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**SOCIAL PROTECTION POLICY BRIEF SERIES #5**

# LITIGATING THE RIGHT TO SOCIAL ASSISTANCE

## The Social Relief of Distress grant court case



Since 2020 the Social Relief of Distress (SRD) grant has provided a lifeline for millions of people in South Africa. Despite being set at a very low level (R350 per month), the grant has mitigated hunger and starvation over economically turbulent times and prevented millions from entering into extreme poverty.

South Africa's crises of widespread poverty and a lack of jobs have not abated since 2020, and have by some measures worsened. However, significantly fewer people now have access to the SRD grant than at its peak, and for those who do still have access, the grant provides a much lower level of protection due to inflation.

This undermining of the SRD grant is the result of choices made by government policymakers, who have deliberately excluded people who should have access to the grant, from receiving it. This is an injustice, which is now the subject of a major court case brought against the government by the Institute for Economic Justice, and #PayTheGrants in July 2023, through the legal team at the Socio-Economic Rights Institute (SERI). The case is currently pending a hearing.<sup>1</sup>

The court case challenges the barriers that have been consciously put in the way of eligible people receiving the SRD grant. These include the fact that the grant can only be applied for online; the overbroad definition of income used

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by SASSA to assess eligibility; the inaccurate verification processes used to assess eligibility; unlawful questions in the application form; and a narrow appeals process that doesn't allow people to motivate their appeal or submit supporting documents. Many of the procedures for accessing the SRD grant differ from all other social grants in South Africa, which the case argues is irrational and unfair.

In addition, the case contends that the regulations exclude people who are unable to support themselves and who live in poverty from being eligible to receive the grant. We further contend that these exclusionary procedures, together with the low grant value and low income threshold for eligibility, are unlawful, irrational, and in conflict with section 27(1)(c) of the Constitution, which guarantees the right to social assistance for those unable to support themselves and their dependents.

The Constitution requires the government to progressively realise the right to social assistance. This means that existing provisions need to be improved and built on over time—and that the government cannot go backwards in terms of social assistance provision. However, the SRD grant value and eligibility threshold, which have not been increased since the grant was introduced in 2020, and have not kept up with inflation and the cost of living, give rise to an unconstitutional retrogression (rolling-back) of access to social assistance.

Ultimately, the story of the SRD grant is one of the government sabotaging its own policy. Whilst the government has lauded the impact of the SRD grant, and repeatedly extended it, in reality the grant has been undermined by stealth, as agencies have failed to adequately resource and administer the grant in order to ensure it serves its policy purpose in line with Constitutional rights.

However, in statements, key government decision-makers and bodies have voiced support for the improvement of the grant in line with the relief sought in the court case. This indicates a mismatch between stated policy direction, and implementation.

This policy brief provides an overview of the court case, including a background to the SRD grant, an explanation of why we have decided to take legal action, and the details of the legal challenge and the relief we are seeking.

## BACKGROUND TO THE SRD GRANT

The “Covid-19 Social Relief of Distress” grant (hereafter SRD grant) was introduced in May 2020, in the early stages of the Covid-19 pandemic and national state of disaster. The grant provides R350 per month to persons aged 18-59 who have a monthly income below R624 (the 2021 food poverty line, or FPL).

The grant has been extended multiple times with different eligibility criteria, and was brought under regulations pertaining to the Social Assistance Act in April 2022. Under the current regulations, the SRD grant is set to expire at the end of March 2024. However, the Minister of Finance announced in the medium-term budget policy statement (MTBPS) on 1 November 2023 that funding has been allocated to extend the grant for another year, to March 2025.

Research has shown that the SRD grant has had a significant positive impact on food poverty and on local economies. In 2021, 93.3% of SRD grant recipients used their grant to buy food. Research has estimated that if it weren't for the grant, 2-2.8 million people would have entered into food poverty in 2020 and 2021.<sup>2</sup>

The SRD grant has also, despite its very low value, helped people to overcome barriers to participation in the labour market, increasing their likelihood of employment in the first year by three percentage points (or 7%).<sup>3</sup> The grant has also helped people invest in productive assets and enterprises in order to build sustainable livelihoods, as well as increasing consumer demand in depressed areas. This has led to a positive impact on spending with informal traders.<sup>4</sup> Evidence clearly suggests that if the grant is made available to all those who need it, and increased to a more appropriate value, linked to the national poverty lines, its impact on economic activity and empowerment would be amplified.

Many experts, civil society organisations, and observers have called for the introduction of permanent income support in South Africa. Since the introduction of the SRD grant, most proposals have suggested transforming it into a more extensive and higher-value “basic income grant”.<sup>5</sup>

Senior figures in government, including the President, the Minister of Social Development, and the Minister of

**The Constitution requires the government to progressively realise the right to social assistance. This means that existing provisions need to be improved and built on over time—and that the government cannot go backwards in terms of social assistance provision.**

Finance, have made various statements indicating that the SRD grant is *de facto* permanent, in that income support for adults cannot be withdrawn, and that work is underway to transition the SRD grant into a permanent form of basic income support. The President reiterated this in his 2023 State of the Nation Address. However, to date, no concrete plans have been released by government, which has effectively kicked the can down the road by extending the grant repeatedly without clarifying longer-term plans. In the meantime, the beneficiary base and value of the SRD grant have been undermined by stealth.

