IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO:

In the matter between:

DEMOCRATIC ALLIANCE	Applicant
and	
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	First Respondent
MINISTER OF CO-OPERATIVE GOVERNMENT AND TRADITIONAL AFFAIRS	Second Respondent
THE MINISTER OF SMALL BUSINESS DEVELOPMENT	Third Respondent
DIRECTOR-GENERAL: DEPARTMENT OF SMALL BUSINESS DEVELOPMENT	Fourth Respondent
MINISTER OF TRADE AND INDUSTRY	Fifth Respondent

NOTICE OF MOTION

TAKE NOTE THAT the above-named applicant intends to make application to this Court on **Tuesday 12 May 2020 at 10h00** or as soon thereafter as counsel may be heard for an order in the following terms:

1 The non-compliance with the rules and requirements relating to service and time periods be condoned, and that the matter be heard as an urgent application in accordance with the provisions of rule 6(12)(a) of the Uniform Rules of Court.

2 It is declared that it is impermissible and unlawful for government to use B-BBEE status, race, gender, age or disability as criteria for determining which persons or entities will receive economic or other forms of relief or assistance:

2.1 to combat the effects and consequences of the COVID-19 pandemic; and/or

2.2 in terms of the Disaster Management Act 57 of 2002.

3 The third and fourth respondents are interdicted from using B-BBEE status, race, gender, age or disability as criteria for determining which persons or entities will receive funds under the Debt Finance Scheme and the Business Growth Resilience Fund.

4 The decision(s) of the third and/or fourth respondents to use B-BBEE status, race, gender, age or disability as criteria for determining which persons or entities will receive funds under the Debt Finance Scheme and the Business Growth Resilience Fund are reviewed and set aside and declared unlawful.

5 The costs of this application are to be paid by any respondent opposing any part of it.

6 Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **ZAKHELE NJABULO MBHELE** (together with the annexures thereto) will be used in support of the application.

TAKE NOTICE FURTHER that the Applicant has appointed the offices of its attorneys of record set out below as the address and confirm it elects to receive electronic service at ronie@kebd.co.za and elzanne@mindes.co.za.

TAKE NOTICE FURTHER that if any of the respondents wish to oppose the relief sought in this notice of motion, they are required:

1 By Monday 4 May 2020 at 16h00 to file their notice of intention to oppose; and

2 By Tuesday 5 May 2020 at 16h00 to file their answering affidavits, if any.

TAKE NOTICE FURTHER that if these requirements are complied with, the Applicant will deliver any Replying Affidavit by 12h00 on Thursday 7 May 2020.

Kindly place the matter on the roll accordingly.

DATED AT CAPE TOWN this 20th day of April 2020.

Per: _____

MINDE SCHAPIRO SMITH INC

ELZANNE JONKER

Attorneys for the Applicant

CARE OF: KLAGSBRUN EDELSTEIN

BOSMAN DU PLESSIS INC.

220 Lange Street

Nieuw Muckleneuk

Tel: 012 452 8984

Email: ronie@kebd.co.za;
elzanne@mindes.co.za

TO: **THE REGISTRAR**

High Court, Gauteng Division

PRETORIA

AND TO: **THE FIRST RESPONDENT**

Per email: ichowe@justice.gov.za; kisamchowe@gmail.com

AND TO: **THE SECOND RESPONDENT**

Per email: ichowe@justice.gov.za; kisamchowe@gmail.com

AND TO: **THE THIRD RESPONDENT**

Per email: ichowe@justice.gov.za; kisamchowe@gmail.com

AND TO: **THE FOURTH RESPONDENT**

Per email: LMkhumane@dsbd.gov.za

AND TO: **THE FIFTH RESPONDENT**

Per email: ichowe@justice.gov.za; kisamchowe@gmail.com

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO:

In the matter between:

DEMOCRATIC ALLIANCE	Applicant
and	
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	First Respondent
MINISTER OF CO-OPERATIVE GOVERNMENT AND TRADITIONAL AFFAIRS	Second Respondent
THE MINISTER OF SMALL BUSINESS DEVELOPMENT	Third Respondent
DIRECTOR-GENERAL: DEPARTMENT OF SMALL BUSINESS DEVELOPMENT	Fourth Respondent
MINISTER OF TRADE AND INDUSTRY	Fifth Respondent

FOUNDING AFFIDAVIT

I, the undersigned:

ZAKHELE NJABULO MBHELE

state under oath that:

FBM ZNM

1 I am a Member of Parliament ("**MP**"), and Shadow Minister of Business Development of the Democratic Alliance. ("**DA**") I am duly authorised to depose to this affidavit.

2 The facts contained in this affidavit fall within my personal knowledge unless otherwise stated or indicated by the context. The facts are to the best of my knowledge and belief true and correct.

3 Where I make submissions of a legal nature, I do so based on advice from my legal representations, whose advice I accept as correct.

I. OVERVIEW

4 Like many other nations, South Africa is at war with an invisible enemy, a vicious virus called Covid-19. This enemy invaded our borders sometime early March 2020.

5 In addition to being the health hazard that it is; it has wreaked social and economic disaster. It continues to do so. In response to this pandemic, on 15 March 2020, the President declared a state of national disaster in terms of the Disaster Management Act 57 of 2002 ("**Disaster Act**"), read with Regulations to Address, Prevent and Combat the Spread of Coronavirus COVID- 19.

6 On 23 March 2020, the President went further and announced a national lockdown. Save for a few, all were required to stay-at-home. For all intents and purposes, most of the economy came to a grinding halt. Although the effects of the lockdown have now been somewhat reduced by the move to "level 4", vast parts of the economy remain shut down.

7 The social and economic consequences are grave: many have lost their lives, others their livelihoods. Virtually everyone has been affected one way or the other.

8 This disease knows no caste. In the eyes of the Covid-19, there is no less affected or immune race; the virus knows no colour, class, creed, gender, age sexual orientation or even disability. Covid-19 is truly colour-blind—and neither knows nor tolerates biological classes among the citizens it infects and affects. The virus regards people as people.

9 One would think the same principle should apply to measures being taken to mitigate the disaster caused by the virus.

10 Yet it has now emerged that at least the Minister of Small Business Development ("Minister Ntshavheni") does not share this view. She intends to use BBBEE status, race, gender, age and disabilities criteria for determining who receives economic relief. The DA contends that this is unlawful and impermissible. It is one thing to say that relief should be given to those who are actually in greatest need of support – it is quite another to say that BBBEE status, race, gender and so on will be used as critieria.

11 The case thus stems from concerns about the legality of measures taken by the Department of Small Business Development (**DSME**) in relation to disaster relief being given to small business in the light of the Covid-19 pandemic.

12 DSME created four relief funds for Small, Medium, and Micro Enterprises, commonly referred to as SMMES ("**relief funds.**") Two of these funds bear particular emphasis:

12.1 **The Debt Finance Scheme**, for "*businesses which are negatively affected, directly or indirectly due the Coronavirus pandemic.*" In the Department's own words, the scheme is "*aimed at providing relief on existing debts and repayments, to assist SMMEs during the period of the Covid-19 State of Disaster.*"

12.2 **The Business Growth Resilience Fund** for "*[b]usinesses geared to take advantage of supply opportunities resulting from the Coronavirus pandemic or shortage in the local market*". The Chief of Staff of the Department has explained that "*The Growth and Resilience are targeted at SMEs that are manufacturing what could be considered essential goods.*"

13 At the heart of this case is the criteria to be applied when such funds are parcelled out to the citizenry. The main issue may be summarised as follows: Can BBBEE status or criteria such as race and gender be used a basis for parcelling out disaster relief pursuant to the Disaster Act?

14 The DA says the answer is no.

15 Not only is this unlawful, it is also deeply irrational. Indeed, there is a striking irony and irrationality about the effect of using BBBEE status, race and gender in this way. Even if a business is owned in part or in whole by white people, it may well be the case that its employees are largely or entirely black. Even if a business is owned in part or in whole by men, it may well be the case that its employees are largely or entirely women. It is those black or women employees and their families who will suffer most if the business is forced to go under, because it cannot obtain the economic relief sought by government. This can

RJM ZNM

hardly be said to be promoting economic transformation in relation to the meaningful participation of black people or women in the economy.

16 The rest of this affidavit is structured as follows:

16.1 **Part II** sets out the parties to this affidavit.

16.2 **Part III** sets out the relevant factual background;

16.3 **Part IV** explains the nature of the Disaster Act;

16.4 **Part V** explains why neither race nor Broad-Based Black Economic Empowerment (BBBEE) constitute a legitimate basis to dispense with relief under the Disaster Act.

16.5 **Part VI** explains why the use of race and or BBBEE is unlawful even on the facts of this case alone.

16.6 **Part VII** deals with urgency.

II. THE PARTIES

17 The **Democratic Alliance** is the applicant in this matter. The DA is a political party registered in terms of section 15 of the Electoral Commission Act 51 of 1996 with its head office at Thebe Hosken House, cnr Breda and Mills Street, Cape Town. The DA brings this application in its own interest as the main opposition in Parliament of the Republic of South Africa, and in the public interest in terms of section 38(a) and 38(d) of the Constitution respectively.

18 The first respondent is the **President of the Republic of South Africa**.

BM ZNM

19 The second respondent is the **Minister of Co-operative Government and Traditional Affairs**.

20 The third respondent is the **Minister of Small Business Development.**

21 The fourth respondent is the **Director-General: Department of Small Business Development.**

22 The fifth respondent is the **Minister of Trade and Industry**.

23 In respect of all respondents:

23.1 They are cited in their official capacities for such interest as they have in the relief sought in the Notice of Motion;

23.2 Costs are only sought against them insofar as they oppose any part of the relief sought; and

23.3 Service will be effected electronically, via email service to the State Attorney.

24 In what follows, all references to "the Minister" are to Minister Ntshaveni – the third respondent – unless expressly indicated to the contrary.

