

IMPLEMENTING RULE NO. 2003/XX
ON IMPLEMENTING
THE LAW ON SOCIAL ASSISTANCE SCHEME IN KOSOVO

- LAW NUMBER 2003/16 -

The Government of Kosovo,

pursuant to the provisions contained in the Law on Social Assistance Scheme in Kosovo (2003/16),

and

for the purpose of amplifying and clarifying key provisions of that Law,

and

in order to provide direction to administrators of that Law,

hereby adopts the following Implementing Rule:

Section 1Definitions and Abbreviations

- 1.1 An 'Agent' is defined as: a person who has been given authority by MLSW to collect SA payments on behalf of the Applicant, and whose appointment as Agent has been made in accordance with the provisions of sub-Sections 15.4 and 15.5 of this Implementing Rule.
- 1.2 An 'Appeals Commission' is defined as: a committee of experts established by the MLSW for the purpose of assessing written appeals from Applicants for Social Assistance who are dissatisfied with the decision made by the MLSW office that processed the appellant's application for SA and the first appeal by the Applicant. An Appeals Commission may include a Doctor's Commission that did not already review the Applicant or a member of the applicant family.
- 1.3 An 'Applicant' is defined as: a person who applies for Social Assistance, on behalf of:
- (i) themselves, or,
 - (ii) themselves and other family members, or,
 - (iii) on behalf of another family,
- and** who is responsible for ensuring that the information and documentation provided to the MLSW is truthful and correct.
- An Applicant may or may not be a member of the family, in accordance with provisions set out in sub-Section 3.7 of this Implementing Rule.
- 1.4 A 'Basic Pension' is defined as: a pension paid in accordance with Basic Pension, as provided for in 'Regulation No 2001/35 On Pensions in Kosovo' and the 'Law On the Methodology for Setting the Level of Basic Pension in Kosovo, and Determining the Commencement Date for Provision of Basic Pensions' (Law Number 01/2002).
- 1.5 A 'Birth Certificate' is defined as: a certificate issued by a Municipal Authority that states the details of birth of the Applicant and/or family member(s). Only an official certificate that:
- (i) states the details of the person's parents, and,
 - (ii) uses the certificate and format prescribed by the Municipal Authority, will be acceptable to MLSW.
- 1.6 A 'Declaration of Unemployment' is defined as: an official certificate:
- (i) stating that the person named on the certificate is registered as unemployed and is seeking work,
and
 - (ii) is issued by an Employment Office of the Department of Labour of the MLSW or by another organization designated by the MLSW to issue such certificates.
- 1.7 A 'Death Certificate' is defined as: a certificate issued by a Municipal Authority that states the details of death of the Applicant and/or family member(s). Only an official certificate from a Municipal Authority will be acceptable to MLSW.
- 1.8 A 'Dependant' is defined in accordance with Section 1.7 of the Law on the Social Assistance Scheme in Kosovo. That Law defines a 'dependant' 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 and including 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).

In the case of (iii) above a person needing full-time care must be so incapacitated that failure to care for them on a full-time permanent basis would seriously endanger their safety or even their life. The amount of care being given must be such that it prevents the person giving such care from being available to take up employment or self-employment.

