

LAW NO. 2003/15

ON THE SOCIAL ASSISTANCE SCHEME IN KOSOVO

The Assembly of Kosovo,

Pursuant to the authority given to it under United Nations Interim Administrative Mission in Kosovo (UNMIK) Regulation No. 2001/9 of 15th May 2001 'On the Constitutional Framework for Provisional Self-government'.

Taking into account Annex VII part (xi) of United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2001/19 of 13 September 2001 on the Provisional Institutions of Self-Government.

For the purpose of providing a social safety net within the broader context of the social protection system in Kosovo and alleviating poverty by providing Social Assistance to poor and vulnerable families in need,
Hereby adopts the following law:

Section 1

This Law set out the Social Assistance Schema of Kosovo in order to protect and care of families risked to the social point of view.

Section 2
Definitions

For the purposes of this law:

2.1. A 'family' is composed of those persons whose needs are considered in determining eligibility and the amount of the Social Assistance, and shall be defined as being made up of the applicant or recipient and all of the following family members that are present in the household: his or her spouse or co-habiting partner, parents and children, including adopted, fostered, or children of the spouse. Therefore, the family can comprise of the applicant or recipient and one, two, three or more family members, depending on who is present in the household. An individual with no other family members present in the household will be considered a family for the purposes of this Law. A person may only be an eligible member of one family.

2.2. Family members who are:

- i. aged sixty-five (65) years or older,
or,
- ii. disabled persons, when they are in receipt of a benefit from any future scheme of Disability Pension, funded by the Kosovo Consolidated Budget, with an individual entitlement,
or
- iii. being paid under Regulation 2000/66, which governs the scheme of 'Benefits for the war invalids of Kosovo and for the next of kin of those who died as a result of the armed conflict in Kosovo'

shall be included in the definition of the family, set out in sub-section 2.1

However, such family members - whilst being included in the definition of the family - shall not be taken into account when calculating the size of the family that determines the amount of Social Assistance to be awarded to the family. The only exception shall be family members who are in receipt of a payment under Regulation 2000/66, which governs the scheme of 'Benefits for the war invalids of Kosovo and for the next

of kin of those who died as a result of the armed conflict in Kosovo'. In such cases family members who are in receipt of a payment under Regulation 2000/66 will have their membership of that family counted when determining the size of the family for payment of Social Assistance.

- 2.3 A 'Disability Pension' means any social security payment made to persons who are deemed disabled under legislation enacted by the Kosovo Assembly and which governs such a scheme of payments.
- 2.4 A 'household' shall be defined as being a group of individuals living together and sharing living costs. The household may include persons who are not members of the family for the purposes of this Law.
- 2.5 An 'orphan' shall be defined as a child both of whose parents are deceased, or who was born to a single parent who has deceased.
- 2.6 A 'single parent' shall be defined as the parent or legal guardian of a child up to and including the age of eighteen (18) years, who lives with the child and is solely, legally and financially responsible for the child.
- 2.7 A 'dependant' shall be defined as an individual who belongs to one of the following groups:
- i. Persons who are over 18 years of age and who have permanent and severe disabilities rendering them unable to work for remuneration;
 - ii. Persons who are sixty-five (65) years of age or older;
 - iii. Full-time carers of a person(s) with permanent disability, or of a person(s) at or over the age of sixty-five (65) needing full-time care, or of a child(ren) under the age of five (5);
 - iv. Persons up to fourteen (14) years of age;
 - v. Persons between the ages of fifteen (15) and eighteen (18) inclusive and who are in full-time secondary education;
 - vi. Single parents with at least one child under the age of fifteen (15).

For the purposes of this Law persons who belong to any group listed in subparagraph (i) to (vi) above are considered not to be capable or available for work for remuneration.

