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**ALL HEADS OF DEPARTMENTS
LABOUR RELATIONS PRACTITIONERS**

Dear Colleagues

DISCIPLINE: PUBLIC SERVANTS WHO UNLAWFULLY RECEIVED SOCIAL GRANTS

As you know, the Department of Social Development requested the Special Investigating Unit (SIU) to identify public servants who unlawfully received social grants.

The SIU identified 43 705 cases. They classified these cases into three categories, namely -

- Grade 1 cases - these are persons who initially qualified for a full or partial grant and then obtained employment in the public service for a period of time/on a contract basis – for the periods of employment, the employees then became disentitled to receive the grants. They, however, failed to inform the Department of Social Development.
- Grade 2 cases - these are employees who legitimately obtained social grants, but failed to cancel receipt of the grants when they acquired permanent employment in the public service.
- Grade 3 cases - these employees deliberately misrepresented their positions when they applied for social grants, claiming to be unemployed or without sufficient means, whilst in fact being employed in posts in the public service.

The South African Social Security Agency (SASSA), who now deals with the matter, as well as the SIU have indicated that the grade 1 cases will not be pursued. This still leaves 12 387 cases to be dealt with.

In terms of SASSA's agreement with the SIU, the latter will be responsible for the recovery of all monies unlawfully received by public servants.

At the moment the SIU is concentrating on bringing the grade 3 cases to trial. At the rate of the criminal proceedings, the SIU is likely to only have finalised the grade 3 cases by the time their contract expires in May 2008.

Apart from the criminal route, all of the 12 387 employees involved in this matter need to be disciplined. The grade 2 employees have been negligent in not cancelling the social grants, but the grade 3 employees intentionally misrepresented their positions. In a meeting between members of my Department and labour relations representatives from the various Premiers' offices there was general consensus that a differentiated approach should be followed in respect of the two groups. The proposal in this regard is that grade 2 cases be dealt through the informal disciplinary process whilst the grade 3 cases be subjected to disciplinary hearings as and when the criminal cases are finalised.

The reason for the proposed approach is that the SIU has not, with the exception of the cases thus far brought to trial (800 plus), investigated the other cases to a point where the matters can be taken to disciplinary hearings. They have merely matched the PERSAL information with the information on the Social Pensions database. This indicated which employees have unlawfully been receiving social grants. The information, however, is sufficient to discipline employees in terms of the informal disciplinary procedure. In terms of this procedure employees can be given verbal, written or final written warnings.

The grade 3 cases should, however (due to the seriousness of the intentional misrepresentation), be dealt with through the formal disciplinary hearing process. The same problem in respect of investigations applies to these cases, i.e. that except for the cases finalised in terms of the criminal procedures, the other cases have not been investigated to the extent where the information could be used for purposes of disciplinary hearings. The disciplinary hearings would, therefore, have to be linked to the finalisation of the criminal cases. The SIU is currently in the process of handing over the documentation (files) of these cases to the provinces for processing in terms of the formal disciplinary procedure.

To ensure consistency in dealing with these cases, it is essential that your views be obtained with regard to the proposed differentiated approach between grade 2 and grade 3 cases. The differentiation does not mean that certain employees will not be disciplined. All employees will be disciplined. It is only that grade 2 cases will not require formal disciplinary hearings and could therefore be finalised much quicker than the grade 3 cases that need formal disciplinary hearings. As indicated above, the most severe sanction under the informal disciplinary procedure is a final written warning.

It would be appreciated if you could provide me with your views on the matter by not later than 30 September 2006.

Your co-operation will be appreciated.

Kind regards

Meratahine G Fraser-Moleketi
MS GU FRASER-MOLEKETI
MINISTER

DATE: 5/09/06