

# High Court rules SRD grant should be available to asylum seekers, special permit holders

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On 18 June 2020, the Gauteng High Court gave judgment declaring that eligible special permit holders, and asylum seekers with visas valid on 15 March 2020 can access the Covid-19 Social Relief of Distress grant. Clause 6(viii)(cc)(i) of the Directions issued by the Minister of Social Development on 30 March and amended on 9 May 2020, in terms of the Disaster Management Act of 2002 were declared unlawful, unconstitutional and invalid to the extent that they exclude such access.



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The Covid-19 SRD grant was established by the government to assist the most vulnerable members of our society who have been negatively impacted by the Covid-19 pandemic and do not have access to any other form of assistance or income. Only South African citizens, refugee status holders and permanent residents were eligible to apply for the grant, which is available for six months from May 2020.

The Scalabrini Centre of Cape Town, represented pro bono by Norton Rose Fulbright and advocates Emma Webber and Cingashe Tabata, launched an urgent application regarding the exclusion of asylum seekers and individuals on special permits from Lesotho, Angola and Zimbabwe from receiving the Covid-19 SRD grant.

The Scalabrini Centre argued that the amended directions were unconstitutional because they infringed on the right to equality, human dignity and the right to social assistance of special permit holders and asylum seekers.



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This judgment is significant as, along with the rest of the nation, special permit holders and asylum seekers have faced extreme adversity during the lockdown period. Many have lost their jobs, or have been forced to close down their

businesses. They have had their bank accounts frozen. They have been unable to access the majority of governmental financial relief packets. They have been unable to provide for their basic needs such as food, rent and electricity.

According to the judgment, with effect from 18 June 2020, eligible special permit holders and asylum seekers whose asylum seeker permits are or were valid on 15 March will be able to apply for the Covid-19 SRD grant. Eligible special permit holders and asylum seekers who are successful in applying for the Covid-19 SRD grant will be entitled to payment of the grant as if their grants had been approved on 18 June 2020.

The Minister of Social Development with the assistance of the relevant departments have been given five days by the court to assess the quantification of the costs that will be incurred in extending the Covid-19 SRD grant and a further five days thereafter to amend the directions to reflect the extension.

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