Apart from the SRD grant, there is no permanent social assistance for able-bodied people aged from 18 to 59, despite the fact that the labour market cannot absorb a significant proportion of this group, as jobs are not available. This leaves many millions of people in South Africa without any possibility of accessing adequate income.

### HOW MANY PEOPLE ARE ELIGIBLE FOR THE SRD GRANT, AND HOW MANY PEOPLE ARE RECEIVING IT?

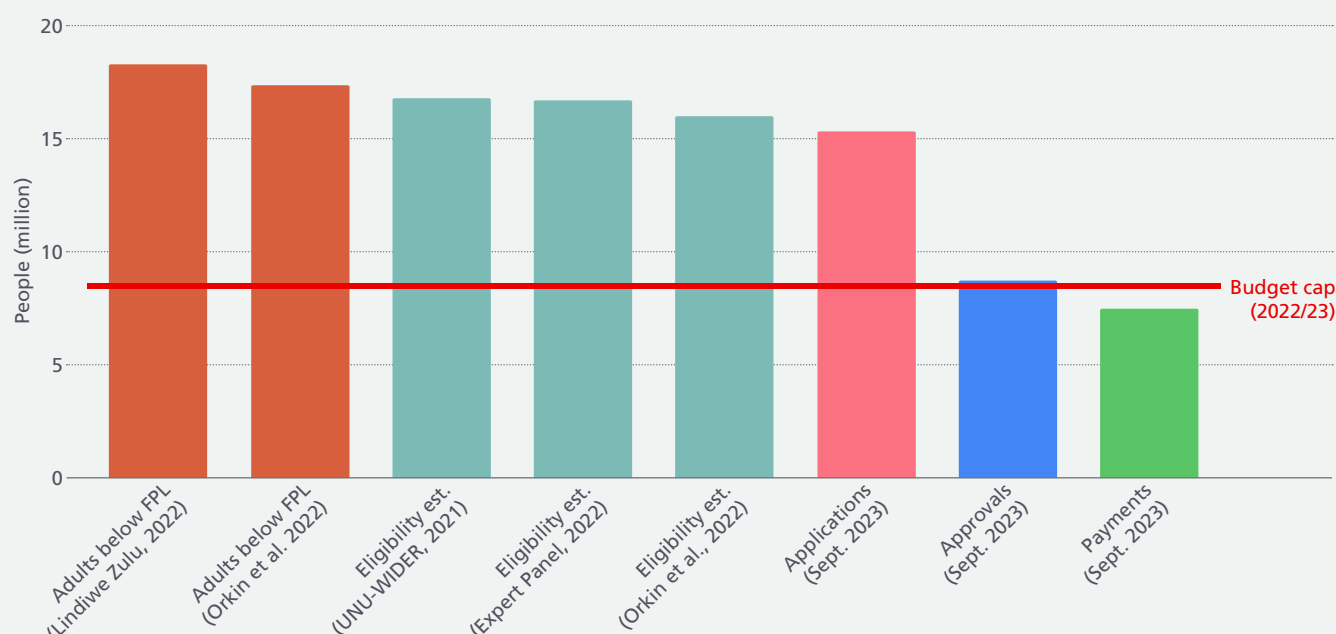
Various estimates of the number of people who should be eligible to receive the SRD grant have been made by researchers. The lower end of these estimates is 16 million people. Yet, in September 2023, fewer than 8 million received payment of the grant—this indicates an exclusion rate of over 50%. The chart below compares

estimates that have been made by researchers of the number of adults living below the FPL; the numbers eligible to receive the grant based on existing eligibility criteria; and the number of people actually approved to receive the grant (September 2023); and the number of people approved for September 2023 who had actually been paid for that month. The horizontal line indicates the official cap imposed on the number of beneficiaries by the National Treasury's budget allocation. The shortfall between payments and approvals illustrates one of the mechanisms behind the Department's underspend on the SRD grant budget.

Estimates suggest that the number of adults living below the food poverty line, in need of social assistance, outstrips the number theoretically eligible for the grant based on existing criteria. This indicates that the eligibility criteria enshrined in the regulations do not cover everyone unable to meet their basic food needs. The Minister of Social Development said in June 2022 that there are 18.3 million people aged from 18 to 59 who live below the FPL.<sup>7</sup> In 2023 the Bureau of Market Research found that 32.1% of adults have no income including from social grants, and rely on donations from friends and family.<sup>8</sup> A great deal more than this live in poverty at the upper-bound poverty line (UBPL)—totaling an estimated 55.5% of the population.<sup>9</sup>

This catastrophic level of income poverty directly informs the degree of hunger and food insecurity in South Africa. 20% of South African households are food insecure, and 20% send a member to beg for food.<sup>10</sup>