- 2.8 A 'Doctor's Commission' means a panel of medical experts established or approved by the Ministry of Labour and Social Welfare for the purpose of determining the medical condition, including the severity of such a condition, of any person or family member who is covered by this Law.
- 2.9 A person will be considered to be permanently and severely disabled if they are aged over 18 years and less than 65 years and are either physically disabled or mentally disabled and are incapable of work for remuneration. Permanent and severe disability is defined as mental disability or physical disability to a degree of not less than 80 percent, such disablement rendering the person not capable of work at the time of application and for a period of not less than two years immediately following the application.
- 2.10 A 'means test' as referred to in an Administrative Instruction(s) that accompanies this Law refers to an assessment of reckonable and non-reckonable income and reckonable and non-reckonable assets. The means test shall be used for the assessment of the financial criteria as stipulated in Section 5 and for the calculation of the net amount of Social Assistance to be paid.
- 2.11 "The Ministry" means The Ministry of Labour and Social Welfare.

Section 3
Social Assistance Scheme

- 3.1 The Social Assistance Scheme shall provide financial support to eligible families in accordance with the criteria set forth in this Law and within the resources allocated for this purpose in the Kosovo Consolidated Budget.
- 3.2 The Ministry of Labour and Social Welfare (hereinafter referred to as the “Ministry”) has designated the Centres for Social Work (hereinafter referred to as “designated authorities”) to administer the Social Assistance Scheme. The Ministry may designate other bodies to administer the scheme and may also make provision for direct administration of the Social Assistance Scheme by the Ministry.

Section 4

Non-Financial Criteria for Social Assistance

- 4.1 In order to be eligible for social assistance, all family members must be habitually residing in Kosovo and the families must fall within one of the following two categories:
- (a) **Category One.**
A family where all family members are dependants, as defined in sub-section 2.7 of this Law, *and* where such dependants are not working.
- (b) **Category Two.**
A family where there is a family member able to work *and* where there is:
- (i) at least one child under the age of five (5),
and/or
- (ii) an orphan under the age of fifteen (15), in its full-time care.

All family members within this Category Two must either be a dependant, as defined in sub-section 2.7 of this Law, or be registered as unemployed with the Employment Offices of the Ministry.

- 4.2 Persons who have reached eighteen (18) years of age and who have completed secondary education shall be deemed to be capable of or available for work, even if they are enrolled into a full-time education or training programme.
- 4.3 Persons who:
- (a) reside in, *or*
- (b) who are confined in *or* who are supported by institutions including psychiatric establishments, homes for the elderly, religious establishments, residential schools and prisons,

are not eligible for Social Assistance payments under this Law.

Section 5

Financial Criteria for Social Assistance

- 5.1 Further to the requirements set out in Section 4 above, the additional factors set out in this Section 5 shall be considered by the designated authorities when assessing eligibility for Social Assistance.
- 5.2 In order to be eligible for Social Assistance, an applicant or recipient must meet financial eligibility requirements. An applicant or recipient meets the financial eligibility requirements only if they satisfy the following conditions:
- (a) He or she has reckonable assets below the limits allowable. These asset limits will be specified in an Administrative Instruction (hereinafter referred to as “Instruction”) to be issued by the Ministry.
and

(b) If he or she has net reckonable income (after appropriate deductions) below the Monthly Gross Standard Rate applicable to that family, specified in sub-section 9.1

- 5.3 Assets may be reckonable or non-reckonable for determination of financial eligibility. Reckonable assets are all assets that are considered for financial eligibility determination. Non-reckonable assets are all assets that are exempt from financial eligibility consideration. All assets shall be considered reckonable unless defined as non-reckonable.

Reckonable assets are objects of value that shall include but not be limited to: lump-sum payments from the system of Individual Savings Pensions to the participants or their beneficiaries – as provided for in Regulation 2001/35, certain other lump-sum payments, private or family businesses, property, certain types of real estate, land, and operational vehicles with the potential for generating income. The Instruction shall specify types of reckonable and non-reckonable assets, and principles of valuation of the assets. In the month in which lump sums are received they shall be treated as reckonable income. For subsequent months these lump sums will be treated as reckonable assets.