III. THE RELEVANT FACTUAL BACKGROUND

25 On 5 March 2020, the Minister of Health, Dr Zweli Mkhize announced South Africa had its first confirmed case of Covid-19. And as the numbers increased, on 11 March 2020, the World Health Organisation ("**WHO**") official declared

Covid-19 a pandemic. That in simple terms means it has become a serious global phenomenon.

26 On Sunday 15 March 2020, the President, Cyril Ramaphosa addressed the nation, on what he correctly termed "a matter of great national importance." He explained the spread of the virus was rapidly gaining traction in our country, as the infection rate continued to rise.

27 He also told us that government had decided to take certain urgent steps in order to contain and combat the vicious virus. The first was that Government had decided to declare national state of disaster under the Disaster Act.

28 In the explaining the measures that Government would take to deal with Covid-19 the President said:

> *"[I]n addition to the impact that this pandemic will have on health and wellbeing of our people, and the impact it will have on the day-to-day life of our society,* ***Covid-19 will also have a significant and potentially lasting impact on our economy.****..In the last few weeks we have seen a* ***dramatic decline in economic activity in our major trading partners... This will have a potentially severe impact on production, the viability of businesses, job retention and job creation.*** *Cabinet is therefore in the process of finalising a comprehensive package of interventions to mitigate the expected impact of Covid-19 on our economy. This package, which will consist of various fiscal and other measures, will be conclude following consultation with business, labour and other relevant institutions. It is clear that this disease will be extremely disruptive."*[1]
>
> [Emphasis added]

---

[1] To avoid burdening these papers, I have not attached the transcript of the speech. It is easily available to the respondents and it will be provided to the Court should the need arise.

BM1 ZNM

29 The President effectively acknowledged that Covid-19 would have untold effects on our economy, and that as part of the Government's response to the national disaster, it would put together a "package" in order to mitigate the effects of the virus on amongst other things "the viability of businesses."

30 The President repeatedly emphasised that South Africans are "responding as a united nation to a common threat." He stressed that this was a time for national solidarity.

31 On 23 March 2020, the President addressed the nation again. On this occasion, he announced the government's most drastic measure yet in our fight against the virus. President Ramaphosa told the nation that in an effort to curb the overall rate of infections, the National Coronavirus Command Council had decided to enforce a nation-wide lockdown. That lockdown came into effect on 26 March 2020. It was due to end on 16 April 2020, but the President later announced an extension: the new "end" date was set as 30 April 2020.

32 During the lockdown period, "all shops, and businesses [would] be closed, except for pharmacies, laboratories, banks, essential financial and payment services, including the JSE, supermarkets, petrol stations and health care providers."

33 The effect was to bring the national economy to a standstill. Again, the President realised this because in his own words:

> *"Our country finds itself confronted not only by a virus that has infected more than a quarter of a million people across the globe, but also by the prospects of a* ***very deep economic recession that will cause businesses to close and many people to lose their jobs.*** *Therefore, as we marshal our every resource and our every energy to fight this epidemic, working together with business, we are putting in*

BJM ZNM

place measures to mitigate the economic impact both of this disease and of our economic response to it."[2]

[Emphasis added]

34 Although there were other speeches and statements made by the President; the essence of these two dealt squarely with the nature of the disaster and the measures that Government would take to combat it.

35 These could be summarised as follows:

35.1 First, everyone, regardless of colour or creed, gender or sexual orientation is affected by Covid-19;

35.2 Secondly, the Government has as result of the Covid-19, declared a state of national disaster in terms of the Disaster Act read with the Covid-19 Regulations;

35.3 Thirdly, the Government realises that Covid-19 will have a pernicious effect on our economy and would result in many businesses being financially strained. As a result, the Government has established a number of "economic interventions to "mitigate the impact of Covid-19 on our economy."

The SMMEs Covid-19 relief funds

36 I am aware that soon after the President announced these economic measures, rumours began to circulate on social media that Government Departments, in

---

[2] Again, to avoid burdening these papers, I have not attached the transcript of the speech. It is easily available to the respondents and it will be provided to the Court should the need arise.

particular the Department of Tourism and DSMEs, intended to use BBBEE codes in allocating disaster relief funding under the relief measures taken by the Government. In other words, these Departments intended to introduce "race" as a criterion for the allocation of relief funds.

37 However, on 24 March 2020, during an inter-ministerial press briefing on matters concerning Covid-19, Minister Ntshavheni dismissed these reports as false branding them "fake news." She added: "We are supporting all small and medium enterprises across SA and there are no race requirements for funding" (A copy of a media report containing these utterances is attached marked ("**JHS1**").

38 However, some doubts lingered.

39 So, on 10 April 2020, the DA's attorneys wrote to Minister Ntshavheni seeking clarity on two issues.

39.1 The first was the nature of the priority that would be given to women, youth and people with disabilities, as had been mentioned in an explanatory document. This was because, while the DA was not necessarily opposed to some form of preference being given on these grounds, in order to take a final position on the lawfulness of this approach, the DA needed to understand the nature of the preference.

39.2 The second was whether the race of business owners and their employees would be relevant to the distribution of funds. This was because although race was not mentioned in the explanatory document,

BM ZNM

this information was required on the application form on her Department's website. (A copy of the letter is attached marked "**JHS2**").

40 Minister Ntshavheni did not respond at all.

41 On 30 April 2020, Minister Ntshavheni gave a significant address at a joint meeting of Parliament's Portfolio Committee of Small Business Development and Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour.

42 During this address, Minister Ntshavheni was specifically asked whether BEE criteria would apply in the distribution of the funds in the Debt Finance Scheme and the Business Growth Resilience Fund, both referred to above.

43 Her answer was as follows:

> *"BBBEE is a requirement, is a fundamental requirement for transforming the economy of this country. We cannot choose as and when we use it. BBBEE is a critical requirement. We need South Africans, all of us, to own and have a share in the economy of the country. So, when applications come through, we evaluate them on their need, but we consider demographic representation. Which does not only include race. It includes gender; it includes geographic location; it includes age, which is youth; it also includes people with disabilities."*

I attach a copy of the Parliamentary Monitoring Group Minutes marked **"JHS3"**

44 In the light of this clear and unambiguous statement, later that day, the DA's attorneys sent an urgent letter to Minister Ntshavheni asking her to explain "*how race would be considered in evaluating applications, or what the legal basis is for making race a criterion for the award of disaster relief.*"

ZNM

45 My attorneys asked Minister Ntshavheni to provide us with urgent clarity on these questions, by close of business on 29 April 2020. (A copy of that letter is attached marked **"JHS4.")**

46 Again the Minister did not respond.

The Department's stated criteria

47 The Department has been receiving and processing applications for the two Covid-19 relief funds referred to above. The apparent qualifying criteria is listed in two documents, both of which contain criteria such as:

47.1 The business must be registered with the CIPC;

47.2 Companies must be 100% owned by South African Citizens;

47.3 Proof that the business is negatively affected by COVID-19 pandemic;

47.4 Latest annual financial statements or latest management accounts not older than three months from date of application – where applicable.

47.5 If applying for payroll relief, details of employees - as registered with UIF and including banking details – will be required as payroll payments will be made directly to employees

48 Applicants are also obliged to furnish the Department with amongst other things, 3 months bank statements, 6 months cash flow projections, a copy of a lease agreement for those business that seek assistance in relation to rental relief. (A copy of the qualifying criteria is attached marked "**JHS5"**).

BM ZNM

49 Notably, these criteria do not make any reference to race or BBEEE. Indeed, neither documents setting the "qualifying criteria" nor the application forms themselves specify that an applicant's race will be used as a qualifying criterion. Curiously, however, the application form does require that the race of each shareholder be stated – but no indication is given as to what use will be made of this. (A copy of the application form is attached marked **"JHS6**").

50 As if not enough, during her entire presentation to the subcommittee on 28 April 2020, which included a Power-Point slide-show; not once did Minister Ntshavheni say that her Department was parcelling out the relief funds on the basis of criteria that takes into account an applicant's race.

51 Only after being quizzed by a DA MP did the Minister assert squarely that the Department considers "demographic representation" and that such considerations include "BBBEE", race, gender and so answer. I have quoted her answer above.

52 In view of the patent about-turn that this represented compared to what was stated previously, this was shocking to say the least. Worse still, we simply do not know the basis for the inclusion of such criteria.

53 As I explain below, the dispensing of disaster relief is governed by the Disaster Act. And I as I explain below, the use of "demographic representation" as a basis for determining how to parcel out disaster relief neither comports with the express provisions nor the purpose of the Disaster Act.

54 Moreover, and in any event, even if there were some legal basis permitting the use of race or BBBEE status to dispense COVID-19 relief (which there is not),

this could only be done on the basis of clearly stated criteria laid out in advance. The Minister and Department cannot just make it up as they go along, which is what is apparently occurring now.

55 Indeed, while the focus of this application is on the Debt Finance Scheme and the Business Growth Resilience Fund, both referred to above, the DA is acutely concerned that the Minister's answer suggests that BBBEE status, race, gender and so in may be used as criteria for all other funds being provided by government to deal with the economic effects of COVID-19. I specifically invite the respondents to clarify whether or not this is so and, if so, on what basis. If the respondents decline or fail to deal with this, I will ask the Court to draw the inference that BBBEE status, race and gender are being used as criteria for all other funds being provided by government to deal with the economic effects of COVID-19.

IV. THE NATURE OF THE DISASTER ACT

The source of the power

56 The Disaster Act is the source of the power to take remedial steps meant to address the effects of a national disaster declared as such under the Disaster Act. In this regard, I am advised that any delegated powers i.e. the power to make regulations and issue directives can only be valid in law if the exercise of such public power is consistent the language and purpose of the governing statute, in this case the Disaster Act.