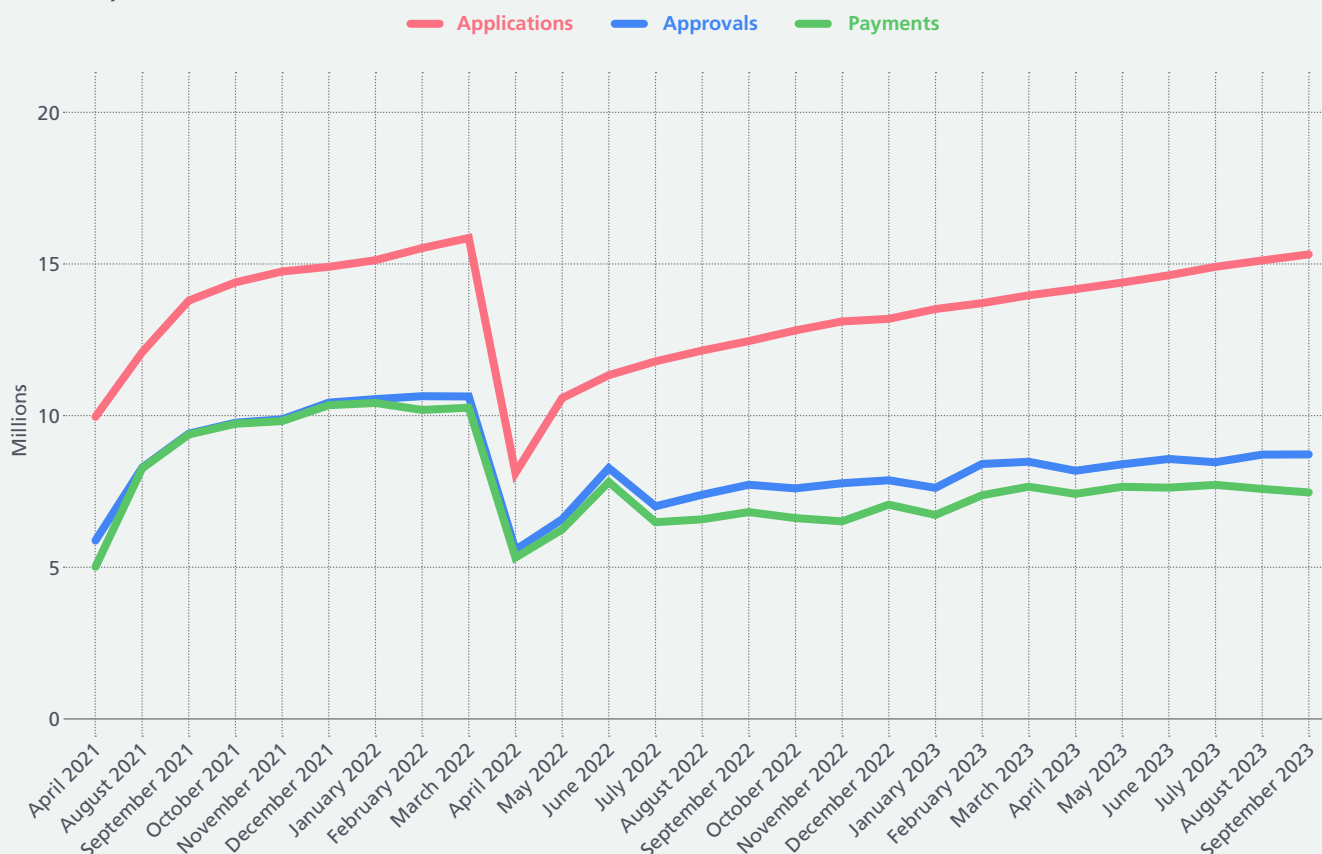
**Figure 1. Estimates of Adults Below FPL; SRD Grant Eligibility; and SRD Grant Applications, Approvals and Payments—Compared to National Treasury Budget Cap on Recipient Numbers (2022/23)<sup>6</sup> (Millions of people)**



The graph below shows changes over time in the number of applications and approvals for, and payments of the SRD grant, using data taken from briefings by SASSA to parliamentary bodies (with the exception of some data points after March 2023, which came from personal communications with officials). In April 2022, the regulatory framework, eligibility criteria, and

application system for the grant were substantively changed. At that time, all existing recipients were required to reapply using a new system, under tighter criteria—application and approval numbers plummeted. Application numbers have since steadily recovered, but approval numbers remain much lower than their March 2022 peak.

**Figure 2. Number of Applications, Approvals, and Payments for/of the SRD Grant (April 2021—September 2023, millions)**



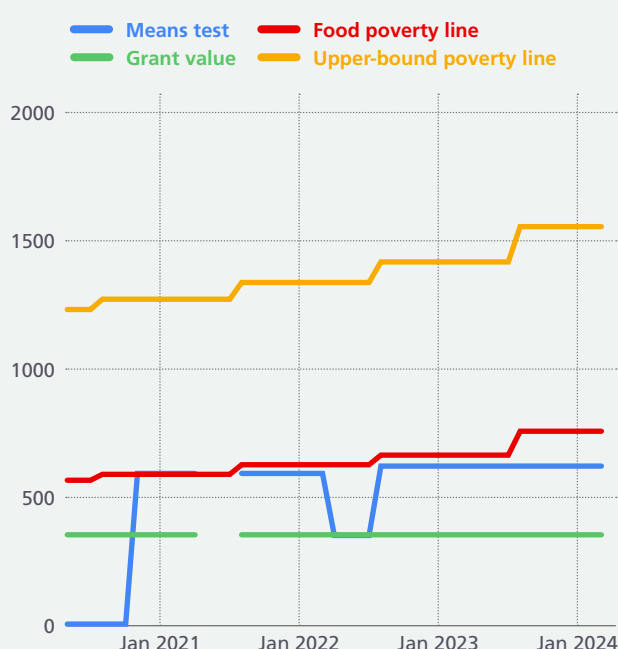
## WHY ARE WE TAKING LEGAL ACTION?