- 5.4 Possession of, or beneficial access to, certain types of asset may disqualify a family from qualification for Social Assistance. Such assets will be defined in the Instruction.
- 5.5 Non-reckonable assets shall include, but not be limited to: family member's savings in the individual accounts in the system of Mandatory Individual Savings Pensions (as defined under section 2.3 in Regulation 2001/35); property used as the primary residence of the family; a motor vehicle used solely by the family for domestic purposes and not used to generate income; land below the limits stipulated in the Instruction. The Instruction shall specify the maximum size of a plot of land that will be considered as non-reckonable.
- 5.6 Income may be reckonable or non-reckonable for determination of financial eligibility or calculation of the amount of assistance. Reckonable income is all income that is considered for financial eligibility determination. Non-reckonable income is all income that is exempt from financial eligibility consideration. All income shall be considered reckonable unless defined as non-reckonable.
- 5.7 Reckonable income shall include, but not be limited to: earned and unearned income, in-kind income, rent, remittances, benefits awarded to family members under Regulation 2000/66, which governs the scheme of 'Benefits for the war invalids of Kosovo and for the next of kin of those who died as a result of the armed conflict in Kosovo', pensions from the system of Individual Savings Pensions and Supplementary Individual or Employer Pensions – as provided for in Regulation 2001/35, pensions received from outside Kosovo, certain lump sum payments, and other types of income as specified in the Instruction.

Non-reckonable income shall include: Basic Pension (as defined in Regulation 2001/35 and in the Law on the Methodology for setting the level of basic Pension in Kosovo), Disability Pension (as defined in sub-section 2.3 of this Law), certain lump sum payments, one-off payments to families eligible for Social Assistance as specified in this Law, home produce for consumption by the family, certain types of loans and grants and other types of income as specified in the Instruction.

- 5.8 The Instruction may specify types of deductions to be applied against reckonable income or reckonable assets.
- 5.9 Subject to 5.5, if the value of the family's reckonable assets is below the appropriate limit of the monthly asset test (as set out in the Instruction) **and** if the reckonable monthly income of the family (after appropriate deductions) is below the applicable Monthly Gross Standard Rate (as set out in sub-section 9.1) **then** the family is financially eligible for Social Assistance.

Section 6
Application for Social Assistance

- 6.1 The designated authorities shall accept applications from families that consider themselves eligible for Social Assistance under sub-section 4.1 (a) or sub-section 4.1 (b) above. A family cannot submit an application for Social Assistance to more than one designated authority at any one time. Only one designated authority may award Social Assistance to a family at any one time.
- 6.2 Families applying on the basis of one or more family members being permanently and severely disabled will have such person/s' medical condition reviewed by a Doctor's Commission. The work procedures for the Doctor's Commission and the procedures, criteria and methodology for assessment and review of the level and type of disability shall be set out in an Instruction to be issued by the Ministry.
- 6.3 The procedures for the submission of applications for Social Assistance shall be set out in an Instruction to be issued by Ministry.

Section 7
Period of Receipt of Social Assistance

- 7.1 A family qualifying under sub-section 4.1 (a) above shall be eligible to receive Social Assistance for a period up to six (6) months provided that the family continue to satisfy the criteria specified therein during this period. A new application shall be required in order for the family to receive further Social Assistance after the expiry of the aforementioned period.
- 7.2 A family qualifying under sub-section 4.1 (b) above shall be eligible to receive Social Assistance for a period up to six (6) months provided that the family continue to satisfy the criteria specified during this period and take the necessary action to find work to the satisfaction of the designated authorities. The frequency by which the designated authorities shall require evidence of the family's action to find work will be set out in an Instruction issued by the Ministry. A new application shall be required in order for the family to receive further Social Assistance after the expiry of the aforementioned period.