57 The Disaster Act's preamble is clear about what its purpose is: amongst other things its purpose is to provide an "*integrated and co-ordinated disaster*

management policy that focuses on preventing or reducing the risk of disasters; and mitigating the severity of disasters."

58 The Act makes it clear that its purpose is to ensure that there are "rapid and effective responses to disasters." It also seeks to regulate effective "post-disaster recovery" measures.

59 Nowhere in the preamble or any other provision does the Act foreshadow that it can be used to further any other governmental objectives other than those linked to addressing disasters. Nor does any provision of the Act suggest that race or BBBEE status can be taken into account.

A disaster

60 The Act defines a disaster. It refers to a disaster as a "progressive or sudden, widespread or localised natural or human-caused occurrence. " This occurrence must causes or threatens to cause death; injury or disease; damage to property, infrastructure or the environment; or disruption of the life of a community; and is of the magnitude that exceeds the ability of those affected by the disaster to cope with its effects using their own resources.

61 There can be no question that Covid-19 qualifies as a disaster under the Disaster Act. Indeed, this Court may take judicial notice of the fact that this vicious virus has caused no less than 100 deaths in South Africa alone, and over 300 000 the world-over. And there can be no question that the virus has caused a "disruption of the life of [our] community."

ZNM

Disaster Management

62 The Act also defines "disaster management." So, from the get-go it is clear that the ability of Government functionaries to make decisions under the rubric of "disaster management" is not unlimited. Only if an act chimes with the definition set forth in the Act, will be can it be legitimately termed "disaster management."

63 And the Disaster Act tells us that the management of a disaster is "a continuous and integrated multi-sectoral, multidisciplinary process of planning and implementation of measures aimed at –

> *"(a) preventing or reducing the risk of disasters; (b) mitigating the severity or consequences of disasters; (c) emergency preparedness;"*

64 Government cannot use the Disaster Act or measures taken in terms of it for any other purpose. This would be the case even if such other purpose were laudable.

The declaration of a state of national disaster

65 It is necessary to say something about how national disasters are declared, and what must happen thereafter.

66 In terms of s 27(1) of the Disaster Act, the Minister of Co-Operative Governance and Traditional Affairs ("**COGTA**") has the power to declare a national state of disaster. Although the national disaster occasioned by Covid-19 was publicly announced by the President; there is no question it was properly declared by the Minister of COGTA. Indeed, on 16 March the Minister Nkosazana- Dlamini Zuma published the "Declaration of a National State of Disaster"

> *"Considering the magnitude and severity of the COVID -19 outbreak which has been declared a global pandemic by the World Health*

BM ZNM

Organisation (WHO) and classified as a national disaster by the Head of the National Disaster Management Centre, and taking into account the need to augment the existing measures undertaken by organs of state to deal with the pandemic, I, Dr Nkosazana Dlamini Zuma, the Minister of Cooperative Governance and Traditional Affairs, as designated under Section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002) ("the Act "), in terms of - 1) Section 27(1) of the Act, hereby declare a national state of disaster having recognised that special circumstances exist to warrant the declaration of a national state of disaster."[3]

67 Section 27 (2) of the Act is particularly significant. That section permits the Minister of COGTA to make regulations or to authorise the issue of directions concerning, inter alia the release of any available resources of the national government; the facilitation of response and post-disaster recovery and rehabilitation, and other steps that may be necessary to alleviate, contain and minimise the effects of the disaster.

68 But, as I show, the wide and drastic powers in s 27 (2) are not unconstrained. Indeed, section 27(3) of the Disaster Act constitutes a significant constraint on the exercise of that power.

---

[3] To avoid burdening these papers, I have not attached the Gazette.

V. BBBEE STATUS AND THE OTHER CRITERIA ARE NOT PERMISSIBLE FACTORS IN RELATION TO DISASTER RELIEF

69 The essence of the DA's case is that no Minister is entitled to use BBBEE status, race, gender and so on as a basis to dispense relief funds under the Disaster Act or to deal with the effects of the COVID-19 pandemic.

70 First, as a matter of principle, the use of these criteria are inconsistent with the purpose of the Disaster Act. Second, and in any event, the use of these critieria is irrational, particularly in this case.

71 Put differently, that properly construed, the Disaster Act simply does not allow for a Minister or any other person to use BBEEE status, race and gender as a basis for allocating to disaster relief under the Act.

72 There is simply no provision express or even implied provision which allows for these considerations to enter the fray in relation to disaster relief.

73 This much is made clear by s 27 (3) of the Disaster Act. That provision makes it clear that although Ministers are entitled to make regulations and to issue directives in relation to their sectors (under s 27(2)) the exercise of such powers are constrained by s 27 (3) of the Act.

> *"The powers referred to in subsection (2) may be exercised only to the extent that this is necessary for the purpose of –*
>
> *(a) assisting and protecting the public;*
> *(b) providing relief to the public;*
> *(c) protecting property;*
> *(d) preventing or combating disruption: or*
> *(e) dealing with the destructive and other effects of the disaster."*

BM ZNM

74 Quite clearly, a Minister cannot exercise any power pursuant to s 27 (2) of the Disaster Act, unless the action she takes can be shown to the "necessary" assisting and protecting the public; providing relief to the public, amongst other factors listed in s 27 (3) of the Act. One will struggle to conceive of a basis upon which dermatology can ever be relevant or "necessary" criterion for purposes of allocating relief under the Disaster Act.

75 Yet in this case, this is what Minister Ntshavheni believes she is entitled to do.

76 She appears to justify her position on the basis that BBBEE is "fundamental requirement for transforming the economy of this country."

77 With respect, Minister Ntshavheni misses the point. While there is a need to transform the economy and while BBBEE is a mechanism the government seeks to do so, that does not make this a permissible or rational basis upon which to allocates resources meant to deal with national disasters under the Disaster Act.

78 I am advised that the question is not whether black economic empowerment is essential to transforming the economy; rather, the question is whether the purpose of the Disaster Act, and in particular, the relief resources marshalled under the auspices that Act, can be diverted to further objectives unrelated to the disaster management, in this case, economic empowerment. The answer, with respect, is no.

79 So, Minister Ntshavheni's argument that "*we cannot choose as and when we use BBBEE*" is a non sequitur. She has completely missed the point.

ZNM

80 The Minister's assertion that BBBEE status is a permissible (and indeed mandatory, in her view) criterion for the distribution of SME Covid-Relief funds, is unlawful.

81 This is simply a question of legality.

82 Action taken under times of national distress, cannot simply be used (opportunistically) to further to objects of economic empowerment.

83 This does not mean that the DA does not appreciate the importance of economic redress. On the contrary it does.

84 But it is important to appreciate the perverse and irrational consequences that flow from this decision. Even if a business is owned in part or in whole by white people, it may well be the case that its employees are largely or entirely black. Even if a business is owned in part or in whole by men, it may well be the case that its employees are largely or entirely women. It is those black employees and women employees and their families who will suffer most if the business is forced to go under, because it cannot obtain the economic relief sought by government. This can hardly be said to be promoting economic redress or economic transformation via the meaningful participation of black people or women in the economy.

85 On these bases alone, the DA is entitled to the relief set out in the Notice of Motion. That is:

85.1 A declaration that it is impermissible and unlawful for government to use these criteria for determining which persons or entities will receive economic or other forms of relief or assistance to combat the effects and

ZNM

consequences of the COVID-19 pandemic; and/or in terms of the Disaster Act;

85.2 An order interdicting the third and fourth respondents from using these criteria for determining which persons or entities will receive funds under the Debt Finance Scheme and the Business Growth Resilience Fund; and

85.3 An order reviewing, setting aside and declaring unlawful the decision(s) of the third and/or fourth respondents to use these criteria for determining which persons or entities will receive funds under the Debt Finance Scheme and the Business Growth Resilience Fund.

86 In relation to the last of these orders, I submit that the DA is entitled to such relief in terms of the Promotion of Administrative Justice Act 3 of 2000 and, in any event, in terms of the principle of legality.

VI. LACK OF EMPOWERING PROVISION AND IMPERMISSIBLY VAGUE

87 Indeed, even if it were to be assumed (contrary to the DA's contentions) that the use of BBBEE status, race, gender and so on as criteria for allocating disaster relief were not inherently impermissible, the decisions of the Minister and Department in the present case would still be unlawful.

88 This is because the manner in which the Minister and Department have purported to make use of these criteria violates two fundamental principles of law.

89 The first is that there is no provision empowering the Minister and Department to make use of these criteria.

89.1 It is a trite element of the principle of legality that government action requires a basis in law – that is, a provision which empowers the action concerned. In the present case, there is no provision empowering the Minister and Department to make use of these criteria.

89.2 On this basis alone, the decisions at issue to make use of these criteria are impermissible.

89.3 In the event that the Minister and Department disagree, I invite them to set out clearly which provisions of law they contend empower them to make use of these criteria.

90 The second is that the rule of law prohibits government decisions and criteria that are unduly vague.

90.1 Where government is to be adjudicating applications for relief or assistance, it is essential that the criteria that it uses be spelt out in advance, with sufficient clarity. This applies in all manner of contexts – tenders, licences and so on – but applies with equal force to the dispensing of government funds as disaster relief.

90.2 This is essential because otherwise the government officials making the decisions are not clear on what criteria bind them and the people applying for relief are not clear on what criteria they have to meet. This is a recipe for chaos and confusion and, worse, opens the door to impermissible and corrupt allocation of government funds.

ZNM

90.3 In the present case, there is no clarity at all on how and to what extent BBBEE status, race, gender, age and disability will be used to grant the relief concerned.

90.4 For example:

90.4.1 Will these criteria be a pre-qualifying factor – such that applicants from the wrong BBEEE status or race need not apply? Or will they be factors amongst many other factors – if so how much weight will these criteria carry relative to other factors?

90.4.2 How will these criteria be used and assessed? Does one need to have a specific BBBEE-level status under the BBBEE Codes to qualify or earn additional points? Or do all persons with a BBBEE-level status earn some points, but the better your status, the more points?