Legal action against the government is a last resort for civil society organisations advocating for the rights of economically excluded people in South Africa. It is not a step taken lightly, but we have made the decision to turn to the courts for a resolution to these issues, for three main reasons:

1. The applicants in this case, alongside partners within civil society and academia, have repeatedly drawn attention to flaws in the regulations and processes for the grant, which have resulted in exclusions, retrogression, and administrative injustice, including in submissions to multiple public consultations on various iterations of the regulations.<sup>11</sup> However, despite these many attempts to engage with government in good faith to solve the issues, for the most part, little has changed in the administration of the grant, and indeed certain drivers of exclusion, including the arbitrary budget cap, and issues with payment systems have gotten worse.

2. The level of hunger and need for social protection in South Africa has likely gotten even more urgent since the SRD grant was introduced, by several measures. The cost of basic essentials has increased significantly since 2020 due to inflation. This has likely had the effect of pushing more people into food poverty and starvation. The FPL is adjusted by Statistics South Africa every year and measures the real cost of a basket of basic food goods. Between 2019 and 2022 it increased by an average of 5.7% per year. In 2023 it increased by 14%. This indicates that the cost of meeting one's basic food needs has jumped very significantly in the past year. Figure 3 illustrates the value of the SRD grant, and the means-test, in relation to the FPL.
3. Alongside its critical role in mitigating hunger, the grant also plays an important role in the broader economy, helping to stimulate local economic activity and contribute to government revenue. This is crucial to our economic sustainability and well-being, especially in light of external pressures on the economy and stagnating economic growth and revenue—as the Minister of Finance highlighted in the MTBPS.<sup>13</sup>

**Figure 3. SRD Grant Value, Means-Test; Food Poverty Line and Upper-Bound Poverty Line: May 2020 to March 2024 (Rands)** <sup>12</sup>



## Where do government leaders and the ANC stand on issues raised in the court case?

### The African National Congress, Manifesto Review, September 2023

"We have noted many concerns about many deserving South Africans who have been recently excluded from the grant – which now covers only 8.4 [million] people – and the fact that the amount of the grant has not kept up with inflation. Going forward we will ensure that we address the matter of exclusions and improve the value of the grant."<sup>14</sup>

### President Cyril Ramaphosa, Launch of the Manifesto Review, September 2023

"While there is popular support for this SRD grant, there are concerns that there are many deserving people who are excluded from the grant and that the value of SRD has not kept up with inflation. Over the next few months, the ANC government will tackle these exclusions and ensure that the value of the grant is reviewed."<sup>15</sup>

### Department of Social Development, Presentation to Civil Society, July 2023

"Since the grant has been kept at R350 since 2020, its real value has declined to R282 in 2023 prices. This represents a significant decline in the purchasing power of the grant, from around R11 per day to R9 per day in real terms. The Department therefore proposes an increase in the value of the grant to R663 which is the latest Food Poverty Line published by StatsSA...

In order to eliminate poverty, it would be essential that the means test be adjusted above the UBPL, which could also be established as the social protection floor for income poverty below which no citizen should fall."<sup>16</sup>

Alongside its critical role in mitigating hunger, the grant also plays an important role in the broader economy, helping to stimulate local economic activity and contribute to government revenue.

# DETAILS OF THE CASE: PARTIES AND TIMELINES

The IEJ is the first applicant in the case. We have been actively involved in advocating for the expansion of South Africa's social grant system to cover those without access to social assistance, and the gradual introduction of a universal basic income guarantee (UBIG), via an interim progressively raised means-test. Since the introduction of the SRD grant, we have issued numerous press statements, publications, and submissions drawing attention to unfairness and exclusion in the administration of the grant, and have recommended steps to make the grant fairer and more inclusive.

The second applicant is #PayTheGrants (#PTG), a registered non-profit organisation that organises working-class communities for the protection and realisation of their right to social security in South Africa. Since its formation, #PTG has provided grant assistance to communities, advocated for the extension of the SRD grant, ensured community participation in UBIG-related policy forum events, and formalised a civil society forum to address SRD system challenges and grievances.

In support of this application, 79 individuals who have been directly affected by unlawful and unconstitutional barriers to access have filed supporting affidavits detailing their experiences.

The respondents cited in the founding affidavit are the Minister for Social Development and the South African Social Security Agency (SASSA). However, in late October 2023 the Minister of Finance applied to intervene in the court case as a respondent. As the applicants in the case, we consented to the Minister's application to intervene.

Although the state entities missed multiple deadlines to file their answering affidavits, the affidavits have now been filed. The DSD, SASSA and the National Treasury all oppose the relief we seek, on problematic and in some cases misleading grounds. At the time of publishing this policy brief, we are preparing our replying affidavit, to respond to the arguments advanced by the respondents, and to reassert the reasonableness and indeed critical importance of the relief we seek.

# SPECIFIC ISSUES WE ARE CHALLENGING, AND RELIEF SOUGHT

## 1. THE OVER-BROAD DEFINITION OF INCOME

In order to be eligible to receive the SRD grant, an applicant must have "insufficient means"; receiving "income" and "financial assistance" below R624 per month, which is equal to the 2021 FPL. SASSA, which implements social grants, is charged with verifying that applicants do not receive income and financial assistance above this threshold. In order to do this, the Regulations authorise SASSA to employ a bank verification procedure that assesses payments made to an applicant's bank account.

