barriers or has infringed section 27 constitutional rights of any individual.

206.3 Importantly, the State has made provision by putting in place mechanisms to realising its constitutional mandate by providing social assistance in the form of grants as stated in the Act.

207. AD PARAGRAPHS 47 TO 50

The contents in these paragraphs are not in dispute insofar as they reflect the provisions of the legislations referred thereto.

208. AD PARAGRAPHS 51 TO 54.2

The contents in these paragraphs are not disputed insofar as they reflect the NDP plan.

209. AD PARAGRAPHS 56 TO 60



The contents in these paragraphs are not disputed.

210. AD PARAGRAPHS 61.1 TO 61.5

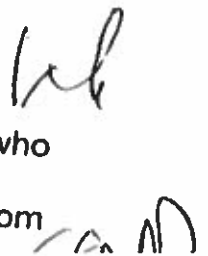
210.1 It is denied that the SRD has remained stagnant at R350.00.

210.2 The key difference between the SRD and other social grants is that the SRD is a temporary provisional grant which is only valid for a period of 12 months and is aimed at individuals who are financially distressed whose circumstances can vary from month to month. Whereas the circumstances of those targeted in the other social grants are permanent in nature. These are *inter alia* the disability grant or older persons grant.

210.3 Further, another key difference between the SRD and other social grants is that the application and verification procedure differ because the target market differs.

210.4 The SRD is targeted at individuals who are employable between the ages 18 – 59 years old who are temporarily not working and are currently in distress for that particular month.

210.5 More so, the purpose of the SRD is targeted at employable individuals who are currently financially distressed and in need of financial assistance from



the State. If the same manual verification process is applied, it will take longer for the verification process to be concluded thus defeating the whole purpose of assisting those in immediate financial distress.

210.6 As indicated in the general response above, the SRD is not a basic income grant but a financial means to assist individuals who are in distress in a particular month. It is the responsibility of the individual to ensure that their personal information as captured in the government database and banking details are current and remain updated prior to making the SRD application. This is to ensure that the system retrieves updated information reflecting the individual's current financial status.

211. AD PARAGRAPHS 62 TO 63

The contents of these paragraphs are noted.

212. AD PARAGRAPHS 64 TO 64.7

212.1 The contents of these paragraphs are noted.

212.2 It is important to note that the government has the obligation to assist the public utilising the available limited resources as stipulated in section 27 of the Constitution.

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213. AD PARAGRAPHS 65 TO 67.7

The contents in these paragraphs are not disputed.

214. AD PARAGRAPH 68

As stated in the general response above, although the same name for the SRD is being used, the grants are factually and legally different every year because the grant for that particular year is governed by its own respective Regulations.

215. AD PARAGRAPHS 69 TO 72

The contents in these paragraphs are noted.

216. AD PARAGRAPH 73

The contents of these paragraphs are noted. The SRD is a temporary provision valid for a specified period not exceeding 12 months.

217. AD PARAGRAPHS 74 TO 79.7

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217.1 The contents of these paragraphs are noted.

217.2 It is important to mention that at all material times when the SRD was implemented, the new regulations governing the said SRD, were promulgated.

218. AD PARAGRAPH 80

The contents of this paragraph are not disputed.

219. AD PARAGRAPHS 81 AND 82

219.1 The contents of these paragraphs are denied insofar as they are at variance with briefing documents referred thereto.

219.2 The Applicants seem to misconstrue what was communicated by the Respondents at the various meetings. The Respondents are responsible for the effective rolling out of the social grants. Treasury in consultation with Cabinet, take a final decision in the amount to be allocated for social grants.

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END

220. AD PARAGRAPHS 83 TO 84

The contents of these paragraphs are not disputed.

221. AD PARAGRAPHS 85 AND 86

221.1 The contents of these paragraphs are not disputed.

221.2 However, it is important to mention that the technical challenges that caused the delay were resolved and all the SRD beneficiaries were paid their monies. The exceptions are of the few which the blame is on them, due to failure on their part to submit their bank account details; inability to verify cell phone numbers; and non - verification for those identified as *"perpetrators of fraud"*.

222. AD PARAGRAPHS 87 TO 88

The contents of these paragraphs are not disputed.

223. AD PARAGRAPHS 89 TO 90

The contents contained in these paragraphs are noted.

kel END

224. AD PARAGRAPH 91

224.1 Save to admit the National Treasury proposed budget of R8-billion, the remainder of the contents of this paragraph are denied. It must be noted that in South Africa there is no accurate method of determining the exact financial status of its citizens. Therefore, the stats obtained from various databases is used as an estimate for purposes of reporting the financial status of those individuals.

224.2 The information submitted by the First Respondent to National Treasury is information based on that estimated data for that particular financial year which will be a contributory factor to be considered by National Treasury in reaching its financial decision on the amount to be allocated for social grants.

