Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

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THE PRESIDENCY

No. 830 16 September 2010

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

No. 5 of 2010: Social Assistance Amendment Act, 2010.



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GENERAL EXPLANATORY NOTE:

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

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

(English text signed by the President.)
(Assented to 15 September 2010.)

ACT

To amend the Social Assistance Act, 2004, so as to enable applicants and beneficiaries to apply to the Agency to reconsider its decision; to further regulate appeals against decisions of the Agency; and to effect certain textual corrections; and to provide for matters connected therewith.

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

Amendment of section 5 of Act 13 of 2004

1. Section 5 of the Social Assistance Act, 2004 (hereinafter referred to as the principal Act) is hereby amended by the substitution in subsection (1) for paragraph *(b)* the following paragraph:

"*(b)* subject to section **[17]** 16, is resident in the Republic;".

Amendment of section 14 of Act 13 of 2004

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

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

Substitution of section 18 of Act 13 of 2004, as amended by section 2 of Act 6 of 2008

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

"**[Appeal]** **Reconsideration of decision by Agency and appeal**

18. (1) If an applicant or a beneficiary disagrees with a decision made by the Agency in respect of a matter regulated by this Act, that person or a person acting on his or her behalf may, within 90 days of his or her gaining knowledge of that decision, lodge a written **[appeal with the Minister against that decision, setting out the reasons why the Minister should vary or set aside that decision.]** application to the Agency requesting the Agency to reconsider its decision in the prescribed manner.

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(1A) If an applicant or a beneficiary disagrees with a reconsidered decision made by the Agency in respect of a matter contemplated in subsection (1), that person or a person acting on his or her behalf may, within 90 days of his or her gaining knowledge of that decision, lodge a written appeal with the Minister against that decision, setting out the reasons why the Minister should vary or set aside that decision.

(2) The Minister may—

(a) upon receipt of the applicant's or beneficiary's written appeal and the Agency's reasons for the decision confirm, vary or set aside that decision; or

(b) appoint an independent tribunal to consider an appeal contemplated in **[subsection (1) in accordance with such conditions as the Minister may prescribe by notice in the *Gazette*]** subsection (1A) in the prescribed manner and that tribunal may, after consideration of the matter, confirm, vary or set aside that decision **[or make any other decision which is just]**.

(3) If the Minister has appointed an independent tribunal in terms of subsection (2)*(b)* all appeals contemplated in subsection **[(1)]** (1A) must be considered by that tribunal.

(4) Notwithstanding subsection (1A), the independent tribunal may in the prescribed manner condone any late application by an applicant or a beneficiary.".

Short title

4. This Act is called the Social Assistance Amendment Act, 2010.