90.4.3 Will BBEEE status be measured using the generic scorecard under the BBBEE Act? Or will sector-specific scorecards apply?

90.5 There are literally no answers to any of this. This is because neither the "qualifying criteria" nor the "application forms" make any reference to BBBEE status, race, gender and so on as criterion for purpose of obtain the Covid-19 relief. All that applicants, decision-makers and the public have to go on are the vague statements by the Minister in Parliament that BBBEE status and the other criteria will definitely be used.

90.6 This is patently impermissible. It means that applicants are simply left in the dark about criteria that (potentially) affects the outcome of their

BM ZNM

application. Applicants are not only entitled to know what criteria they must meet; they have the right to know this in advance i.e. before they make the application. If they know the criteria, they will be able to ask questions if need be, particularly where they need clarification. Here, applicants have been left to operate in the dark.

90.7 On this basis alone, the decisions at issue to make use of these criteria are impermissible. The decisions are impermissibly vague, procedurally unfair and irrational and substantively unfair and irrational.

91 On these bases too, the DA is entitled to:

91.1 An order interdicting the third and fourth respondents from using these criteria for determining which persons or entities will receive funds under the Debt Finance Scheme and the Business Growth Resilience Fund; and

91.2 An order reviewing, setting aside and declaring unlawful the decision(s) of the third and/or fourth respondents to use these criteria for determining which persons or entities will receive funds under the Debt Finance Scheme and the Business Growth Resilience Fund.

92 In relation to the last of these orders, I again submit that the DA is entitled to such relief in terms of the Promotion of Administrative Justice Act 3 of 2000 and, in any event, in terms of the principle of legality.

VII. URGENCY

93 This matter is self-evidently urgent.

BM ZNM

94 Government has already begun inviting applications for assistance under the programmes at issue and people have been applying.

95 If Government has not already done so, it will no doubt extremely shortly begin:

95.1 Adjudicating those applications; and

95.2 Dispensing the funds concerned.

96 It is therefore extremely urgent that clarity be obtained on whether – as the DA contends – the use of these criteria for these programmes is impermissible. If the DA is correct, this must immediately be made clear by this Court so that these criteria are no longer used.

97 This is especially important given that there are no doubt limited funds available for these programmes. If applicants are wrongly excluded from benefitting from these programmes, on the basis of these criteria, and this is not determined urgently, by the time that this matter has been decided there will likely be insufficient funds to assist them at all.

98 The DA thus cannot obtain relief in the ordinary course and it is essential that it obtain this relief on an urgent basis.

98.1 After the revelation by the Minister on 28 April 2020, the DA immediately wrote to the Minister seeking clarity and trying to resolve the matter.

98.2 This application is being launched on 30 April 2020.

99 The DA therefore prays for the relief set out in the Notice of Motion.

BM ZNM

ZAKHELE NJABULO MBHELE

Signed and sworn to by the deponent at CAPE TOWN this 30th day of APRIL 2020, the deponent having acknowledged that he knows and understands the contents of this affidavit and the oath having been administered in the form and manner set out in Government Notice R1258 dated 21 July 1972, as amended by Government Notices R1648 dated 19 August 1977, R1428 dated 11 July 1980 and R774 dated 23 April 1982

COMMISSIONER OF OATHS

SOUTH AFRICAN POLICE SERVICE
STATION COMMANDER
CAPE TOWN
2020 -04- 30
CAPE TOWN
STATION COMMANDER
SOUTH AFRICAN POLICE SERVICE

RDM ZNM

EYEWITNESS NEWS

Ntshavheni: 51% black ownership requirement for funding is fake news

With small, medium and micro-enterprises set to be hardest hit by the national shutdown, there was fury at the suggestion that only companies that are majority black-owned would qualify for government assistance.

Minister of Small Business Development Khumbudzo Ntshavheni at an inter-ministerial briefing on 24 March 2020 detailing how government will respond ahead of and during the 21-day lockdown announced by President Cyril Ramaphosa. Picture: Kayleen Morgan/EWN.

- Coronavirus
- COVID-19
- Coronavirus in South Africa
- AfriForum
- Solidarity
- Small business

- Email
- Print

BM ZNM

- Tweet
-
-

Gaye Davis | about a month ago

CAPE TOWN - The government will not require small companies to have 51% black ownership in order to qualify for financial help.

Lobby group AfriForum and trade union Solidarity threatened to go to court after a draft document went viral on social media.

But on Tuesday, Small Business Development Minister Khumbudzo Ntshavheni dismissed the notion as "fake news".

With small, medium and micro-enterprises set to be hardest hit by the national shutdown, there was fury at the suggestion that only companies that are majority black-owned would qualify for government assistance.

Minister Khumbudzo Ntshavheni: "I also want to clarify the fake news that is going around that our support to small businesses has a requirement for 50% [51%] black ownership – we are supporting all small businesses in South Africa across the demographic spread of our population."

The business growth and resilience fund has been created to give local manufacturers and suppliers an opportunity to help produce medical and hygiene supplies required to fight COVID-19 and also to support efforts to ensure food security.

Ntshavheni said that the money would be made available at an interest rate of prime less 5%.

The minister said that there would be penalties for those who abused the fund.

"We are very clear that any misuse both by our officials and entrepreneurs who apply for the funding, we are going to make sure we apply to the letter of the law the provisions but we are also going to institute a penalty for everybody who misuses that facility [by having to repay] at prime plus 10%."

To track the latest developments around the coronavirus both in South Africa and abroad, click on this live status report from Strategix.

BM ZNM

Minde

MINDE SCHAPIRO & SMITH

JH2

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9000 (Direct Line) | **F:** 021 918 9070 (General) | 021 918 9070 (Direct Fax)
E: elzanne@mindes.co.za | **www.mindes.co.za**

Our Ref: DEM16/0710/E JONKER/ks | **Your Ref:** | **Date:** 10 April 2020

MINISTER OF SMALL BUSINESS DEVELOPMENT
MS K NTSHAVHENI
PER EMAIL: rnevhutshena@dsbd.gov.za; kwebo@dsbd.gov.za; GSithole@dsbd.gov.za

Dear Minister,

COVID-19 RELIEF FUND

1. I represent the Democratic Alliance (DA).

2. I write to you concerning your Department's provision of a debt relief finance scheme, and the business growth and resilience facilities to SMMEs.

3. The DA welcomes these initiatives to help struggling businesses at this difficult time.

4. However, my client wishes to raise two concerns about the operation of these programmes arising from the explanatory documents on your Department's website. I attach copies of these documents marked A and B.

5. First, the explanatory documents state that "priority will be given to businesses owned by Women, Youth and People with Disabilities".

6. The DA does not object to some preference being given to businesses owned by these groups. However, it is vital for there to be clarity about the nature of the "priority" that will be given to women, youth and people with disabilities.

7. The DA therefore requests that you indicate exactly how applications from these previously disadvantaged groups will be treated differently from applications from other business owners.

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1926 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB
Senior Associate: Gerhard Lourens FPSA® BA LLB
Associates: Andre van Breda B Comm LLB | Jhané Bezuidenhout LLB
Consultants: Gerhard van Reenen | Louis Meyer B Juris LLB | Rosalie Smit B Comm LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB Rolé Beeby BA LLB

Vat registration number: 4580257428 | *At Greenacres, Port Elizabeth

BM ZNM

MINDE SCHAPIRO & SMITH

8. Second, nothing in the qualifying criteria suggests that race will be a relevant criterion. However, the online application asks applicants about their race, and the race of their employees.

9. The DA seeks clarity whether the race of business owners and their employees is relevant to the distribution of funds, or is only being collected for statistical and reporting purposes.

10. With regard to both issues, the DA requires an answer by Wednesday 15 April 2020 in order to advise businesses accordingly and, if necessary, take further legal advice.

11. All our client's rights are reserved.

Yours sincerely

MINDE SCHAPIRO & SMITH INC.
E JONKER
(Electronically sent, therefore unsigned)

BM ZNM

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

BUSINESS GROWTH/ RESILIENCE FACILITIES

BENEFITTING SMMES

Businesses geared to take advantage of supply opportunities resulting from the Coronavirus pandemic or shortage of goods in the local market.

QUALIFYING CRITERIA

- The business must have been registered with CIPC by at least 28 February 2020;
- Company must be 100% owned by South African Citizens;
- Employees must be 70% South Africans;
- Priority will be given to businesses owned by Women, Youth and People with Disabilities;
- Be registered and compliant with SARS and UIF;
- For non-compliant Micro businesses, Seda will assist them to comply and request for assistance must be sent to: growthfund@seda.org.za;
- Registration on the National SMME Database: https://smmesa.gov.za/
- Complete the simplified online application form available from www.dsbd.gov.za; www.sefa.org.za: https://seda.org.za
- CIPC Registration Documents;
- FICA documents (e.g. Municipal accounts, letter from traditional authority);
- ID Copies of Directors/members;
- 3 months Bank Statements;
- Latest Annual Financial Statements or Management Accounts not older than three
- months from date of application;
- Business Profile;
- 6 months Cash Flow Projections – where applicable;
- Relevant Industry Certification – where applicable;
- Estimations for funding requested.