224.3 Further, taking into consideration of the fact that when the SRD was introduced in May 2020, South Africa was under strict lockdown conditions because of the Covid19-pandemic, therefore there were a lot of applicants in need of financial assistance as opposed to when the national lockdown was uplifted and people went back to their place of employment which resulted in less people applying for the SRD, resulting in the decline in the number of SRD applicants.

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END

225. AD PARAGRAPH 92

The contents of this paragraph are not disputed.

226. AD PARAGRAPH 93

The contents of this paragraph are admitted. As indicated above in this affidavit, the SRD is a temporary provision valid for only a specified financial year.

227. AD PARAGRAPHS 94 TO 94.6

227.1 The contents of these paragraphs noted.

227.2 However, it is to be noted that the SRD has not been replaced by the basic income grant. All that has been said in these various meetings, the basic income grant is a grant that is being considered and has not been implemented as yet. Thus, the Applicants cannot rely on conversations that were made at those various meetings to be taken as strict compliance with the law. The basic income grant has simply not been approved by Cabinet and therefore not implemented.

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227.3 Further, it should be noted that before implementing the basic income grant, there is a formal legal process to be followed in terms of the law.

228. AD PARAGRAPHS 95 TO 100

The Respondents have no knowledge of the contents contained in these paragraphs and is thus unable to plea thereto.

229. AD PARAGRAPHS 101 TO 102.3

The contents of these paragraphs are noted.

230. AD PARAGRAPHS 103 TO 105

The Respondents have no knowledge of the contents contained in these paragraphs and is unable to plead thereto and the Applicants are put to the proof.

231. AD PARAGRAPH 106

The contents of this paragraphs are not disputed.

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232. AD PARAGRAPH 107

232.1 The contents of this paragraph are denied.

232.2 The eligibility criteria of the SRD is not an income test but a means test.

SASSA when conducting verification checks considers the cash inflows in the individual's bank account and not merely the fixed income of the individual. The purpose of this is to assist individuals who are financially distressed, in that particular month and who did not receive a cash flow of R 624.00 or more for that month.

232.3 Therefore, the bank verification method being used by SASSA, cannot be outdated information as it will reflect the individual's current financial position for the month concerned.

232.4 As relied upon by the Applicants, its concern is about the 2015 outdated information and that does not reflect the current situation.

233. AD PARAGRAPHS 108 TO 108.3

The Respondents have no knowledge of the contents contained in these paragraphs and is unable to plead thereto and the Applicants are put to the proof.

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234. AD PARAGRAPHS 108.4 TO 108.5

The contents of these paragraphs are noted.

235. AD PARAGRAPH 109

235.1 The contents of this paragraph are denied.

235.2 The SRD regulations in its current form, set out who is eligible to apply.

The applicants who apply and meet the qualifying criteria, get approved and the grant monies are paid into their accounts.

235.3 The First Respondent cannot force people who do not qualify for the SRD to apply, more so taking into consideration that most individuals have gone back to their work environment, thus the number of applicants will surely decrease as compared to when the SRD was first implemented in May 2020.

236. AD PARAGRAPHS 110 TO 112.3

236.1 The contents of these paragraphs are noted.

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236.2 It is important to note that the data referred thereto does not reflect the accurate financial position of the SRD applicants. The SRD application is concerned with individuals whose financial circumstances are not stagnant and are amenable to change, in that they are employable individuals whose financial circumstances can improve at any time.

236.3 As it stands, there is no proven mechanism that can be used to accurately reflect the true current financial position of the SRD applicants. This is another reason why the bank verification method has proven to be the best way to check an individual's financial means for that particular month.

237. AD PARAGRAPHS 113 TO 115

237.1 The contents of these paragraphs are denied.

237.2 The Applicants fail to take cognisance of the purpose of the SRD and the targeted individuals who this grant is aimed at assisting. The target market individuals are employable individuals between the ages of 18-59 years of age, whose financial circumstances may change at any time. These are individuals who later get employed or start their own businesses.

237.3 Most importantly, the Applicants seem to ignore that the SRD is not a basic

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income grant but a temporary financial relief grant for financially distressed individuals.

237.4 The SRD looks into the means of the individual for that particular month and not their basic income. The SRD applicants have a responsibility to ensure that their information as captured in various government databases is updated to reflect their current financial position, so that when they apply for the SRD, the system is able to pick up their current updated information, including their banking details.

238. AD PARAGRAPHS 116 TO 120

238.1 The contents of these paragraphs are noted. It is important to reiterate that what is already mentioned in the general response above that when it comes to budget allocation, the National Treasury makes the final decision.

238.2 Further, to amplify what the Applicants seem to ignore is that the purpose of the SRD is aimed at assisting individuals who are employable but currently face financial constraints for a particular month and have no alternative financial means.

239. AD PARAGRAPHS 121 TO 122.3

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Save to mention that the current SRD regulations are reasonable and pass the constitutional muster, the contents of these paragraphs are noted.