- 1.9 'Designated authorities' are defined as: offices of the MLSW, or other institutions that the MLSW may decide in accordance with Section 3 of this Implementing Rule.
- 1.10 'Disability' is defined as: a disability that complies with the criteria set out in Section 7 of this Implementing Rule.
- 1.11 A 'Disability Pension' is defined as 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.
- 1.12 A 'Divorce Certificate' is defined as: an official certificate issued by a Municipal Authority that states the divorce details of the Applicant and/or family member(s). Only an official certificate in the format prescribed by the Municipal Authority will be acceptable to MLSW.
- 1.13 A 'Doctor's Certificate' is defined as: an official certificate issued by a doctor practising in Kosovo and who is registered and approved by the Ministry of Health in Kosovo. The certificate will be the form prescribed by the MLSW and described in sub-Sections 7.4 and 7.5 of this Implementing Regulation.
- 1.14 A 'Doctor's Commission' is defined as: a panel of medical experts in Kosovo established or approved by the MLSW for the purpose of determining the medical condition, including the severity of such condition, of any Applicant or family member covered by the SA Law.
- 1.15 'Employment' is defined as: work for compensation (financial or other kind of compensation, including goods and/or favours and/or services and/or barter) on a full-time basis, a part-time basis or a casual basis. This is regardless of whether or not the work is performed under a labour contract, a services contract, a civil contract, some other commercial agreement, or if there is a written or an unwritten agreement.
- 1.16 'Land' is defined as: land, including property, that the Applicant and/or the family owns or has beneficial use of in Kosovo. Such land can include the Applicant's and/r family's primary residence, but may also be land that does not contain the primary residence.
- 1.17 A 'Land Cadastre Certificate' is defined as: an official certificate setting out the details of a property and issued by the Directorate of Cadastre, Geodesy and Property in Kosovo.
- 1.18 'Legal Guardian' is defined as: a person who has been appointed under prevailing law as guardian of a person or of a family that is not competent to apply for Social Assistance in their own right due to the circumstances that caused a Legal Guardian to be appointed.
- 1.19 'Livestock' is defined as: cattle, sheep, pigs, boar, goats, fowl or other animals that can be bred for commercial purposes.
- 1.20 A 'lump sum' is defined as a single payment that does not recur more often than once every six months.
- 1.21 A 'Marriage Certificate' is defined as: an official certificate issued by a Municipal Authority that states the marriage details of the Applicant and/or family member(s). Only an official certificate in the form prescribed by the Municipal Authority will be acceptable to MLSW.
- 1.22 A 'Means Test' is defined as: an assessment by MLSW - in accordance with Section 8 of this Implementing Rule - of reckonable and non-reckonable income and reckonable and non-reckonable assets of the Applicant and the family and the household. In the case that the Applicant is the family's Legal Guardian but not living with the family, then only the

reckonable and non-reckonable income and reckonable and non-reckonable assets of the family and the household will be taken into account.

- 1.23 A 'motor vehicle used solely by the family for domestic purposes and not used to generate income' is defined as:
- (i) a motor car that is for the personal private use of the Applicant and/or the family *and* not used for any commercial use whatsoever *and* is registered, taxed and insured in Kosovo as a private non-commercial vehicle. Only one such motor vehicle may be allowed with each SA application.
 - (ii) a motorized wheelchair or adapted vehicle that seats only one person and that is used only by the Applicant or any family member who is disabled and requires the use of such a wheelchair.
- All official documentation that shows that the motor vehicle is registered, taxed and insured in Kosovo must be produced with the SA application.
- A taxi, bus, mini-bus, van, truck, lorry, tractor, mini-tractor, cultivator, mini-cultivator, motorbike, or any other motorized vehicle is accepted as a 'motor vehicle used solely by the family for domestic purposes and not used to generate income' under the SA Law and such a vehicle will be counted as a 'reckonable asset' under Section 8 of this Implementing Rule.
- 1.24 An 'Orphan' is defined in accordance with Section 1.5 of the SA Law as: a child both of whose parents are deceased, or who was born to a single parent who has deceased.
- 1.25 'Permanently and severely disabled' is defined as: (i) physically disabled or mentally disabled to a degree of not less than eighty percent, and, (ii) such disability causing the person not to be capable of employment at the time of application and for a period of not less than two years immediately following the SA application.
- 1.26 'Property' is defined as: land - including buildings - in Kosovo that the Applicant and/or the family members owns or has beneficial use of. The primary residence of the Applicant and/or the family will be counted as property within this definition.
- 1.27 A 'School Certificate' is defined as: a certificate issued by a school of education recognised by the Ministry of Education, Science and Technology, and stating that the Applicant and/or family member is in full-time education at that school. Only form SA*** attached at Annex B may be used for this purpose.
- 1.28 'School' is defined as: an institution of education recognised by the Ministry of Education, Science and Technology.
- 1.29 'Self-Employment' is defined as: work for personal gain – in cash or in kind - in any capacity not covered by the definition of Employment as set out in sub-Section 1.15 of this Implementing Rule.
- 1.30 A 'Single Parent' is defined in accordance with Section 1.6 of the SA Law 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.
- 1.31 'Unemployed' is defined as: the Applicant and/or family member(s) is not employed or self-employed *and* is seeking work *and* is registered with their local Employment Office as being unemployed *and* is not taking part in training course *and* is not taking part in a vocational employment or training course *and* is not in full-time attendance at school or university *and* is not in receipt of any form of payment whatsoever for any form of work whatsoever.
- 1.32 'WINOK' or 'War Invalid and Next of Kin Benefit' is a benefit payable in accordance with UNMIK Regulation 2000/66.
- 1.33 The Law on Social Assistance Scheme in Kosovo (2003/16) defines other terms.
- 1.34 Abbreviations:

'BP' means: a Basic Pension, as further defined in 1.4 of this Implementing Rule.

'DP' means: a Disability Pension, as further defined in 1.10 of this Implementing Rule.

'CSW' means: Centre for Social Work, or other such administrative unit that may be assigned the functions of the Centres for Social Work.

'ENS' means: Exceptional Needs Scheme, as provided for in the Law on Social Assistance Scheme in Kosovo - 2003/16.

'HQ' means: Headquarters of the Social Welfare Payments Division of the Ministry of Labour and Social Welfare, or other such administrative unit that may be given the functions of the Social Welfare Payments Division.

'KPA' means: Kosovo Pension Administration, other such administrative unit that may be given the functions of the Kosovo Pensions Administration.

'MLSW' means: Ministry of Labour and Social Welfare, or such other institution that may follow it and be given its legal functions and powers in respect of Social Assistance.

'RO' means: Regional Office of the Ministry of Labour and Social Welfare.

'SA' means: Social Assistance as provided for in the Law on Social Assistance Scheme in Kosovo - 2003/16.

'SA Law' means: the Law on Social Assistance Scheme in Kosovo - 2003/16.

'SA Scheme' means: the programme of Social Assistance as provided for in the Law on Social Assistance Scheme in Kosovo - 2003/16.

'WINOK' means: the scheme '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' (UNMIK Regulation 2000/66).

Section 2

Organisational Structure of Social Assistance Scheme

- 2.1 The Ministry of Labour and Social Welfare is responsible for the management and operation of the Social Assistance Scheme (including the Exceptional Needs Scheme).
- 2.2 The SA Scheme is organised by the MLSW at Local, Regional and Central levels.
- 2.3 The role and functions of MLSW's offices at each level are set out in Annex A.
- 2.4 The MLSW may revise the name, role, duties and functions of offices, and of staff, whenever it considers this to be necessary. Such revisions will become Annexes to this Implementing Rule.
- 2.5 The Head of Social Welfare Payments Division, reporting to the Director of Social Welfare Department, has operational responsibility for the SA Scheme.

Section 3

Applications for Social Assistance

- 3.1 All applications for Social Assistance must be made in person by the Applicant, using the Social Assistance Application Form (SA****).
- 3.2 This form ?? (see copy at Annex B) shall be available from the following offices:
 - (i) Centres for Social Work,
 - (ii) MLSW/Kosovo Pension Administration Regional Offices, and

(iii) MLSW/Kosovo Pension Administration HQ Pristina.