APPLICATION PROCESS

- Register on **https://smmesa.gov.za/**
- Complete online Application Form (to be released on Thursday, 02 April 2020);
- Upload Required Supporting Documents

EMAIL | HOTLINE

info@dsbd.gov.za **info@mybindu.org.za** **0860 663 7867** or **0860 ONE STOP**

sefa Small Enterprise Finance Agency

seda SMALL ENTERPRISE DEVELOPMENT AGENCY

BM

ZNM

DEBT RELIEF FINANCE SCHEME

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

BENEFITTING SMES

Businesses which are negatively affected, directly or indirectly, due to the Coronavirus pandemic;

QUALIFYING CRITERIA

- The business must have been registered with CIPC by at least 28 February 2020;
- Company must be 100% owned by South African Citizens;
- Employees must be 70% South Africans;
- Priority will be given to businesses owned by Women, Youth and People with Disabilities;
- Be registered and compliant with SARS and UIF;
- Seda will assist micro-enterprises to comply and request for assistance must be emailed to debtrelief@seda.org.za;
- Whereas small and medium enterprises must ensure own compliance;
- Registration on the National SMME Database – **https://smmesa.gov.za**
- Proof that the business is negatively affected by COVID-19 pandemic;
- Complete the simplified online application platform;
- Company Statutory Documents;
- FICA documents (e.g. Municipal accounts, letter from traditional authority);
- Certified ID Copies of Directors;
- 3 months Bank Statements;
- Latest Annual Financial Statements or Latest Management Accounts not older than three months from date of application – where applicable;
- Business Profile;
- 6 months Cash Flow Projections – where applicable;
- Copy of Lease Agreement or Proof ownership if applying for rental relief;
- If applying for payroll relief, details of employees - as registered with UIF and including banking details – will be required as payroll payments will be made directly to employees;
- SMME employers who are not compliant with UIF must register before applying for relief;
- Facility Statements of Other Funders;
- Detail breakdown on application of funds including salaries, rent etc.

APPLICATION PROCESS

- Register on https://smmesa.gov.za/
- Complete online Application Form (to be released on Thursday, 02 April 2020);
- Upload Required Supporting Documents

EMAIL

info@dsbd.gov.za

info@mybindu.org.za

HOTLINE

0860 663 7867 or
0860 ONE STOP

sefa

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY

BM ZNM

DSD / SASSA / NDA on COVID-19 challenges and response, with Minister

Social Development

22 April 2020

Chairperson: Mr M Gungubele (ANC); Ms M Gillion (ANC, Western Cape)

Share this page:

Meeting Summary

VIDEO: DSD COVID-19 response and challenges (incl food security programmes, GBV programmes and services for homeless people)

COVID-19: Regulations and Guidelines
Disaster Management Act 57 of 2002

The Minister of Social Development opened the "virtual" meeting by explaining the structures created for all sectors of government, to work in unison in the fight against COVID19. She assured the joint meeting of the Portfolio and Select Committees that the Department was working tirelessly to ensure that grants are paid, and social relief is provided.

The Department of Social Development (DSD), South African Social Security Agency (SASSA) and National Development Agency (NDA) briefings spoke about the food security programmes, GBV services and services for homeless people. The Department stated that it had met 10% of the national target of one million food parcels distributed to households. DSD was unable to furnish the Committee with exact statistics of GBV incidents that have occurred since lockdown. They have created a mobile app that will allow GBV victims to signal for help without having to call the Gender-Based Violence Command Centre directly.

The Committee was pleased that SASSA is working on a digital method for people to apply for grants as well as for the R350 Social Relief of Distress grant. This will apply to both smart and non-smart mobile phones. It will allow for others to apply on behalf of people who do not have a mobile phone or are not comfortable using one. The grants will then be paid to a bank account, e-wallet or other forms of cash transfer.

NDA has allocated R1.8 million to partner with 52 civil society organisations that provide ten volunteers each, amounting to 520 volunteers. The volunteers will be deployed to distribute food parcels and other necessities to the elderly and disabled in communities.

Members pointed out that the provision of food parcels was inadequate and lacked uniformity across the country. It was suggested that the MECs for each province join the next Committee meeting to account for what is happening in their province as they are responsible for implementation. Members mentioned corruption where local councillors were charging beneficiaries a delivery fee or were diverting food parcels to their own homes. A coherent protocol for delivery was needed for better oversight.

BM ZNM

Members welcomed the R350 Social Relief Distress Grant and were of the view that this intervention must be continued following the six-month period. They welcomed the food vouchers which would do away with corruption and provide choice. Members recommenced sanitary pads and baby formula be included in the provision of social relief.

Members were vocal about the lack of communication by the DSD and SASSA to the public. They suggested partnering with the SABC to display a banner at the bottom of television screens with grant information and the use of loud hailers and community radio stations be utilised for people in rural areas. It was also heavily recommended that SASSA offices reopen to provide a point of contact for the public.

DSD clarified that the "express tender", as dubbed by the media, to Kirinox was granted as the Department urgently needed food services and personal protective equipment given to homeless shelters. DSD was unable to pay the non-profit organisation (NPO) upfront as the process of obtaining money from the National Disaster Fund from the Reserve Bank is lengthy. They selected Kirinox as service provider as it had the capacity to do so from its own funds, they have a national footprint and could provide feedback to DSD. The Department had considered other NPOs such as the Gift of the Givers, however, it went with Kirinox.

Meeting report

The Chairperson assured South Africa that all spheres of government are working tirelessly to fight the plight which the virus has brought.

Minister opening remarks
Ms Lindiwe Zulu, Minister of Social Development, stated that the country is in this together. The government needs to do its best to serve the people of South Africa in these extraordinary times, which requires extraordinary action as well as the government being quick in its response.

The National Joint Operational and Intelligence Structure (NATJOINTS) was formed which is tasked with coordinating all information at national level through all the sectors. All departments are represented at NATJOINTS. Then there is the National Command Centre Council (NCCC) chaired by the President. There are the Clusters which people are already familiar with such as the social cluster, the economic cluster and security cluster and so on. These clusters discuss all issues faced at NATJOINTS which is then fed into the NCCC. The deliberations at the NCCC are fed into Cabinet where decisions are made.

The Department of Social Development (DSD), along with the National Development Agency (NDA) and South African Social Security Agency (SASSA), has formed a sub-structure referred to as the 'situation room' or the 'war room' as it does an analysis of the war against Corona. They have created these seven work streams besides service delivery which ensures business continuity and uninterrupted services:
(1) Partnership and Donor Funding formalises partnerships and manages the database of organisations and individuals who partner and donate to the Department
(2) Provincial Co-ordination co-ordinates the work that needs to be carried out in provinces and provides feedback to the situation room
(3) Communication co-ordinates media communication
(4) Finance co-ordinates budgeting and financing in coordination with institutional processes
(5) Monitoring and Evaluation ensures that all DSD work is analyzed using relevant tools
(6) Social Protection provides an integrated response towards social response and disaster relief

RM ZNM

(7) Social Security work stream.

The strategic leadership in the sector, Members of the Executive Council (MEC) and Premiers are to engage in intervening in some of the challenges. Everything that is decided needs to be adequately communicated to Provinces as they are the ones who perform all the implementation.

The Department was tasked with dealing with Regulation 6 and 7 of the Disaster Management Act. Regulation 6 refers to the shutting down of facilities such as Early Childhood Development (ECD) Centres and walk-in centres and so forth as well as dealing with issues escalated from Provinces to the Situation Room for intervention. All SASSA and DSD offices have been closed.

A new Risk Adjusted Approach to COVID19 lockdown has been introduced in the move to ease the lockdown. DSD is looking at what areas need to be dealt with to ease the lockdown. Guidelines were given to Provinces on implementation requirements. Various media sources were informed on the change in SASSA payment dates. SASSA has engaged with banks and retailers not to charge beneficiaries interest on transactions made.

The Chairperson stated that the biggest challenge is implementation and doing so effectively. The second challenge is suffocating all conditions conducive for corruption. Corruption can affect all interventions made by government and efforts made by the public. To curb corruption, Ministers should know the geographic distribution of finances so that they can pick up if there is any suspicious activity in their constituencies.

Department of Social Development (DSD) presentation

Mr Peter Netshipale, DSD Deputy Director-General: Integrated Development, stated that 253 Community Nutrition and Development Centres (CNDC) were mobilised as the mode of feeding members of the public changed. CNDCs could no longer provide cooked meals but rather prepared food parcels for existing people utilising the CNDC. The Department has provided 90 163 out of a targeted 1 000 000 households with food parcels. There was a particular focus on child headed households.

The Department has received R23 500 million from the Solidarity Fund to provide food parcels to households. The Department added R20 million to this amount. CNDCs are being utilised as well as volunteers to distribute food parcels. Not all citizens will receive food parcels, only those that have been identified and determined to be in need.

Ms Conny Nxumalo, DSD Deputy Director-General: Welfare Services, stated that DSD is committed to providing psycho-social support specially to protect children and other vulnerable groups. The Wuhan repatriates were included into this group. Social workers have been counselling students that remain in countries affected my COVID19 and are unable to return to South Africa. They are providing training to 87 command staff and social workers. An additional 19 command staff are being trained as standby staff, should the current staff fall ill. DSD is working closely with the Department of Cooperative Governance and Traditional Affairs (COGTA) to sustain the services for homeless people.

The Gender-Based Violence Command Centre (GBVCC) has been inundated with calls; however, most calls do not pertain to GBV but rather food parcel queries and some prank calls. It is assumed that GBV has increased at this time; however, the statistics on this are limited. Institutions such as old age homes are in lockdown and precautionary measures are in place.

RM ZNM

A directive has been created for the movement of children where parents have joint custody of children that stipulates that parents can travel with a child's birth certificate when moving children from one household to the other. This however was hard to police and therefore, permit form 5 was designed to help police on this.

Ms Brenda Sibeko, DSD Deputy Director General: Social Security, stated that the Department expected poverty to worsen especially amongst people working in the informal sector who are not covered by Unemployment Insurance Fund (UIF). Thus, the work of DSD would increase exponentially in dealing with people that are newly vulnerable due to the lockdown. Homeless shelters were unable to deal with the influx of homeless people and this rapid influx was not budgeted for. Gift of the Givers and other NPOs as well as the Disaster Relief Fund are instrumental in providing this social relief.