240. AD PARAGRAPHS 123 TO 124

The contents of these paragraphs are admitted.

241. AD PARAGRAPHS 125 TO 127.3

241.1 The contents of these paragraphs are denied. It is important to emphasise again, the targeted individuals that the SRD is aimed at assisting being individuals who are seeking employment and majority of these individuals have access to smartphones and/or electronic devices.

241.2 Those who do not have access to a smartphone can seek assistance from their family members, neighbours, peers and/or internet cafes to assist. Taking into consideration that one cell phone number can be used by five different applicants.

241.3 Another important factor to be considered is the number of people aimed to be assisted by the SRD which is above 8 million. If the manual process

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is being used to apply for the SRD by these individuals, it will cause delays in concluding the application and in verifying their details submitted manually. Thus, the delay would defeat the whole purpose of the SRD which is aimed at timeously assisting those who are in need of immediate financial assistance.

241.4 This is a fact that the Applicants seem to conveniently ignore.

241.5 The purpose of the SRD is substantially different to the other social grants offered by the State. The SRD is aimed at temporarily assisting financial circumstance of an applicant in a particular month.

242. AD PARAGRAPH 128

The contents in this paragraph are denied. There are provisions made to assist individuals with disabilities and they can apply for the appropriate grant.

243. AD PARAGRAPHS 129 TO 130

The Respondents do not have any knowledge of the contents in these paragraphs.

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244. AD PARAGRAPHS 131 TO 133.2

244.1 The contents of these paragraphs are denied.

244.2 Taking into consideration, the outcome of the people assisted by the SRD when applications were made online during May 2020, where within a period of 6 months, the government was able to reach out to over 15 million people nationwide, this confirms that the online application is more effective and efficient as compared to the manual application used in other social grants.

244.3 The Child Support Grant, for example where manual application is used took more than 15 years to be rolled out to reach over 7 million people, which is also the position with the other social grants. Thus, if the manual application was to be used in applying for the SRD, it will be regressive and defeat the whole purpose of immediately assisting people.

244.4 As a result, thereof, this online method being used to apply for the SRD does not infringe section 27 of the Constitution. The online platform passes constitutional muster.

245. AD PARAGRAPH 134

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245.1 The contents in this paragraph are denied.

245.2 The differentiation caused by Regulation 3(2) between the SRD applicant and other social grant applicants is reasonable and justifiable in terms of section 36 of the Constitution and passes the constitutional muster.

246. AD PARAGRAPHS 135 TO 135.1

246.1 The contents of these paragraphs are denied.

246.2 It is important to re-emphasise that the purpose of the SRD and all other social grants differ substantially. The targeted individuals aimed at being assisted by the respective social grants differs.

246.3 For example, the Child Support Grant took 15 years to reach over 7 million people, whereas the SRD upon being rolled out, within a period of six months managed to reach almost 8 million people. By far, the SRD is the most successful grant that has been rolled out in South Africa. This proves that the online method of applying for the SRD is the most effective and efficient by far.

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247. AD PARAGRAPHS 135.2 TO 135.3

247.1 The contents of these paragraphs are denied.

247.2 The Applicants fail to take into consideration that the SRD is aimed at assisting people with already constrained financial means. The online platform has made things easier. The applicants do not have to incur traveling expenses and do not have to be subjected to long queues at the SASSA offices and being inundated with filing out the manual application forms.

247.3 Further, online applications assist with reducing the delay that might occur from a lack of onsite human resources needed at the SASSA offices, it also mitigates circumstances in which people are not assisted due to the system being offline and/or the load-shedding crises that the country faces. This would cause delays where people are being sent home without being assisted and be requested to come back the following day incurring extra traveling costs.

247.4 The Applicants also fail to take into cognisance the admin costs in setting up onsite human resources at SASSA offices which on its own is a lengthy process which cannot be achieved overnight and can take up years to implement. Thus, defeating the whole purpose of the SRD of assisting

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individuals who are currently in financial distress.

248. AD PARAGRAPH 135.4

248.1 These contents of this paragraph are denied.

248.2 It has never been said that the SRD will be converted to a basic income grant. The process of implementing each grant will differ substantially because the purpose of the grant will be different. Thus, the qualifying criteria will be different. The regulations and legislation process governing the respective grants will differ.

248.3 As indicated in the general response above, the President has indicated in his public speeches that the success of the SRD has encouraged talks within the government of implementing a basic income grant. It is to be noted that the basic income grant has not been implemented but it is in discussion by the Cabinet.

249. AD PARAGRAPH 135.5

249.1 The contents of this paragraph are denied.

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249.2 As indicated, the National Treasury has the final say on the budget allocation. The Constitution clearly states that section 27 rights will be implemented by the government using the available limited financial resources.