- 3.3 The MLSW may designate other places or organizations where the application form will be available.
- 3.4 SA applications that are not made using form SA****, or that don't have all the necessary information and documentation, will be rejected.
- 3.5 Applicants for Social Assistance must be at least 16 years of age.
- 3.6 Except for 3.7 below the Applicant must be a member of the family that is covered by the SA application.
- 3.7 An SA application may be made on behalf of the family by the family's Legal Guardian, in cases where a Legal Guardian has been appointed to a family under the prevailing legislation in Kosovo governing such guardianship. However, if the Legal Guardian is a member of staff of MLSW then the SA application must be made by a third party, who must inform the Legal Guardian. SA payments may be made only to the Applicant, subject to 15.4, 15.5 and 15.6 below.
- 3.8 Members of the staff of MLSW may not make applications or complete an application form for Social Assistance on behalf of any family.
- 3.9 Subject to 3.10 below, an Applicant may only apply to the Centre for Social Work, or other office designated by MLSW, in the Municipality in which they presently live. Applicants who live in Pristina may apply at the KPA HQ in Pristina or at the CSW Pristina.
- 3.10 The MLSW may designate other places or organizations where applications for Social Assistance can be made. In this context the MLSW's SA Officers may visit Applicants who are disabled and who are unable to bring their SA applications to a Centre for Social Work or MLSW office, and may accept the SA application at the place of such visit.
- 3.11 All Applicants must have a valid UNMIK Civil Registration Card (UNMIK ID card with photo included on it) and must show this ID Card to MLSW when they are making their application.
- The MLSW officer will photocopy this UNMIK ID Card and attach the photocopy to the SA application form.
- 3.12 Every member of the family that is aged 16 years or older and named on the application form must also have a valid UNMIK Civil Registration ID card and these ID Cards must be shown to the MLSW when the Applicant is making the application for SA.
- The MLSW officer will photocopy the UNMIK ID Card and attach the photocopy to the SA application form.
- 3.13 Every member of the family that is less than 16 years old at date of application must have a birth certificate and these birth certificates must be shown to MLSW when the Applicant is making the application for SA.
- The MLSW officer will photocopy the birth certificate and attach the photocopy to the SA application form.
- 3.14 An Applicant for Social Assistance shall submit all documents needed by the MLSW to determine the validity of the application.
- Such documents will include one or more of the following, as requested by the MLSW:
- (i) Birth Certificate: for all family members under 16 years of age.
 - (ii) Death Certificate for both parents of an orphan family member or for the partner of a single parent, where relevant;
 - (iii) Declaration of Unemployment:

- (a) for Applicant and all family members between the ages of eighteen (18) years and sixty-five (65) years and who are capable of work, and/or,
 - (b) for fifteen (15) to eighteen (18) year old family members if they are not in full-time secondary education;
- (iv) Divorce Certificate for a single parent, where relevant;
 - (v) Doctor's Certificate of Disability for Applicant and/or family members - if Applicant and/or family member is applying on the basis of permanent disability;
 - (vi) Land Cadastre Certificate for Applicant and all family members if eighteen (18) years or above; this provision may also include details of dead parents and/or guardians;
 - (vii) Letter from Centre for Social Work, in municipality of original residence, stating they are not in receipt of social assistance, for Applicant and family members that are Internally Displaced Persons (IDPs);
 - (viii) Marriage Certificate: for married persons in the family, especially for the spouse of the Applicant if that person is being included on the application;
 - (ix) School Certificate for Applicant and family members between the ages of fifteen (15) and eighteen (18) years in full-time education;
 - (x) Tax, registration and insurance documents: in respect of a 'motor vehicle used solely by the family for domestic purposes and not used to generate income'.
 - (xi) Other documentation that may be reasonably requested by the MLSW.

Section 4

Eligible Persons

4.1 Social Assistance is only payable to a **family** that satisfies the eligibility conditions for SA.

4.2 A 'family' is defined as:

a person who lives alone and who has no other family members present in the household,

or

a person who lives with a spouse **or** co-habiting partner **and/or** parents **and/or** children (including children that belong to the Applicant's spouse or co-habiting partner, and/or children that are legally adopted or legally fostered).

Therefore, a family can comprise of the Applicant only, or the Applicant and one, two, three or more family members, depending on who is present in the household.

4.3 Family members who are:

- (i) aged sixty-five (65) years or older, or
- (ii) who have applied for a Disability Pension, or
- (iii) or who are in receipt of a Disability Pension, or
- (iv) who are in receipt of a payment under the scheme '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' (UNMIK Regulation 2000/66)

must be included on the SA application form.

However, family members receiving Basic Pension or Disability Pension will not count towards the size of the family that will determine the amount of SA to be paid.