Section 8
Duty to Inform

- 8.1 The designated authority shall inform each applicant in writing of the outcome of his or her application within forty-five (45) days of the submission of a completed application to that designated authority.
- 8.2 A family receiving Social Assistance shall inform the designated authority immediately of any change in circumstances that may affect their entitlement to Social Assistance.
- 8.3 The Ministry and the designated authority may authorise officers to carry out random or systematic checks on a family applying for or receiving Social Assistance in order to verify the facts given in the application. Notice of such checks need not be given, provided that they may only be carried out during daylight hours.
- 8.4 Authorised officers appointed in accordance with sub-section 8.3 shall be deemed to have prior authorisation to undertake verification of applications and, when so requested, shall produce proof of identity and shall at all times act within the limits of their authority.

Section 9
Calculation of the Monthly Social Assistance Payments

- 9.1 The monthly Gross Standard Rate of social assistance shall be adjusted

according to the family numbers and consumer price index.

Family Size	Monthly Gross Standard Rate
Family with one (1) person	35
Family with two (2) persons	50
Family with three (3) persons	55
Family with four (4) persons	60
Family with five (5) persons	65
Family with six (6) persons	70
Family with seven (7) persons or more	75

Level of the consumer price index in Euro is defined by the Ministry of Economy and Finance in cooperation with the Ministry of Labour and Social Welfare.

- 9.2 The amount of monthly Social Assistance to be paid to an eligible family shall be 'C', where:

$$C = A - B$$

and where:

'A' is the Monthly Gross Standard Rate of Social Assistance applicable to a family of that size, and

'B' is the reckonable net monthly income of the eligible family after allowable deductions have been applied.

In every case where the Monthly Gross Standard Rate is equal to or less than the reckonable net monthly income then that family will be not be eligible to receive Social Assistance payments, except as provided for in sub-section 9.3 and in Section 12

In every case where the Monthly Gross Standard Rate is greater than the reckonable net monthly income then the family shall be entitled to a minimum payment of 10 Euro per month.

- 9.3 The Ministry of Labour and Social Welfare and the Ministry of Finance and Economy may, in accordance with the Law on Public Financial Management and Accountability and within the proposed overall budget referenced in Section 13, include one-time payments to the families eligible for Social Assistance. Such families will include families where *all* family members are defined within sub-section 2.2 and where, but for this fact, they would have been considered for payment in accordance with sub-section 9.2 The procedures for such one-off payments will be defined in an Instruction issued by the Ministry.
- 9.4 Eligible families under this Law shall receive payment back-dated to the payment month in which a complete application was submitted to the designated authority.

Section 10

Penalties for Misrepresentation and Obstruction

- 10.1 Any person who knowingly makes a false statement or presents false documents in order to obtain Social Assistance under this Law, or who fails to inform the designated authority of any change in circumstances that may affect their entitlement to Social Assistance, shall be liable to repay any amount received for which there is no entitlement. The person of this kind shall be liable to pay another amount equal to a family monthly gross social rate amount. The procedures for repayment will be set out in an Instruction to be issued by the Ministry.

- 10.2 Any person who deliberately obstructs efforts lawfully made by the designated authorities to verify facts presented in an application shall have their application terminated.

Section 11

Reviews and Appeals

- 11.1 An applicant who contends that an official decision made by the designated authority is incorrect may submit an appeal in writing to the Director of the designated authority where the application for Social Assistance was originally filed. Such appeals shall be submitted no later than fourteen (14) days after the appellant receives notification of the decision. The designated authority shall review the appeal and notify the appellant in writing of their decision no later than twenty-one (21) days after receiving the appeal.
- 11.2 An applicant who remains dissatisfied with an official decision made by a designated authority under sub-section 11.1 may address a further appeal in writing to an Appeals Commission to be appointed by the Ministry, which acts under the authority of the Ministry. Such appeals shall be submitted no later than fourteen (14) days after the appellant receives notification of the appeal decision under sub-section 11.1. The Appeals Commission shall review the appeal and notify the appellant in writing of his/her decision no later than twenty-one (21) days after receiving the appeal.
- 11.3 An applicant directly affected by a decision made by the Doctor's Commission (following a review of the medical condition of a family member claiming to be permanently disabled) or the Appeals Commission stipulated in sub-section 11.2 shall have the right to have such decision reviewed in a competent court.