250. AD PARAGRAPHS 136 TO 136.6

250.1 The contents of these paragraphs are denied.

250.2 The online method used for applying for the SRD has proved to be a huge success and has assisted in the government attaining the goal that the grant was created for being to reach out to millions of individuals who are in financial distress with no financial means for that particular period. The government through the SRD has managed to fulfil its constitutional duty as stated in section 27 of the Constitution. Thus Regulation 3(2) is rational and passes constitutional muster.

251. AD PARAGRAPHS 137 AND 138

The contents of these paragraphs are not disputed.

252. AD PARAGRAPHS 139 AND 140

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252.1 The contents of these paragraphs are denied.

252.2 The SRD regulations are concerned about the financial means of the individual for that particular month. The bank verification conducted is not about the individual's income but the purpose is to assess whether the individuals have any financial means for the current month and if they do not have any means, they qualify for the SRD.

253. AD PARAGRAPH 141

253.1 The contents in this paragraph are not disputed.

253.2 The wording in section 27 of the Constitution "unable to support themselves and their dependents" is a broad and wide definition. This is because there are different circumstances at different levels where this can be applicable. The SRD is aimed at people with financial constraints for a particular month hence it is a temporary provision for assistance in temporary circumstances.

254. AD PARAGRAPH 142

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254.1 The contents of this paragraph are denied.

254.2 The SRD and the Child Support Grant are two separate grants aimed at different people. The SRD is aimed at people with no financial means at all in a particular month. The Child Support Grant has no bearing at all in the verification of the SRD.

254.3 When considering the flow of funds in the applicant's bank account, the banks exclude the funds received for the Child Support Grant.

255. AD PARAGRAPHS 143 TO 143.3

255.1 The contents of these paragraphs are denied.

255.2 The Applicants seem to misconstrue the whole purpose of the SRD which is aimed at people with no financial means in a particular month and is not concerned about the income.

256. AD PARAGRAPHS 145 TO 146

256.1 The contents of this paragraph are denied.

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256.2 As indicated above, the Applicants are missing the purpose of the SRD that is aimed at assisting those without any financial means and where such circumstances are temporary. These individuals have no financial assistance from any institution.

257. AD PARAGRAPHS 147 TO 148

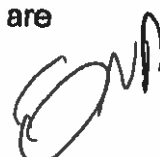
257.1 The Respondents have no knowledge of the contents in these paragraphs and are unable to respond thereto.

257.2 However, it is important to mention that the Applicants do not disclose the full financial circumstances of each of these individuals. Therefore, it is incorrect to conclude that these individuals are in the same financial circumstances.

258. AD PARAGRAPH 149

258.1 The contents of this paragraph are not disputed.

258.2 Again, the SRD is a temporary grant aimed at assisting individuals without means in that particular month and whose financial circumstances are amenable to change at any time.

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259. AD PARAGRAPH 150

The contents of this paragraph are not disputed.

260. AD PARAGRAPHS 151 AND 152

260.1 The contents of this paragraph are denied.

260.2 The purpose of the SRD is to provisionally assist people with no financial means in that period. The definition and the interpretation used in the SRD regulations are justifiable when the purpose of the grant is considered. Thus, it will pass constitutional muster.

261. AD PARAGRAPHS 153 TO 154.4

261.1 The contents of this paragraph are denied.

261.2 The SRD is concerned about people with no financial means and their situation is temporary. The SRD regulations are rationally connected to the purpose that it serves. As indicated above, the SRD is one of the most successful relieve measure achieved by the government in meeting the

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targeted individuals as required by section 27 of the Constitution.

262. AD PARAGRAPHS 155 TO 157

262.1 The contents of these paragraphs are noted.

262.2 Taking into consideration the purpose of the SRD, the questions being asked in the application process are relevant and reasonable in order to assess the applicants so that purpose of the SRD is ascertained. Further, the questions relate to socio-economic and demographic information on individuals for statistics purposes, including referral to other institutions that may offer applicants job opportunities.

263. AD PARAGRAPHS 158 TO 158.2

263.1 Save to deny that the questions asked in the application process are irrelevant for the applicant's eligibility for the SRD, the remainder of the contents of these paragraphs are noted.

263.2 The SRD as numerously indicated is a temporary provision to assist those who do not have any financial means in that particular month. It is very important to mention that, the applicant who did not qualify in a certain month due to the fact that they received financial assistance does not

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mean that the same applicant who does not receive any financial inflow in their account for the new month will be disqualified.

263.3 Instead, when SASSA conducts the monthly verification checks for a particular month and it can be seen that the same applicant for the current month did not receive any financial inflow in their bank account, this applicant can be approved to qualify for the SRD for that current month without having to reapply.