The R350 Social Relief Grant announced by the President is aimed at helping adults that do not benefit from other grants. DSD wanted to give more than R350; however, there are already 18 million grant beneficiaries. Thus the budget could provide only R350 for the additional six to eight million new grant beneficiaries.

SASSA presentation

Ms Busisiwe Memela-Khambula, Chief Executive Officer of SASSA, stated that there was pandemonium in April when collecting grants despite all the planning. People showed up at payment stations on days that were not their designated date for collection, trying to receive their grant early.

All SASSA local offices will be closed during the lockdown period and the management of these offices must be part of the pay-point monitoring teams. Applications for the Social Relief of Distress (SRD) grant must now be done telephonically where they were previously done at a SASSA office in the presence of a designated officer. SRD interventions are being provided to shelters identified by the government.

NDA presentation

Ms Thamo Mzobe, NDA CEO, stated that the NDA has allocated an amount of R1.8 million to partner with 52 civil society organisations that provide ten volunteers each, amounting to 520 volunteers. The volunteers will be deployed to different functions such as distribution of food parcels and other necessities to the elderly and disabled in communities. The volunteers will distribute information pamphlets in local languages. The pamphlets will be sourced from official publications supplied by the Department of Health and the National Institute for Communicable Diseases. The NDA has assessed the provision of hot meals and determined that the capacity for government to do so is not enough.

Discussion

Ms L van der Merwe (IFP) stated that the KZN COVID-19 toll-free number and WhatsApp line do not work. When you call it, you reach a voicemail service stating that the mailbox is full. The WhatsApp line is switched off and no information comes through. She asked the Department if they were aware of this and what was being done to rectify it.

Ms van der Merwe said that councillors are charging R5 for deliveries of food parcels or diverting parcels to their home for distribution. Food parcels need to be distributed using another system.

ZNM

RM

Going forward, will food parcels be standardised? This could limit corruption.

Ms van der Merwe stated that SASSA offices being closed has made it hard for people to find reliable information on COVID19 and instead they are falling victim to fake news being spread on WhatsApp broadcast messages. Thus SASSA offices should reopen. There was chaos at grant payment stations and people were not adhering to social distancing guidelines. What measures will be in place for the next payment date? She asked what the criteria are for the R350 Social Relief Grant.

The DSD and SASSA websites should have clear information about what forms are needed for the R350 grant application as well as partnering with SABC to have a constant thread at the bottom of the screen on the grant information.

How is DSD involved with the Strandfontein Homeless Centre? What oversight has DSD performed and what are their thoughts on this shelter? Sanitary pads are usually donated to women and young girls at CNDCs. However, now that CNDCs are not operating, what is DSD doing to provide vulnerable women with sanitary pads?

Ms B Masango (DA) said that it had come to her attention that some councillors were charging people R3 to fill in forms for social relief applications. She asked for the timeline for the new grant and when will the applications open.

According to the DSD presentation, 58 000 households received food parcels. How was this number determined? The move away from food parcels to e-vouchers is welcomed as this would curb corruption. What measures are being used to stop people from double dipping?

Ms D Ngwenya (EFF) stated that GBV has increased since the lockdown despite the GBV Command Centre not having the numbers. This matter should not be left at that, it needs to be researched. People are in their homes with their abusers, thus cannot make calls. How can these people alert authorities?

Cash transfers and e-vouchers were mentioned, how will people apply for these and what are the time frames?

Many homeless people struggle with drug addiction. Do they have medical access in homeless shelters when experiencing withdrawal symptoms? Is there a post-lockdown plan for continued rehabilitation of these people?

What progress has DSD made in registering new births as new mothers are unable to register their babies for grants? The Social Relief Grant is welcomed; however, it should go beyond six months. What is being done for children that are dependent on nutrition programmes at schools now that Early Childhood Development (ECD) programmes are closed?

Ms A Abrahams (DA) stated that there is a need for updated data in the presentation as some slides refer to data relevant up to 1 April 2020 whereas the date is currently 23 April 2020. According to slide 10, Mpumalanga and Limpopo have not given their staff Personal Protective Equipment (PPE), why is this? Some provinces have reached only a little over 100 households with food parcels, this is unacceptable. It would thus be beneficial for the MECs of each province to join the next Committee meeting to account for what is happening in their province as they are

ZNM

RM

responsible for implementation.

She agreed that COVID19 social relief will be needed for longer than six months as the effects of the virus and lockdown will be felt for subsequent months. The Social Income Grant has been recommended by committees since 2013 and again in 2018, what is the DSD response to these recommendations in wake of this pandemic?

Security personnel are arresting people that are volunteering by providing cooked meals. What is being done about this? People showed up at pay points on days other than their allocated date, how are people notified that their grants will not be available other than on the day they were told to collect? How is the lockdown affecting the foster care backlog? Communication channels between the Committee and DSD need to improve as the Members of the Committee are expected to have reliable information that they can convey to the public.

Mr M Bara (DA, Gauteng) said that he hopes the next SASSA payment date will not be chaotic. He asked what measures are in place to ensure the May payments will run smoothly. He echoed the need for further research on GBV in lockdown. The fight against GBV does not end just because the country is under lockdown. Post-lockdown, homeless people need continued support.

Mr R Mackenzie (DA; Western Cape) stated that the money set aside for food parcels will be insufficient as much of it will go to operational costs such as transport and security. Thus, food vouchers are a better option. He agreed that SASSA offices need to reopen to end fake news.

If there is a 10% achievement of the 1 million households target, how will DSD manage? Girls that received sanitary wear from initiatives carried out at school need to be provided with sanitary wear in lockdown.

Ms T Mphambo-Sibhukwana (DA) asked if families accommodated in temporary shelters will still have this support post-lockdown, especially for children. How is the quality of food being assessed? It has been reported that some food parcels were outdated. She asked what the criteria are for the R350 Social Relief Grant.

Ms D Christians (DA, Northern Cape) welcomed the idea of food vouchers. What mechanisms are in place for delivery of food parcels and other assistance? There is a lack of oversight especially in places such as the Northern Cape, how is DSD ensuring that people needing assistance in these areas are getting it?

Mr E Nchabeleng (ANC, Limpopo) stated that everyone within the South African border requires government assistance regardless of their country of origin. We need to share our resources with them and ensure nobody goes hungry. People who are inflating the prices of goods need to feel the full wrath of the law.

Ms M Suckers (ACDP) said that the picture on the ground is fragmented. There are a number of lessons to be learnt. There is a clear bottom up strategy but there needs to be a top down strategy as well. There needs to be joint oversight in different provinces to oversee the implantation of the interventions of DSD.

She asked that SASSA please indicate what scale-up of operations is occurring other than the call centres adding additional lines. There is a huge number of fraud cases being reported. What

monitoring and evaluation protocols are being carried out in provinces? What is the distribution model, who does it and who are the implementing agents?

The SASSA offices need to be opened. People do not know where to turn for information. There needs to be a strategy to improve communications with the public as well as to Members of the Committee as they are public representatives and are expected to have answers.

The missing middle and self-employed people also need assistance. There has been a call by this group for electricity and food. What engagements are being made with banks to further reprieve and relieve the burden of debt?

Mr D Stock (ANC) asked what the NDA is doing to see that people can actively participate in the redevelopment of the economy post-lockdown, so there is a creation of jobs and streamlining of economic development. Corruption is being heavily reported on social media. An incident of a R50 million procurement given to an organisation was posted on Honorable Bantu Holomisa's social media where he had written to the President to attend to the issue. He is unsure if this alleged corruption is indeed true. He asked DSD to please clarify the matter.

Ms L Arries (EFF) said that it is sad that it took COVID19 to open the country's eyes to the poverty faced by many. The EFF pushed for the increase of social grants and now we see how much this is actually needed. In the Karoo, 1 797 food parcels have been distributed. These food parcels go from Cape Town to George and then are delivered to the Karoo. Why is the procurement not done in the area? She asked for a list of NGOS providing food and PPE.

The social grants need to be continued post-pandemic. Looting of shops is evidence of how desperate people are. The issue of the Strandfontein Homeless Shelter is urgent. There is lack of DSD capacity in the Southern Cape Region of George and this needs to be looked at. SASSA needs to be open so food parcels are not being distributed by councillors. SASSA has better capacity to do these deliveries as they also have vehicles. Alternatively, food distribution centres can be established in malls across South Africa.

Ms S Luthuli (EFF, KZN) asked how effective DSD communication is for people in rural areas. Perhaps loud hailing and community radios can be utilised. She agreed that SASSA offices need to be reopened.

Ms J Manganye (ANC) asked how people are identified for food parcels if they are not on the SASSA system. She reported that people around her residential area which is a rural mining area in Brits are roaming the streets trying to find a means to get food. These people need to be targeted and assisted. It seems that the homeless people taken to shelters were identified in the big cities and not so much in small cities as she has seen homeless people around her small city roaming the streets. May DSD provide the Committee with the contact details of people in each district responsible for homeless shelters so that Members can communicate with them directly rather than wait for these meetings to deal with challenge?

Mr G Hendricks (Al Jama-ah) said that people on the Cape Flats are looting and rioting. Activists are making meals for people out of their own pockets and some have been jailed for doing this by breaking the lockdown guidelines. However, these rules need to be relaxed for people providing assistance to communities.

Ms A Motaung (ANC) asked DSD to provide clarity on the turnaround time for calls to the SASSA hotline. Many communities are disadvantaged due to high levels of unemployment. SASSA offices need to be reopened.

Ms N Ndongeni (ANC, Eastern Cape) asked what measures will be taken against vendors who have provided expired food to people. She noted the case in Butterworth, Eastern Cape. She agreed that SASSA needs to communicate all information on all community radio stations.

Ms M Gillion (Western Cape) asked about monitoring and evaluation for local municipalities not implementing the measures for homeless people. She emphasised that playing politics needs to end. Thus, every MEC and MP need to do their oversight role. DSD and the Department of Basic Education need to give a coherent message on school feeding schemes. DSD needs to look into providing baby formula for mothers and caregivers of infants.