In practice, SASSA treats any money paid into an applicant's bank account as "income" for the purposes of verifying insufficient means. In doing so, SASSA accepts that "income" and "financial assistance" comprise any payments received by an applicant, for whatever purpose, regardless of frequency or source. This includes *inter alia* monies held on behalf of friends or family; *ad hoc* payments from friends or family to allow a person to survive; and child maintenance payments. Supporting affidavits of unsuccessful SRD grant applicants, which are filed together with the application, confirm that applications have been rejected on the basis of such payments.

This is despite the fact that these types of payments are not regular, cannot be relied upon, are necessitated precisely because the recipient has no income, or are not made to support the recipient, but a person in their care. None of them can be considered dependable, regular, income enabling a person to support themselves.

In light of this, we contend in the court application that "income" must be understood as money received on a regular basis from formal or informal employment, business activities or investments, and that "financial support" must be understood as regular payments which benefit the recipient, that do not constitute income, and which the recipient has a legal right to receive. We seek declaratory relief from the Court confirming this.

## 2. UNLAWFUL QUESTIONS IN THE ONLINE APPLICATION FORM

Certain questions in the SRD grant online application form elicit information about payments received by the applicant that constitute neither “income” nor “financial assistance”, properly interpreted.

These questions, which are not necessary for ascertaining whether an applicant has insufficient means, can be used as a basis for rejecting applications made by eligible applicants. We contend that these questions are *ultra vires* the Regulations (go beyond the powers afforded by the Regulations) and accordingly seek an order removing them from the SRD applicant form.

## 3. THE ONLINE-ONLY APPLICATION PROCESS

Applications for the SRD grant can only be made online. This is in contrast to all other social grants, which can be applied for in-person. An online-only application procedure disadvantages applicants who do not have access to devices or connectivity, or who lack digital literacy. These are the very applicants who are likely to be the most vulnerable, and the most in need of the grant.

This online-only procedure is unreasonable and amounts to an irrational differentiation between SRD grant applicants and applicants for other social grants. It also constitutes an unreasonable limitation of the right to social assistance. We seek in this case to compel DSD and SASSA to ensure that SRD grant applications can be made in person, in line with the application procedure for all other social grants.

## 4. THE BANK AND DATABASE VERIFICATION PROCESSES

SASSA verifies applicants’ eligibility for the SRD grant by checking them against several government databases, such as SARS, National Student Financial Aid Scheme (NSFAS), and Unemployment Insurance Fund (UIF) databases, which are meant to confirm whether the applicant is employed or receiving unemployment insurance or NSFAS funding. SASSA also uses monthly bank verification to confirm whether an applicant has insufficient means. These processes are not employed to confirm eligibility for any of the other social grants.

Neither bank verification nor database verification accurately identify which applicants are eligible to receive the SRD grant.

The databases used by SASSA to verify eligibility are widely known to be erroneous and out of date. They have been shown to exclude up to a third of eligible applicants.<sup>17</sup>

In supporting affidavits filed together with the court application, SRD grant applicants confirm that their applications have been rejected on the basis of UIF and NSFAS support which they did not receive.

Given the inaccuracy and unreliability of the database verification, we contend that database verification should be declared unlawful and in violation of section 27(1)(c) of the Constitution to the extent that it deprives persons who have a right to receive the SRD grant from accessing social assistance.

Bank verification is also incapable of accurately assessing an applicant’s eligibility. Bank verification treats all money paid into an applicant’s bank account as “income” for the purposes of assessing insufficient means, including money held on behalf of friends or family, *ad hoc* payments from friends or family to help the applicant avoid starvation, child maintenance payments, and in some cases the child support grant.

Bank verification is also carried out monthly and takes a snapshot of an applicant’s income in a particular month. This means that it cannot take into account fluctuations in a person’s income over time. An applicant who earns income above the R624 threshold in one month may be disqualified in that month despite the fact that she goes on to earn zero income over the next two months. In that scenario, the applicant’s average income per month over the three-month period would be below the R624 threshold yet the applicant would receive the SRD grant for only two of the three months.

Finally, the use of bank verification is based on an irrational differentiation between SRD grant applicants, who are subjected to bank verification, and applicants for other social grants, who in general are not. Importantly, other social grants that do not use bank verification have been consistently noted to be “well-targeted” (i.e. they have relatively low inclusion and exclusion errors).<sup>18</sup>

In light of these deficiencies, we seek an order either prohibiting SASSA from employing bank verification at all, or from employing bank verification until such time as the deficiencies we have identified in the procedure are addressed to the Court’s satisfaction.

## 5. NARROW APPEALS PROCESS THAT EXCLUDES NEW EVIDENCE

Millions of people (approximately 50%, see Fig. 1) have experienced erroneous and unfair exclusion from the SRD grant as a result of the application process, as well as bank and database verification systems. A significant proportion of unsuccessful applicants have formally appealed their rejections.

However, the appeals process provided for in the Regulations does not allow applicants to submit any new

evidence or information that was not provided to SASSA at the time of their application. This prevents appellants from demonstrating, for instance, that they are not in fact receiving UIF, or to provide information or documentation which contextualises and explains payments they have received in their bank accounts that do not constitute income or financial assistance (including, for example, payments received on behalf of family or friends).