264. AD PARAGRAPH 159

264.1 The contents of this paragraph are noted.

264.2 It should be further noted that the information referred thereto concerns the previous financial year.

265. AD PARAGRAPHS 160 AND 161

265.1 The contents of these paragraph are denied.

265.2 The purpose of the SRD is a temporary provision aimed at assisting individuals without any financial means for a temporary period. It must also

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be noted that the financial means test is not the only criteria used to determine the eligibility of the SRD applicant.

266. AD PARAGRAPHS 162 TO 163

266.1 The contents of these paragraphs are denied.

266.2 The Applicants seem to disregard the purpose of the SRD. The questions being asked in the application process are relevant questions for the purposes of this grant in order for SASSA to determine whether the applicant is indeed in a dire financial distress for that particular month. Thus, Regulation 2(1) is reasonably connected to the purpose that it is intended for and justifiable. As a result, it passes the constitutional muster.

267. AD PARAGRAPHS 164 TO 166

The contents of these paragraphs are not disputed.

268. AD PARAGRAPHS 167 TO 167.3

268.1 The contents of these paragraphs are denied.

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268.2 It is important to mention that the SRD is targeted at assisting people who are employable and are looking for employment which means that in the event that these individuals are employed, they will be required to own a bank account. Therefore, it is important that they update their personal information including bank account details on the various database platforms; when they apply for SRD.

268.3 The bank verification is one of the most effective and efficient method used by the Respondents to get current financial position of the SRD applicants.

268.4 This method assists the Respondents in achieving the SRD purpose of assisting people with temporary financial distress and do not have any other financial means in a particular month. This is vastly different to other social grants which are aimed at assisting people whose financial circumstances are unlikely to change. For example, with the Older Persons Grant recipients it is highly unlikely for their circumstances to change.

268.5 Therefore, Regulation 2(3) is rationally connected to the purpose intended to be achieved with the SRD and ought not to be reviewed for any reason whatsoever.

269. AD PARAGRAPHS 168 TO 171

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The contents of these paragraphs are noted. However, it should be emphasised that it is the responsibility of the SRD applicant to ensure that their personal information are updated on the various institutions.

270. AD PARAGRAPHS 172 TO 175

270.1 The contents of these paragraphs are irrelevant insofar as they do not reflect the current information in relation to the SRD applicants.

270.2 Since the implementation of the SRD, the Respondents have and continue to find ways of obtaining updated data from the various databases that closely reflect the accurate information of the SRD applicant. This is the reason the bank verification method is being used and considered to be the most accurate database reflecting the financial position of the SRD applicants.

270.3 In as much as, SASSA uses different databases, the bank verification information will override the results obtained from the other databases such as the UIF and SARS system. The bank verification system will reflect the most current financial inflow of the SRD applicant for that particular month.

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271. AD PARAGRAPHS 176 TO 179

271.1 The contents of the paragraph are denied.

271.2 It is important to note that although all the databases are being collectively used to verify applicants' information, the bank verification method which reflects the most accurate financial position of the SRD applicants will be used to override all other information retrieved from all other databases utilised. Hence as indicated hereinabove that the responsibility to update personal information lies with the SRD applicants.

272. AD PARAGRAPHS 180 TO 180.3

272.1 The contents of these paragraphs are denied.

272.2 As indicated, it is the SRD applicants' responsibility to ensure that their personal information is updated on all the various databases. The purpose of the SRD is very clear that it aims at assisting individuals who are temporarily in financial distress, therefore the verification conducted as stipulated in Regulation 2(3)(c)(i) is relevant and rationally connected to the purpose of the SRD. It is thus vehemently denied that this regulation ought to be reviewed and set aside as it passes the constitutional muster.

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273. AD PARAGRAPH 181

The contents of this paragraph are noted.

274. AD PARAGRAPHS 181 TO 183.5

274.1 The contents of these paragraphs are denied.

274.2 It is important to emphasise that the purpose of the SRD is a temporary provision aimed at assisting people without any financial means for the particular month concerned. Further, the targeted individuals are people who are employable and who would, when employed, be able to participate in the labour market; and be expected to have or be required to open their own bank account.

274.3 The SRD applicants only need to apply once in a financial year and do not need to reapply every month; however, the verifications are conducted monthly.

274.4 As already stated in this answering affidavit that if the SRD applicant does not qualify in a particular month where they have received financial assistance, it does not mean that they will be disqualified in the following month where they do not receive any financial assistance.

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274.5 The Applicants are misleading the Court in advancing that the verification is conducted once in three months. Therefore, the SRD applicants' eligibility to qualify is based on the information received in that particular month.

274.6 Lastly, the Applicants make reference to a hypothetical situation to insinuate that the SRD applicants come from households where one bank account is being used by the members of a household. The Applicants further do not attach any documentary evidence to support this hypothetical situation thus these allegations are not legally sustainable.