- 4.4 A person can only be a member of **one family** and cannot be counted in another family that is applying for Social Assistance or that is receiving Social Assistance

Section 5

Residency

- 5.1 Applicants for SA must be permanently residing in Kosovo.
- 5.2 All family members who are named on the application form must be permanently residing in Kosovo.
- 5.3 If a family member(s) is residing outside of Kosovo then that person(s) cannot be counted as a family member in the SA application.
- 5.4 If the Applicant leaves Kosovo then the SA payment to that family will be stopped.
- 5.5 If a family member leaves Kosovo then the SA payment to that family will be reduced to take account of the smaller family size.
- 5.6 The Applicant is obliged to inform the Centre for Social Work or their local MLSW office if they, or a family member, cease living in the Municipality during the period of award or payment of SA, at which point their SA application/payment will be suspended and reviewed.
- 5.7 In the case of 5.6 above when the MLSW has reviewed the Applicant's new circumstances it may re-start SA payment or ask the Applicant to re-apply at the MLSW office nearest their new place of residence.
- 5.8 In the case of 5.6 and 5.7 above, and where following their review the MLSW decides that the Applicant is no longer entitled to SA, then the MLSW may finally cease the SA payment.

Section 6

Categories of Family

- 6.1 There are two categories of eligible family only:
- (i) Category One
 - and
 - (ii) Category Two.
- 6.2 Applications that do not meet the Category One or Category Two criteria, as set out in sub-Sections 6.3 and 6.4 below, cannot qualify for Social Assistance.
- 6.3 A **Category One** family is a family where all family members are Dependants, as defined in sub-Section 1.7 of the Law on SA, *and* where such Dependants are not working.
- 6.4 A **Category Two** family is 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) years,
 - and/or*
 - (ii) an orphan under the age of fifteen (15) years,
- in the full-time care of the family.
- All family members within this Category Two must either be a Dependant, as defined in sub-Section 1.7 of the Law on SA, or be registered as unemployed with the Employment Offices of the MLSW.
- 6.5 The following persons are not eligible to receive SA:

- (i) Persons who have reached eighteen (18) years of age and who have completed secondary level education. Such persons shall be deemed to be capable of or available for work, even if they are enrolled into a full-time education or training programme.
 - (ii) Persons who: reside in, *or* who are confined in *or* who are supported by institutions including: psychiatric establishments, homes for the elderly, religious establishments, residential schools. In addition, for the purpose of the SA Law, a prison shall be considered such an institution.
- 6.6 Persons at (ii) above must not be counted as a family member for the purpose of the SA Law.
- 6.7 If, during a period when SA is payable to a family, a family member enters an institution or becomes supported by an establishment - in accordance with sub-Section 6.5, paragraph (ii) above, then the family size will be reduced accordingly and the payment of SA will also be likewise adjusted downward.
- 6.8 If the Applicant enters an institution or becomes supported by an establishment - according to 6.5 above, then the SA application will be ceased and a new SA application must be made by a different Applicant. However, the existing SA payment will be made for the month in which such an event occurs - to avoid undue hardship and to give time for a new application to be made.

Section 7

Disability

- 7.1 Persons who are permanently and severely disabled to a level of eighty (80) percent, and incapable of employment, can apply for Social Assistance.
- 7.2 Persons who are permanently and severely disabled and incapable of employment can be dependants of an Applicant.
- 7.3 Persons at 7.1 and 7.2 must be aged over 16 years and less than 65 years of age.
- 7.4 Each SA application that includes a disabled person must contain an official Doctor's Certificate - stating:
- (i) name of doctor,
 - (ii) registered number of doctor[registration with Ministry of Health],
 - (iii) address of doctor,
 - (iv) name of disabled person,
 - (v) address of disabled person,
 - (vi) date of birth of disabled person,
 - (vii) date of examination,
 - (viii) the type of disability [mental/physical/sensory]
 - (ix) date [month and year] the disability began,
 - (x) the cause of disability,
 - (xi) the level of disability,
 - (xii) whether or not the disabled person can work,
 - (xiii) prognosis of how long the disability will continue.
- 7.5 Doctors will use the MLSW 'Doctor's Certificate' form SA**** for this purpose and the MLSW will only accept this form as a valid certificate.
- 7.6 Doctor's Commissions will be established at each Regional Office of the MLSW.
- 7.7 Doctor's Commission will physically medically examine each family person who claims to be disabled and who claims to comply with sub-Section 7.1 above.
- 7.8 Doctor's Commissions will require each person who is being examined to produce a doctor's certificate as per sub-Section 7.4 of this Regulation.