Due to these constraints, only 0.5-0.83% of appeals lodged in the months of July, August, September, and October 2022 (the most recent months for which we have data) were successful. Notably, *all* appeals lodged in June—October against rejections based on the applicant having “means” above the income threshold, were unsuccessful. From July to October this totalled between 1.2 and 1.5 million appeals in each month. Figure 4 below shows the total number of appeals in the months of April—October 2022, and the number of appeals for rejections on the basis of “means” (meaning the application was found by bank verification processes to have income above the means-test threshold). This starkly illustrates the ineffectiveness of the verification and appeals processes—both in terms of the sheer number of appeals they are producing, as well as the fact that not a single appeal based on having failed the means test was upheld.

We accordingly contend that the narrow appeals process provided for in the Regulations is irrational and unreasonable and unjustifiably limits the constitutional right to administrative justice, and to social assistance.

## 6. THE ARBITRARY EXCLUSION OF QUALIFYING APPLICANTS WHEN FUNDS ARE DEPLETED

The Regulations make payment of the SRD grant to successful applicants subject to the availability of funding from National Treasury, which in the 2023/24 budget provided funding for 8.5 million grant recipients, out of the, at least, 16 million people who qualify to receive the SRD grant. This in effect imposes a cap on grant payments that arbitrarily excludes applicants who qualify to receive payment after the budget cap has been reached.

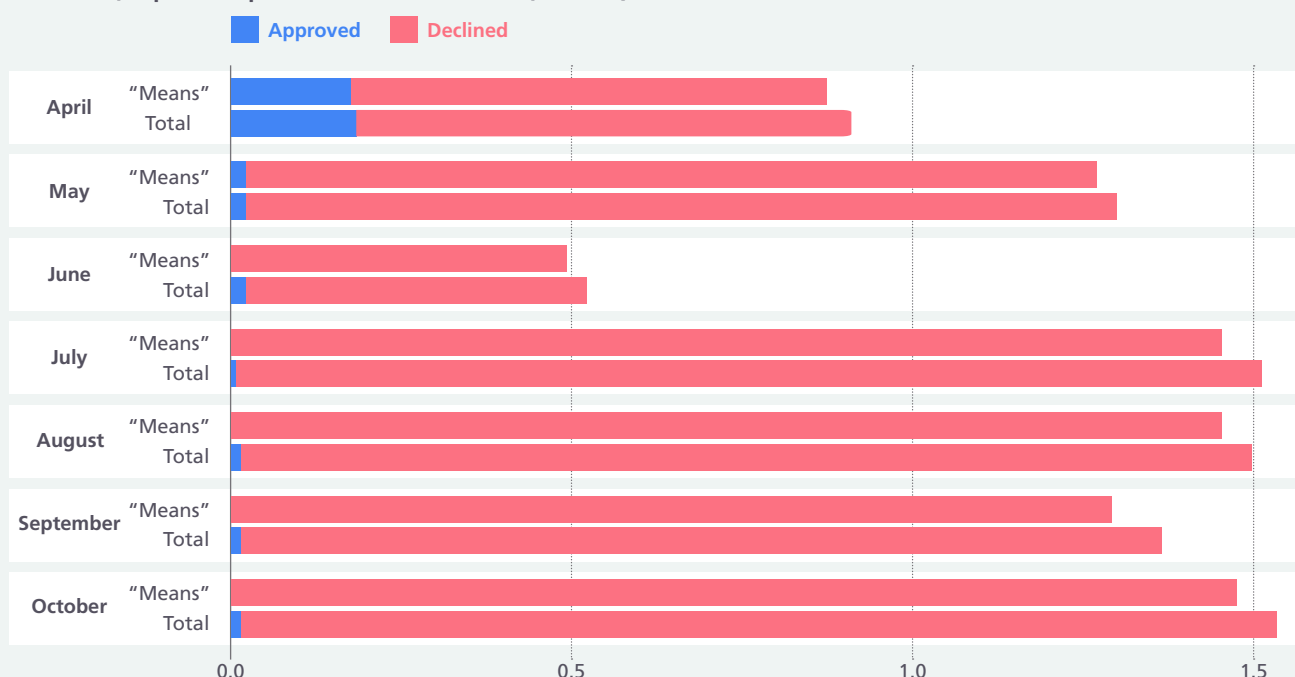
The applicants to whom the grant is refused for budgetary reasons will be no different to those who do receive payment of the grant. This is patently unfair. It is also likely to result in the exclusion of beneficiaries who previously received the grant suddenly, without notice, from one month to the next.

The budget cap imposed by the Regulations is arbitrary and breaches the right to social assistance to the extent that it denies payment of the SRD grant to people who are legally entitled to receive it. It effectively amounts to a retrogression in access to social assistance.

## 7. THE REAL TERM REDUCTION OF THE VALUE OF THE GRANT

The value of every social grant other than the SRD grant has increased over time to account for inflation and the

Figure 4. Proportion of total appeals, and appeals of rejections on the grounds of “means” (over the means-test threshold), upheld: April 2022—October 2022 (millions)<sup>19</sup>



rising cost of living (though despite these increases, many have fallen behind inflation in real terms). The SRD grant has remained static at R350 since it was introduced in 2020. Given headline inflation of over 6%, the value of the grant has decreased to R294 in real terms. Inflation in the price of food is even higher than headline inflation, having reached over 11%. Research has shown that the vast majority of SRD grant funds are spent on food. Due to high inflation, the SRD grant buys much less food in 2023 than it could in 2020. Taking into account food inflation, the grant is now worth R273 in real terms and would need to be increased to R493 to compensate for projected food inflation by May 2024.