275. AD PARAGRAPHS 184 TO 184.2

275.1 The contents of these paragraphs are denied.

275.2 It is highly improbable that the SRD applicants referred thereto by the Applicants all have the same scenario, where it is alleged that they all come from households where one bank account is used for the entire household. The Applicants further allege that the SRD applicants referred in their founding affidavit would all have the same financial circumstances. The Applicants have not attached any evidence in support of their alleged highly improbable scenarios.

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276. AD PARAGRAPHS 185 TO 186.7

276.1 The contents of these paragraphs are vehemently denied.

276.2 As indicated the SRD is aimed at assisting people who are employable and who would eventually be expected to have their own bank accounts. Secondly, the purpose of the SRD is a temporary provision to assist those who are currently in financial distress with no financial means in that particular month. Therefore, the bank verification is rationally connected to the purpose of the SRD. As a result thereof, Regulation 2(3)(ii) is rationally connected to the purpose of the SRD and passes the constitutional muster.

277. AD PARAGRAPHS 187 TO 189.1

277.1 Save to admit that the different verification methods used for different grants, the remainder of the contents of these paragraphs are denied.

277.2 I do not want to overburden the above Honourable Court with the repetition of averments which have already been stated repeatedly, however It is important to emphasise that the purpose of the SRD and other social grants differ substantively in that the targeted individuals have different

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circumstances particularly the circumstances of the individuals for other social grants is permanent and are unlikely to change anytime soon whereas, the circumstances of the SRD applicants is highly likely to improve at any time.

277.3 Therefore, the differentiation between the SRD and other social grant is reasonable and justifiable under the Constitution.

277.4 The Applicants are misleading the Court in advancing that the verification is conducted once in three months.

278. AD PARAGRAPHS 189.2 TO 189.4

278.1 The contents of these paragraphs are denied.

278.2 The Applicants are misleading the above Honourable Court by alleging that the SRD is now a permanent fixture of the social assistance scheme. The SRD is a temporary provision which is only valid for a particular period and the current SRD is valid up until 31 March 2024 as clearly stipulated in the Regulations.

278.3 The SRD is a temporary provision to assist people whose financial circumstances are likely to change at any time, as they can be employed

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at any time and their financial circumstances will be improved. As a result thereof, they will not be eligible to qualify for the SRD. Therefore, the purpose of monthly verifying the financial means of the SRD applicants is rationally related to the SRD and is justifiable under our Constitution.

279. AD PARAGRAPH 190

The contents of this paragraph are not disputed.

280. AD PARAGRAPHS 191 TO 195

280.1 The contents of these paragraphs are denied.

280.2 The regulations clearly state that in verifying the eligibility of the SRD applicants, SASSA will obtain information from various databases.

280.3 Taking into consideration the purpose of the SRD which is to assist those who are temporarily financially distressed, with no financial means so therefore, when the monthly verification process is being conducted, the information received from the SRD applicants' bank accounts, would override the information from the other databases, where information is not updated.

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280.4 Lastly, it is important again to emphasise that it is the responsibility of the SRD applicants to ensure that their personal information is updated in these various databases.

281. AD PARAGRAPHS 196 TO 197

The contents of these paragraphs are not disputed.

282. AD PARAGRAPHS 198 TO 198.1

282.1 The contents of these paragraphs are denied.

282.2 The purpose of the SRD is to assist those without any financial means in that particular month and as already stated, the people who the SRD targets, are people in the employment market and will be required to have their own bank account. In any event, it is highly improbable that all SRD applicants come from households who uses one bank account.

283. AD PARAGRAPH 198.2

283.1 The contents of this paragraph are denied.

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283.2 It is the responsibility of the SRD applicant to ensure their personal information is updated on the various databases however, in the event that their information is not updated SASSA in conducting the checks does not only rely on the information retrieved from the database but also uses the bank verification method to check on whether in that particular month, the SRD application had received any financial assistance.

284. AD PARAGRAPH 199

284.1 The contents of this paragraph are denied.

284.2 The Applicants in various meetings held with the Respondents, have been informed that they ought to encourage the SRD applicants to update their information on various database systems.

284.3 Secondly, when the SRD applicant makes the application, they must ensure that their details are updated. In any event, the bank verification conducted by SASSA can override the information retrieved from other databases. In the event that there was no financial inflow into the SRD applicant's bank account in that particular month, the SRD applicant may be eligible for the SRD and it will be paid into the account.

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284.4 Lastly, if the SRD applicants were to be allowed to submit new information when lodging their appeal, the appeal panel would not sit as the panel for new applications as this will defeat the whole purpose of their role as the appeal panel.

285. AD PARAGRAPHS 200 TO 201

The contents of these paragraphs are irrelevant as they refer to the statistical data of the previous SRD which was applicable in the previous financial year.

286. AD PARAGRAPHS 202 TO 203

286.1 The contents of these paragraphs are denied.

286.2 Regulation 6(c) is rationally related to the purpose of the SRD and does not limit any constitutional right of the individuals and passes constitutional muster.