Section 12

Exceptional Needs

- 12.1 The Ministry of Labour and Social Welfare may make arrangements for the provision of ad hoc and immediate support to meet exceptional needs not otherwise provided for under this Law. An exceptional need shall for the purposes of this Law be defined as one that is current, once off, extraordinary and not continuous. If the same need has arisen during the previous 12-month period or is likely to arise in a subsequent 12-month period then support under this Section shall not be provided. The designated authorities shall assess and administer the awarding of such exceptional needs support. The procedures for the provision of such support shall be set forth in a subsequent Instruction to be issued by the Ministry. A family or individual can request support irrespective of whether or not they are in receipt of Social Assistance payments provided for in Section 9 of this Law. A family or individual cannot request support for the same exceptional need from more than one designated authority. Not more than one member of a household can request support at any given time.
- 12.2 The budget for the Social Assistance Scheme referred to in Section 13 shall include a special provision for the payments for Exceptional Needs.

Section 13

Management and Financing of the Scheme

- 13.1 The Ministry of Labour and Social Welfare shall be responsible for managing the scheme established by this Law. The Government shall, after receiving the advice of the Ministry of Finance and Economy and the Ministry of Labour and Social Welfare, adopts within 60 days one or more Administrative Instructions establishing the rules to be followed by the Ministry of Labour and Social Welfare in managing the Social Assistance Scheme established by this Law. Such Administrative Instructions shall be consistent both with this Law and the Law on Public Financial Management and Accountability.
- 13.2 The Ministry of Labour and Social Welfare and the Ministry of Finance and Economy shall, in accordance with the Law on Public Financial Management and

Accountability, establish the proposed annual budget for the Social Assistance Scheme.

- 13.3 The Ministry of Finance and Economy will be required to certify to the Government of Kosovo no later than December 1 of each year that a sufficient amount has been allocated in the draft budget for the subsequent year to pay Social Assistance at the Monthly Gross Standard Rates. If the Ministry of Finance and Economy cannot certify that there are adequate funds available to pay Social Assistance at the Monthly Gross Standard Rates, it shall present to the Government for its approval a justified proposal for a new budget level within the budgetary constraints, which shall, however, not be lower than the level for the current year.
- 13.4 The Ministry of Finance and Economy, in consultation with the Ministry of Labour and Social Welfare, shall certify annually the Monthly Gross Standard Rates for Social Assistance, on the basis of available data on potential beneficiaries and within the limits of the Kosovo Consolidated Budget.

Section 14

Confidentiality of Personal Information

The Ministry of Labour and Social Welfare and the designated authorities may not share personal information collected from the applicants to the Social Assistance Scheme with any other organisation or authority, except for the purposes of verifying application data, detecting fraud and corruption. In exceptional cases information may be shared with other statutory-based public bodies, upon approval of the Ministry, for enabling grants, subsidies, payments or benefits-in-kind to be given to persons within the family. Such requests may only be considered where there is a specific statutory base for the particular grant, subsidy, payment or benefit-in-kind *and* where such grant, subsidy, payment or benefit-in-kind will not be contrary to the intent of this Social Assistance Scheme *and* where the effect would not be to disqualify the recipient family from continued eligibility for Social Assistance under this Law.

Section 15

Implementation

The Ministry of Labour and Social Welfare may issue Administrative Instructions for the purpose of implementing this Law. Such Administrative Instructions shall be consistent with this Law and with the Law on Public Financial Management and Accountability and with any Administrative Directions issued by the Government.

Section 16

Applicable Law

Coming into effect of this Law shall supersede any of the other Laws which set out this issue.

Section 17

Entry into Force

This Law shall enter into force four months after its approval to the Assembly of Kosovo and the signature date of promulgation by the SRSG.