In supporting affidavits filed together with our application, SRD beneficiaries report that they have resorted to begging for food from neighbours and relatives due to the diminished value of the grant. As one beneficiary put it, the SRD grant “no longer saves me from hunger as it once did”.

In short, the SRD grant now covers a declining proportion of the amount of money that beneficiaries need to meet their basic needs. This constitutes a retrogression (or rolling-back) of benefits that is inconsistent with the constitutional obligation on government to *progressively* realise the right to social assistance.

The value of the SRD grant is also irrational to the extent that it is not linked to any objective measure of income

poverty and is in breach of section 27(1)(c) because it does not provide beneficiaries with social assistance that enables them to support themselves.

We accordingly seek orders directing the Minister of Social Development to formulate a plan that redresses the retrogression in the value of the SRD grant and progressively increases the value of the grant, taking into account the right to social assistance in section 27(1)(c), and the right to food in section 27(1)(b) of the Constitution, increases in inflation and the cost of living, and the value of the grant in relation to objective measures of income poverty, including the national poverty lines (NPLs) published from time to time by Statistics South Africa.

## 8. AN IRRATIONAL AND RETROGRESSIVE INCOME THRESHOLD

The income threshold to qualify for the SRD grant is set at R624 (equal to the 2021 FPL), and has remained there, despite changes in the FPL. The FPL is now R760, which means that the current income threshold is irrational and arbitrary in that it does not correspond to any objective measure of income poverty or need (see Fig. 3). In addition, it guarantees that people living in food poverty (sometimes referred to as extreme poverty) are excluded from receiving the grant.

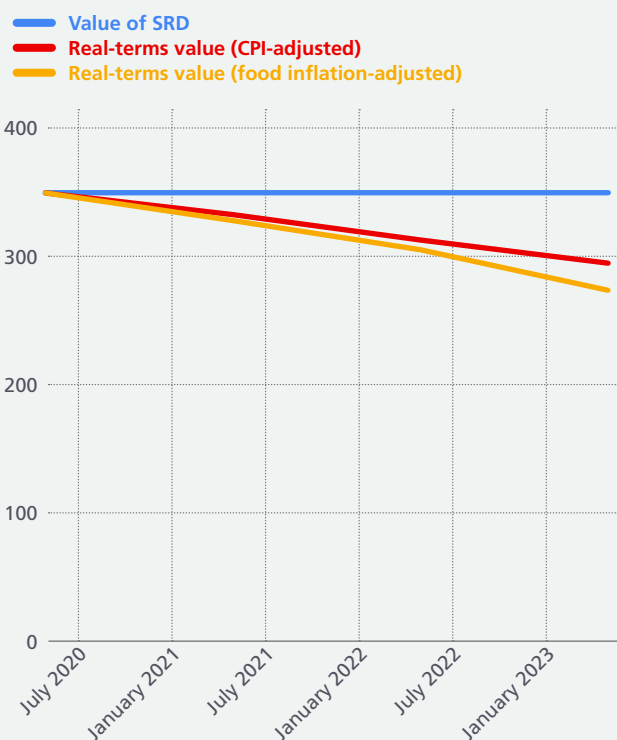
It also excludes millions of people with incomes below the upper-bound poverty line (UBPL) who also live in poverty and who are objectively incapable of supporting themselves. Notably, all other social grants apply income thresholds above the UBPL.

Finally, given the high rate of inflation, the income threshold is retrogressive as it is lower in real terms in 2023 than when it was introduced in August 2022. There are therefore beneficiaries who qualified to receive the grant in August 2022 who would now not qualify for the grant.

The income threshold prescribed by the Regulations is therefore irrational, to the extent that it is based on an irrational differentiation between SRD grant recipients and recipients of other social grants and is not based on any objective measure of income poverty. It is also retrogressive and therefore infringes section 27(1)(c) of the Constitution.

We accordingly seek orders directing the Minister of Social Development to formulate a plan that redresses the retrogression in the value of the income threshold and progressively increases the income threshold, taking into account: the right to social assistance in section 27(1)(c) of the Constitution; increases in inflation and the cost of living; objective measures of income poverty, including the NPLs published by Stats SA; increases in inflation and the cost of living; and the need to ensure that no-one living in poverty is excluded from accessing the grant.

Figure 5. Value of SRD grant; real-term values (CPI adjusted); real-terms value (food inflation-adjusted) (Rands)<sup>20</sup>



## 9. THE NON-PAYMENT OF APPROVED BENEFICIARIES

The final aspect of the application concerns systemic delays and failures to pay the SRD grant to *approved applicants*. As Fig. 2 above demonstrates, the proportion of approved applicants who are actually paid by SASSA has steadily declined in the most recent months for which we have data, to about 86% in March 2023.

This means that 14% of applicants who were approved to receive the SRD grant in September 2023 (over 1.2 million people) had not been paid by the time of SASSA reporting. This has had devastating consequences for approved beneficiaries.