286.3 I do not want to over burden the above Honourable Court by repetition of the averments, I humbly refer the Court to the general response above in this answer.

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287. AD PARAGRAPHS 204 TO 206

The contents of these paragraphs are not disputed.

288. AD PARAGRAPHS 207 TO 209

288.1 The contents of these paragraphs are denied.

288.2 Firstly, it is important as emphasised in this affidavit that the responsibility of updating the personal details on the various databases lies with the SRD applicants. Thus, prior to making the application for the SRD, they must update their personal information.

288.3 Secondly, the appeal panel cannot be expected to sit as a panel that processes new applications as indicated, this will defeat the whole purpose of their functions as the appeal tribunal. Taking into consideration that the target individuals aimed at being assisted by the SRD, are individuals who are seeking employment and are employable, thus need to take accountability in ensuring that their personal details is correctly updated in the various database systems as some of the database system are likely to be used by the potential employers in verifying the SRD applicant's in their employment application.

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288.4 Thus, the appeal process as stated in the SRD regulations is rationally related to the purpose of the SRD.

289. AD PARAGRAPHS 210 TO 213.3

289.1 The contents of these paragraphs are denied.

289.2 The SRD applicants have the responsibility to update their information in the various database information. For example, it is the responsibility of the SRD applicants whose marital status has changed, to inform Home Affairs officials to update the SRD applicant's marital status.

289.3 Prior to making an application for the SRD, they must ensure that this information is loaded and is reflecting on the relevant databases. The appeal tribunal cannot as already stated be sitting with new applications with new information when they are expected to be a panel of appeal.

289.4 Thus, Regulation 6(c) is rationally connected to the purpose of the SRD and it is justifiable in terms of the Constitution.

290. AD PARAGRAPHS 214 TO 215

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290.1 The contents of these paragraphs are noted.

290.2 There are laws in Republic of South Africa that govern the roles of the various government departments. Therefore the National Treasury is the lawful body to determine the budget to be allocated to the SRD and it does this within the available resources in the country.

291. AD PARAGRAPHS 216 TO 217.3

291.1 The contents of these paragraphs are denied.

291.2 The Applicants are alleging a hypothetical scenario that has not taken place in relation to the current financial year of the SRD. All the SRD applicants who qualified and were approved for the SRD have been paid.

291.3 There has never been a situation whereby the SRD beneficiaries were told that their monies are not paid due to the budget for the SRD being depleted. Thus, the allegation made by the Applicants in relation to Regulation 5(3)(a) cannot be legally sustainable.

292. AD PARAGRAPHS 218 TO 218.3

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292.1 The contents of these paragraphs are denied.

292.2 Regulation 5(3)(a) is rationally connected to the purpose of the SRD and does not in any way limit the section 27 right of any individual. Therefore, it passes constitutional muster.

293. AD PARAGRAPH 219

The contents of these paragraphs are not disputed.

294. AD PARAGRAPHS 220 TO 222

294.1 The contents of these paragraphs are denied.

294.2 The amount determined for the SRD, which is R350 per person per month, is a decision solely taken by National Treasury. Thus, as indicated in the special plea above, the Applicants ought to have joined National Treasury in these proceedings in order to allow the National Treasury to place before Court all the facts that led to their decision of the budget allocation of the SRD.

W *EM*

294.3 It is important to note that the SRD that is in question is not the same SRD issued in terms of the May 2020 regulations but a temporary social relief afforded provisionally to the individuals who are in financial distress. This social relief will only be provided until 31 March 2024. It is not the same as the other permanent grants that are provided for in terms of the Social Assistance Act.

295. AD PARAGRAPHS 223 TO 224

295.1 The Respondents have no knowledge of the contents of these paragraphs and thus is not in the position to respond thereto.

295.2 As indicated above, the Applicants should have joined National Treasury to respond thereto.

296. AD PARAGRAPHS 225 TO 229

The Respondents have no knowledge of the contents of these paragraphs and thus not in the position to respond thereto. As indicated above, the Applicants should have joined National Treasury to respond thereto.

297. AD PARAGRAPHS 230 TO 231.2

kel *END*

297.1 The contents of these paragraphs are denied.

297.2 The Applicants failed to take into consideration that the current SRD is a new grant that is governed by the new regulations and it is a temporary provision which will come to an end on 31 March 2024; therefore, it cannot be said that the value of the grant has decreased when it was implemented in May 2020.

298. AD PARAGRAPH 232

298.1 The contents of this paragraph are denied.

298.2 It is important to mention that the current SRD is offered at a maximum value of R350 per month, based on the available resources that have been allocated by the National Treasury. This is in accord with the provisions of section 27 of the Constitution.