DSD responses

Ms Nxumalo, DSD, replied the lockdown homeless shelters are issued with medical help for persons with addiction. All shelters are encouraged to send people to hospital when experiencing withdrawals. DSD is in the progress of creating norms and standards to guide municipalities in running these facilities correctly in a uniform fashion. DSD is aware of the Strandfontein homeless shelter and the Western Cape government has been contacted on this. GBV and human rights issues need to be dealt with in these facilities.

The Foster Care court deadline will confront DSD later. Children courts are open; however, social workers on the ground need to assist with ensuring these cases are extended. All Heads of Departments in the provinces have received communication to continue with the foster care process.

Although there are no finalised statistics for GBV in the lockdown period, this does not mean it is not happening. DSD has engaged with civil society on this and this has influenced the development of an app that is linked to the GBVCC. A mobile phone is the only access people have to the outside world while in lockdown. This is the only current intervention.

Ms Sibeko, DSD, replied that people who work in, informal or precarious work are unable to make an income due to the lockdown. This income is usually used in conjunction with a grant, most often the Child Support Grant, to sustain households. Thus, the Child Support Grant has an additional R300 added for one month only thereafter each child caregiver will be given R500 per month to supplement the household expenses which they would have covered through informal labour.

The criteria for the Social Relief of Distress Grant is targeted at people who have no income, do not receive any other grant, do not benefit from UIF or NSFAS. SASSA is working with the South African Revenue Service (SARS) to determine people that do have some income and ensuring that they are excluded from the grant to prevent inclusion errors. Excluding people from the grant who are in a household with other people that do receive an income is challenging and this will result in an inclusion error in this regard.

The missing middle is indeed a challenge; however, these people are able to benefit from UIF. Basic Income Grant proposal stated that everyone in South Africa should have some form of income but financing this was the biggest challenge. Thus, vulnerable groups were prioritised as

RM ZNM

the fiscus was able to fund these grants. There are inclusion issues as it seems that people who have higher incomes do not benefit as much as lower income people. DSD recognises this as well as the need for the grant to be continued beyond the six months as stipulated however, DSD will create interventions not necessarily through the provision of funds but through skills training, cooperatives and job creation initiatives after the six month period.

Homeless people were spread across the country, however, many municipalities did not have the capacity for the sudden need to provide shelter for a large number of homeless people as well as food and PPE provision. DSD was in desperate need for standardised provision of food and PPE in homeless shelters across South Africa and thus it utilised a non-profit organisation (NPO), Kirinox, as it has a national footprint and could provide adequate feedback to DSD. DSD was unable to pay the NPO upfront as the process of obtaining money from the National Disaster Fund from the Reserve Bank is lengthy. Thus the NPO had to have its own funds and procurement capacity. DSD considered other NPOs such as the Gift of the Givers, however, it went with Kirinox. The Minister did say that the Department rushed the appointment of the NPO.

Mr Netshipale, DSD, replied that food security interventions have come from many agencies from provinces, donors and local government. This presents many challenges with how to monitor implementation. There is a system of targeted people that were already utilising CNDCs. There were approximately 250 people eating at each of the 235 Community Nutrition and Development Centres (CNDC) per day. This totals 58 750 households. These were listed, profiled and are in a database. DSD is not using their own friends to deliver food parcels. The 235 CNDCs and nine food distribution centres across the provinces assist in delivering food to people. In addition, there are 520 NDA volunteers to help distribute food parcels. These are standardised food parcels according to the Social Assistance Act. The need in each province is different, thus in local areas it may differ. If food items are rotten in food parcels, it must be reported.

SASSA responses

Ms Memela-Khambula, SASSA CEO, replied that it is not her call to reopen SASSA offices as this was a Presidential instruction. There needs to be alternative arrangements for people to access information. SASSA is in the process of slowly opening offices with the managerial staff back in SASSA offices. However, local offices are still not open and there is no indication yet of when they will open.

Community leaders help with applications for grants however, people can apply at their own capacity. SASSA has undergone a procurement process for service providers that will provide the SRD grant in such a way that social distancing measures can be adhered to.

Registration for child births is done at hospitals where they are provided with birth certificates. The birth certificates are brought to a SASSA office when applying for a grant; however, SASSA is working on automating this process in the future.

Ms Dianne Dunkerley, SASSA Executive Manager: Grants Administration, replied that SASSA has built a front end that will allow for applications to be done via WhatsApp and Unstructured Supplementary Service Data (USSD) platforms for the SRD grant. The WhatsApp/USSD application will the go to SASSA where they will accept or reject the application. This process is being tested and once approved, the application process will be made known to the public. SASSA is working on the backend of the platform that will allow them the transfer money to the beneficiaries using a bank account, e-wallet or cash-send kind of mechanism so that they can

PM ZNM

stop the food parcels. It will be an effective way to get money to people where they can exercise their choice on how they want to spend their money. This will be the same process utilised for the R350 grant. Thus the application will not need physical forms to be filled in. The digital platform will also give applicants the ability to choose whether they are applying for the grant themselves or doing so on behalf of a person for those who do not have a phone or are not comfortable using one. The Social Assistance Act states that SASSA is able to provide relief only to South African citizens, permanent residents and to documented refugees. Thus, relief to foreign people in South Africa is limited and other organisations need to provide this relief as SASSA is unable to.

The Chairperson stated that monitoring and evaluation of these interventions are not optional even despite the difficulty of the circumstances. He emphasised that there needs to be a clear means and criteria for food parcels. What are the processes from the food bank to the people? That process needs to be defined as Members will not be able to perform oversight.

Minister's response

Minister Zulu stated that the departments are going through the Risk Adjusted Approach to COVID19. She appealed to DSD, NDA and SASSA to analyze their respective services to find what needs to be eased and what should not be eased using the Risk Adjusted Approach. Opening the SASSA offices will need to be done with the approval of other departments such as Health and Police. This matter will be taken to NETJOINTS and NCCC for consideration. COVID19 is a moving target and thus DSD will have to find a way to adequately communicate more and more to the Members of the Committee. DSD will clarify the criteria and further guidelines for the SRD grant with the public. DSD must not lose sight of who they are and what services they provide regardless of COVID19. Other services such as for children and orphanages still need to be adequately provided for; otherwise when COVID19 is over, these services will be a new great problem.

Closing remarks

Ms Gillion, Co-Chairperson, thanked everyone and applauded them for their efforts at this time. She assured the country that the Committee wants to bring the necessary relief to the people on the ground. She asked the public to continue to adhere to government instructions and the lockdown.

The Chairperson emphasised the need for monitoring and evaluation regardless of how difficult the circumstances may be.

Meeting adjourned.

ZNM

PM

Mindes

MINDE SCHAPIRO & SMITH

JH4

Docex 1 | Tygerberg
PO Box 4040 | Tyger Valley | 7536 | South Africa
Tyger Valley Office Park | Building Number 2 | Cnr Willie van Schoor & Old Oak Roads | Bellville
T: 021 918 9000 | 021 918 9000 (Direct Line) | **F:** 021 918 9070 (General) | 021 918 9070 (Direct Fax)
E: elzanne@mindes.co.za | **www.mindes.co.za**

Our Ref: DEM16/0710/E JONKER/ks | **Your Ref:** | **Date:** 28 April 2020

MINISTER OF SMALL BUSINESS DEVELOPMENT
MS K NTSHAVHENI
PER EMAIL: rnevhutshena@dsbd.gov.za; kwebo@dsbd.gov.za; GSithole@dsbd.gov.za

Dear Minister,

COVID-19 RELIEF FUND

1. We write on behalf of the DA.

2. We refer to the letter we sent you on 10 April 2020 concerning your Department's provision of a debt relief finance scheme, and the business growth/ resilience facility to SMMEs (the Funds).

3. In that letter we asked for clarity on whether or not the race of business owners and their employees is relevant to the distribution of funds, or is only being collected for statistical and reporting purposes. I attach a copy of the letter marked A.

4. We have not had the courtesy of a reply.

5. We repeat that the terms of the explanatory documents available on your Department's website do not mention race at all. I attach those documents again marked B and C. The application form, however, requires the applicant to state the race of the business owner and of the business' employees.

6. Earlier today, you addressed a joint meeting of Parliament's Portfolio Committee of Small Business Development and the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour.

7. You were asked whether BEE criteria would apply in the distribution of these funds. You stated unambiguously that race would be considered. In your words:

Minde Schapiro & Smith Incorporated | Attorneys Notaries & Conveyancers since 1926 | Registration number 2010/025182/21

Directors: Heinrich Crous BA LLB | Elzanne Jonker BA LLB | *Jonathan Rubin B Comm LLB LLM | Venesen Reddy LLB
Senior Associate: Gerhard Lourens FPSA® BA LLB
Associates: Andre van Breda B Comm LLB | Jhané Bezuidenhout LLB
Consultants: Gerhard van Reenen | Louis Meyer B Juris LLB | Rosalie Smit B Comm LLB | Marianne Olivier B Comm LLB LLM | Marais Hoon BA LLB Rolé Beeby BA LLB

Vat registration number: 4580257428 | *At Greenacres, Port Elizabeth

ZNM

BM

"BBBEE is a requirement, is a fundamental requirement for transforming the economy of this country. We cannot choose as and when we use it. BBBEE is a critical requirement. We need South Africans, all of us, to own and have a share in the economy of the country. So, when applications come through, we evaluate them on their need, but we consider demographic representation. Which does not only include race. It includes gender; it includes geographic location; it includes age, which is youth; it also includes people with disabilities."

8. You did not, however, explain how race would be considered in evaluating applications, or what the legal basis is for making race a criterion for the award of disaster relief funding.