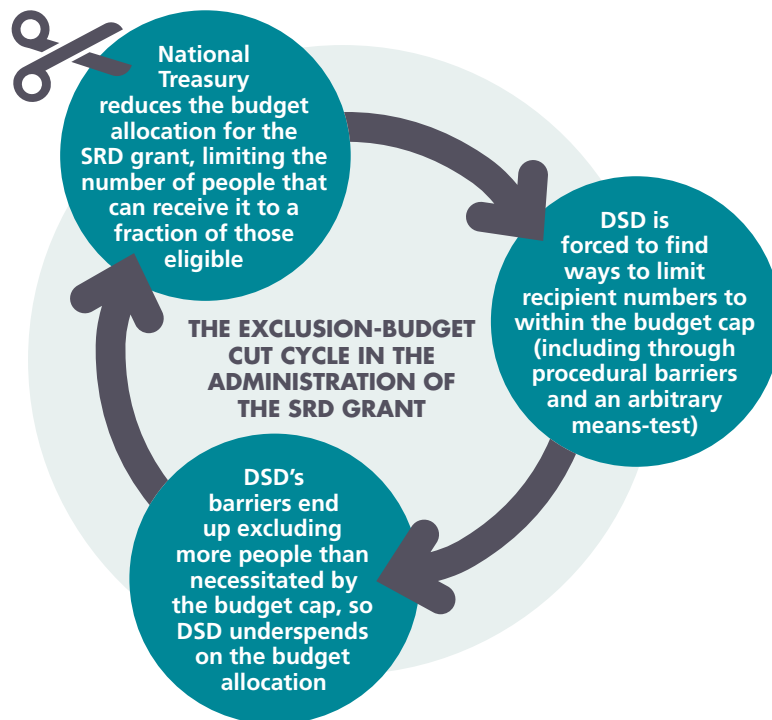
The reasons for this systemic failure to pay beneficiaries are complex and not completely clear. However, one key issue is that the “cash send” and Post Bank systems for paying beneficiaries who elect not to be paid into a personal bank account were not operating properly at the time of IEJ and #PTG’s court application. On 23 May 2023, SASSA confirmed that 350,000 beneficiaries were awaiting payments via cash send, and nearly 500,000 awaiting payments via accounts with Post Bank. This does not take into account the additional number of beneficiaries who are unable to access payments at retailers through Post Bank. In practice, SASSA’s failure to ensure timeous and reliable payments via these channels discriminates against “unbanked” people, and exacerbates financial exclusion.

We accordingly seek an order directing the Minister of Social Development to investigate the cause of widespread delays in payments to successful SRD grant applicants and devise and implement a plan to address those delays.

## CONCLUSION

This litigation on the SRD grant concerns the most vital interests and constitutional rights of the most vulnerable section of society. The grant has assisted millions of people to support themselves since 2020, helping to alleviate extreme poverty.

Statements and briefings by DSD confirm that the Department has *consciously and deliberately* introduced more stringent and impractical application procedures



and eligibility criteria that prevent people with incomes below the R624 threshold from accessing the SRD grant in order to remain within the inadequate budget allocated by National Treasury. In a June 2022 briefing to a parliamentary committee, DSD and SASSA noted that the allocation of funds from National Treasury was conditional upon “SASSA and DSD . . . tighten[ing] the regulatory and administrative processes to ensure that they remain within allocation”.

Their presentation stated:

**“THE DEPARTMENT ONLY HAS A BUDGET FOR 10.5 MILLION PEOPLE,<sup>21</sup> HENCE NEEDED TO ADD ADDITIONAL RESTRICTIONS TO REMAIN WITHIN BUDGET.”** [DSD and SASSA’s emphasis]

This reveals that the exclusion of eligible applicants is driven by an arbitrary budget cap, and that DSD and SASSA have erected barriers to prevent otherwise eligible people who cannot support themselves from receiving the SRD grant, as illustrated in the figure above.

By keeping the value of the SRD grant static at R350 since 2020, government has sabotaged its own policy, and failed to progressively realise the right to social assistance. SRD grant beneficiaries have been left with

**The crisis of hunger and deprivation is only growing. Social assistance is the most direct and effective tool for fighting hunger, and the Constitution demands that government progressively realise the right to adequate social assistance, and to food.**

rapidly diminishing access to adequate social assistance and must contend with a series of irrational, unlawful, and unconstitutional procedural barriers that deny them access to social assistance they are legally entitled to receive. Millions of eligible people have been prevented from accessing the SRD grant as a result.

We have repeatedly sought to engage government to address these systemic problems, through meetings and written submissions. We have done so constructively, and in good faith. Unfortunately, all the barriers identified in this application remain and, as more time passes without addressing the multiple unfair exclusions and reviewing the value of the grant or the income threshold, the situation will only deteriorate further. Most recently, systemic failures to pay even successful grant applicants their grants have made this application even more urgent.

The crisis of hunger and deprivation is only growing. Social assistance is the most direct and effective tool for fighting hunger, and the Constitution demands that government progressively realise the right to adequate social assistance, and to food.

As policy processes regarding the introduction of permanent basic income support to adults living in income poverty remain ongoing (largely behind closed doors), we have acted on the urgent need to approach the courts for relief that will ensure that the SRD grant is made accessible to all those who are eligible to receive it and that government fulfils its constitutional obligation to progressively realise the right to adequate social assistance.

# ENDNOTES

1. The [full affidavit and supporting affidavits](#), alongside a [synopsis of the case](#), can be found on the IEJ website.
2. Bassier, I., Budlender, J., and Goldman, M. 2022. Social distress and (some) relief: Estimating the impact of pandemic job loss on poverty in South Africa. WIDER Working Paper 2022/80.
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4. Vawda, S., Prinsloo, M., Prinsloo, M., & Yasser, R. 2023. Measuring Stimulus Effects Around Stock Road in Philippi in the Western Cape.
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21. The budget has now been reduced to only provide for 8.5 million people.

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