299. AD PARAGRAPHS 233 TO 233.3

The contents of these paragraphs are denied, and the Applicants are put to the proof thereto.

hb END

300. AD PARAGRAPHS 234 AND 235

300.1 The contents of these paragraphs are denied.

300.2 The SRD regulation in particular Regulation 5(1) is rationally connected to the government's purpose in complying with its constitutional duty as required by section 27 of the Constitution. The government, as the Constitution clearly stated, must fulfil its obligation of social assistance to the people within the available limited resources.

301. AD PARAGRAPHS 236 TO 238.3.5

301.1 The contents of these paragraphs are denied.

301.2 It is clear that the Applicants fail to take into consideration the purpose of the SRD and the people that it is intended to assist. The individuals that are targeted are those who are employable and are looking for employment. Thus, the income threshold of R624 of the SRD cannot be compared with other social grants as the whole purpose of the SRD is to assist those who are temporarily in financial distress and have no financial means.

kh *END*

301.3 The SRD is aimed at assisting the targeted individuals to be able to make means in that particular month.

301.4 Therefore, Regulation 2(5) is rationally connected to the government's purpose and passes constitutional muster.

302. AD PARAGRAPH 239

302.1 The contents of this paragraph are denied.

302.2 The SRD is a temporary measure put in place by the government to assist individuals who are temporarily in financial distress. The provisions of the SRD that have been put in place ensures that the government is complying with its constitutional obligation to the public as required by section 27 of the Constitution. Therefore, Regulation 2(5) is rational and justifiable in terms of the Constitution.

303. AD PARAGRAPHS 240 TO 243

303.1 The contents of these paragraphs are denied.

303.2 The Applicants are relying on old data as well as the previous technical

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END

glitches that were experienced by SASSA during the teething stages of the SRD payments which have since been resolved. As it currently stands, these technical glitches are no longer in existence and all the approved beneficiaries of the SRD have; except for the few who have failed to submit their bank account details, those whose cell phones could not be verified and those who could not be verified because they are identified as "*perpetrators of fraud*", been paid.

303.3 It is important to mention that this information in relation to the technical glitches was made known to the Applicants in the various forums that were held between the Applicants and the Respondents. Thus, for the Applicants to mislead the above Honourable Court, to make it as if the technical glitches are still in existence is to be frowned upon by the Honourable Court.

304. AD PARAGRAPH 244

304.1 The contents of this paragraph are denied.

304.2 The reason for the delay in SASSA making the payments to the SRD approved beneficiaries is solely caused by the SRD approved beneficiaries wherein they have opted for their monies not to be paid using verified bank accounts but to be paid using other methods such as Cash sent, whilst their cell phones cannot be verified.

kel *END*

305. AD PARAGRAPHS 245 TO 245.5

305.1 The contents of these paragraphs are denied.

305.2 The SRD has over 8 million approved applicants thus for the Applicants to rely on five individuals and allege that the circumstances of the said five individuals speak for the circumstances of over 8 million people is irrational and legally unsustainable.

306. AD PARAGRAPHS 246 TO 247

306.1 The contents of these paragraphs are denied.

306.2 All the SRD applicants who were approved, SASSA has paid their monies and there is no applicant that has not been paid.

306.3 In the various forums that have been held between the Applicants and the Respondents, the Applicants were informed that all the technical glitches that caused the delay in making payments to the SRD beneficiaries, have been resolved. The exception are those SRD approved beneficiaries who are still to submit their bank account details and verifiable cell phone

hd

END

numbers.

306.4 For the Applicants to mislead the Court with false information is disingenuous and ought to be frowned upon by the Court.

307. AD PARAGRAPHS 248 TO 258.8

307.1 The Applicants are not entitled to any of the relief sought for the reasons set out in the general response above as well as the reasons as stated in this answering affidavit.

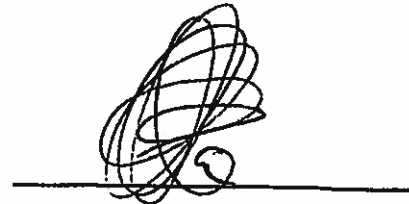
307.2 It is denied that any provisions of the regulations relating to COVID-19 Social Relief of Distress introduced on 29 March 2023 are in any way unconstitutional and/or offend the Constitution in any way.

307.3 The abovementioned regulations are rationally connected to the government's purpose which passes constitutional muster.

307.4 In the circumstances, the Applicants' application ought to be dismissed with costs.

kel END

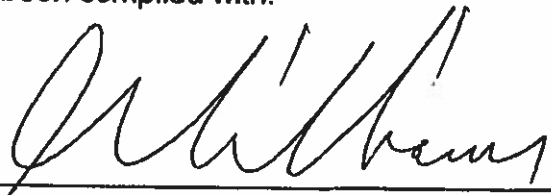
WHEREFORE, the Respondents humbly seek condonation for the late filing of the answering affidavit and an order that the Applicants' application be dismissed with costs.



DEPONENT

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at PRETORIA on this the 2nd day of **November 2023**, the regulation contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS: _____



FULL NAMES: _____

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