9. Accordingly, we demand that you answer the following questions by 17:00 on 29 April 2020:

   9.1. In terms of what law or policy is race considered in the evaluation of applications?

   9.2. What role does race play in evaluating applications for relief?

10. If we do not receive a response, then:

   10.1. In light of your statements to the Portfolio Committee, the DA will be constrained to conclude that race is being considered in the evaluation of applications; and

   10.2. The DA will approach the High Court for appropriate, urgent relief to prevent the unlawful use of race in relation to Covid-19 funds, and unfair discrimination on the basis of race.

11. Our client's rights are reserved.

MINDE SCHAPIRO & SMITH INC.
E JONKER
(Electronically sent, therefore unsigned)

ZNM

BM

JH5

DEBT RELIEF FINANCE SCHEME

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

BENEFITTING SMES

Businesses which are negatively affected, directly or indirectly, due to the Coronavirus pandemic;

QUALIFYING CRITERIA

- The business must have been registered with CIPC by at least 28 February 2020;
- Company must be 100% owned by South African Citizens;
- Employees must be 70% South Africans;
- Priority will be given to businesses owned by Women, Youth and People with Disabilities;
- Be registered and compliant with SARS and UIF;
- Seda will assist micro-enterprises to comply and request for assistance must be emailed to debtrelief@seda.org.za;
- Whereas small and medium enterprises must ensure own compliance;
- Registration on the National SMME Database – **https://smmesa.gov.za**
- Proof that the business is negatively affected by COVID-19 pandemic;
- Complete the simplified online application platform;
- Company Statutory Documents;
- FICA documents (e.g. Municipal accounts, letter from traditional authority);
- Certified ID Copies of Directors;
- 3 months Bank Statements;
- Latest Annual Financial Statements or Latest Management Accounts not older than three months from date of application – where applicable;
- Business Profile;
- 6 months Cash Flow Projections – where applicable;
- Copy of Lease Agreement or Proof ownership if applying for rental relief;
- If applying for payroll relief, details of employees - as registered with UIF and including banking details – will be required as payroll payments will be made directly to employees;
- SMME employers who are not compliant with UIF must register before applying for relief;
- Facility Statements of Other Funders;
- Detail breakdown on application of funds including salaries, rent etc.

APPLICATION PROCESS

- Register on https://smmesa.gov.za/
- Complete online Application Form (to be released on Thursday, 02 April 2020);
- Upload Required Supporting Documents

EMAIL

HOTLINE

info@dsbd.gov.za info@mybindu.org.za 0860 663 7867 or 0860 ONE STOP

sefa Small Enterprise Finance Agency

seda SMALL ENTERPRISE DEVELOPMENT AGENCY

PDM ZNM

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

BUSINESS GROWTH/ RESILIENCE FACILITIES

BENEFITTING SMMES

Businesses geared to take advantage of supply opportunities resulting from the Coronavirus pandemic or shortage of goods in the local market.

QUALIFYING CRITERIA

- The business must have been registered with CIPC by at least 28 February 2020;
- Company must be 100% owned by South African Citizens;
- Employees must be 70% South Africans;
- Priority will be given to businesses owned by Women, Youth and People with Disabilities;
- Be registered and compliant with SARS and UIF;
- For non-compliant Micro businesses, Seda will assist them to comply and request for assistance must be sent to: growthfund@seda.org.za;
- Registration on the National SMME Database: https://smmesa.gov.za/
- Complete the simplified online application form available from www.dsbd.gov.za; www.sefa.org.za: https://seda.org.za
- CIPC Registration Documents;
- FICA documents (e.g. Municipal accounts, letter from traditional authority);
- ID Copies of Directors/members;
- 3 months Bank Statements;
- Latest Annual Financial Statements or Management Accounts not older than three
- months from date of application;
- Business Profile;
- 6 months Cash Flow Projections – where applicable;
- Relevant Industry Certification – where applicable;
- Estimations for funding requested.

APPLICATION PROCESS

- Register on **https://smmesa.gov.za/**
- Complete online Application Form (to be released on Thursday, 02 April 2020);
- Upload Required Supporting Documents

EMAIL

HOTLINE

info@dsbd.gov.za **info@mybindu.org.za** **0860 663 7867** or **0860 ONE STOP**

sefa Small Enterprise Finance Agency

seda SMALL ENTERPRISE DEVELOPMENT AGENCY

RM ZNM

JH6

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY
an agency of the dsbd

sefa
Small Enterprise Finance Agency

COVID-19 SMME COMMON APPLICATION FORM

WHAT ARE YOU APPLYING FOR? PLEASE TICK ONE OF THE FOLLOWING:	
Business Growth /Resilience Facility (complete and send to bizgrowth@sefa.org.za)	Debt Relief Finance (complete and send to smmerelief@sefa.org.za)
Please select facility	

1. CONTACT PERSON	
First name(s)	
Surname	
ID Number	
Telephone number (landline)	
Cell phone number	
Email address	

2. COMPANY INFORMATION	
SMME Database Reg No:	
Organisation Type:	
Company registered name:	
Registration number:	
Trading name:	
Date registered:	
Date started operating:	
Financial Year-end:	
CSD Registration Number:	
Physical address:	
Postal address:	
Town:	
District:	
Province:	

BM ZNM

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY
an agency of the dsbd

sefa
Small Enterprise Finance Agency

COVID-19 SMME COMMON APPLICATION FORM

3. INDUSTRY OR SECTOR (only applies for Business Growth/Resilience)	
Applicable sector for your main income	
4. LIST OF PRODUCTS AND SERVICES	
5. CLIENT/POTENTIAL CLIENTS	
a. Business Growth & Resilience Facility	
Who are your 3 most recent clients?	
Who are your 3 target clients?	
b. SMME Debt Relief Finance	
Who are your 3 most recent clients?	
How do you plan to resuscitate your business?	

ZNM

RM

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY
an agency of the dsbd

sefa
Small Enterprise Finance Agency

COVID-19 SMME COMMON APPLICATION FORM

6. FUNDING REQUIREMENTS

Total amount of other (external) funding	

Important to note:

1. You may only apply for one intervention
2. Funding will be dependent on the level of financial distress calculated on the average of the last 3 months.

Business Growth Facility	**Debt Relief Finance**
Categories: • Micro R50 000 – R250 000 • Small R250 001 – R 2 5 00 000 • Medium R 2 500 001 – R 5 000 000	• No historical Municipal Debt Municipal accounts capped at R 5000 • NB: salary payment scales will be in line with UIF scale • Companies contributing to UIF must claim from UIF but the companies eligible for funding must register with UIF

☐ stock	☐ salaries
☐ bridging finance	☐ rent
☐ purchase order	☐ municipal accounts
☐ business equipment	

7. EXISTING CREDIT INFORMATION (NOT SPAZA SHOPS) IF APPLICABLE

8. WHO DO YOU PROCURE INPUTS FROM (RAW MATERIALS)

ZNM

BM

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY
an agency of the dsbd

sefa
Small Enterprise Finance Agency

COVID-19 SMME COMMON APPLICATION FORM

9. COMPLIANCE ENVIRONMENT

Outline compliance in terms of the applicable standards, such as: **(Yes/ No/ N/A)**

Health and safety	**Yes/ No/ N/A**
Municipal by-laws	**Yes/ No/ N/A**
SARS	**Yes/ No/ N/A**
Labour laws: UIF & Compensation Fund	**Yes/ No/ N/A**
Applicable industry laws	**Yes/ No/ N/A**
Membership of industry bodies	**Yes/ No/ N/A**

10. LIST OF ADDITIONAL DOCUMENTS (by email)

- Company Statutory Documents;
  - CIPC,
  - SARS,
  - CSD optional
- FICA documents (e.g. Municipal accounts, letter from traditional authority)
- ID Copies of Directors
- 3 months Bank Statements
- Latest Annual Financial Statements or Latest Management Accounts (Statement of Financial Performance and Statement of Financial Position) – **where applicable**
- Business Profile
- Project Execution Plan (applicable for Business Growth)
- Municipal trade permit (applicable to the spaza shops)
- 6 months Cash Flow Projections – **where applicable**
- Copy of Lease Agreement or Proof ownership (applicable for Debt Relief Finance)
- Relevant Industry Certification – **where applicable**
- Copy of Contract or Order
- Facility Statements of Other Funders - **where applicable**
- Estimations for applied funding

ZNM

BM

small business development
Department:
Small Business Development
REPUBLIC OF SOUTH AFRICA

seda
SMALL ENTERPRISE DEVELOPMENT AGENCY
an agency of the dsbd

sefa
Small Enterprise Finance Agency

COVID-19 SMME COMMON APPLICATION FORM

DECLARATION AND CONSENT

I/We, the undersigned declare that the information provided in this application form is to the best of my/our knowledge true and complete.

I/We also understand that any wilful misrepresentation of the information in this application form will disqualify my/our application and may lead to legal action against me/us including the laying of criminal charges against me/us as sureties as well as against the entity I/we represent for furnishing false statement or information to the Department of Small Business Development (**DSBD**), Small Enterprise Finance Agency (SOC) Ltd (**sefa**) and Small Enterprise Development Agency (SOC) Ltd (**seda**) hereto referred as the **DSBD Portfolio**.

I/We hereby grant the **DSBD Portfolio** consent to perform an entity/personal search and check on my/our records with any other party (e.g. credit bureau and/or a government agency) relating to this application.

I/We further authorise the **DSBD Portfolio** to disclose my/our personal information to these parties to obtain the information they require and acknowledge that the **DSBD Portfolio** will never disclose more information than they are required to.

DSBD Portfolio warrants that it will treat your personal information as confidential and take all necessary steps to protect your information as required by the Protection of Personal Information Act of 2013.

DSBD Portfolio will only disclose your information if:

- The law requires us to do so;
- It is in the public interest to do so;
- Our interests require disclosure; or
- You have given us your consent.

Surname	
Full Name(s)	
Designation	
Signature	
Place	
Date	

Please select facility

ZNM

BM