- 7.9 Doctor's Commissions will comprise of at least two doctors who will be hired or contracted by MLSW and who will not perform work for any other person or organisation.
- 7.10 Members of Doctor's Commission will not be permitted to issue certificates described at sub-Section 7.4 above.
- 7.11 Each Doctor's Commission will produce a full report on their findings after examining the Applicant and/or family member(s). This report will set out the person's medical condition, the results of the examination and the Doctor's Commission's assessment of the level of disability.
- 7.12 The reports at 7.11 will be transmitted to the MLSW RO that will be responsible for processing the SA application and making a decision on the application.
- 7.13 Medical guidelines to assist the Doctor's Commissions will be issued from time-to-time by the MLSW.
- 7.14 The MLSW may request Doctor's Commission to review the medical condition of an Applicant or family member(s) whenever the MLSW has reason to believe that the Applicant or family member(s) no longer fulfils the disability criteria for receipt of SA.

Section 8

Means Test

- 8.1 Only applications that meet the requirements set out in Section 3 **and** Section 4 **and** Section 5 **and** Section 6 **and** (where applicable) Section 7 of this Implementing Rule can be considered for a Means Test.
- 8.2 The Means Test is comprised of two parts: Asset Test and Income Test.
- 8.3 Assets are classified as 'reckonable' and 'non-reckonable'.
- 8.4 Only assets that are reckonable will be counted in the Asset Test.
- 8.5 Only applications that succeed in the Asset Test may be considered for the Income Test.
- 8.6 Only applications that succeed in **both** the Asset Test *and* Income Test may qualify for Social Assistance payments.
- 8.7 Asset Test:

The following assets will be regarded as **non-reckonable** and will **not be counted** in the Asset Test:

- (i) 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 - On Pensions In Kosovo);
- (ii) property used as the primary residence of the Applicant and family but less than 0.5 hectares in measurement;
- (iii) land below 0.5 hectare in measurement that includes the primary residence at (ii) above;
- (iv) a motor vehicle used solely by the family for domestic purposes and not used to generate income;
- (v) lump-sum payments awarded by a court where such payment is exclusively a Social Assistance payment awarded to the Applicant or applicant's family by a court review of a decision made the MLSW on a SA application under the SA Law;
- (vi) livestock that is solely for the domestic use of the Applicant or family and is not used for any commercial purpose.

The following assets will be regarded as **reckonable** and will **be counted** in the Asset Test:

- (vii) lump-sum payments from the system of Individual Savings Pensions to the participants or their beneficiaries - as provided for in Regulation 2001/35;
- (viii) lump-sum payments by way of compensation for an accident;
- (ix) lump-sum payments awarded by a court or institution with competence to award such payments;
- (x) private or family businesses in Kosovo or any country;
- (xi) property or land, in Kosovo or any country, with the potential for generating income;
- (xii) property or land in Kosovo, or any country, that is 0.5 hectares or more in measurement;
- (xiii) any motorized vehicle belonging to the Applicant or the family, **excluding** a 'motor vehicle used solely by the family for domestic purposes and not used to generate income' as defined at 1.23 above;
- (xiv) any motorized vehicle lent to *or* hired by the Applicant or the family, **excluding** 'motor vehicle used solely by the family for domestic purposes and not used to generate income' as defined at 1.23 above;
- (xv) livestock (including cattle, sheep, fowl, pigs, boar) that is not solely for the domestic non-commercial use of the Applicant or family;
- (xvi) investment shares, investment or savings bonds, part or full ownership rights to any property or land or commercial business or state-owned enterprise;
- (xvii) machinery - including excavation equipment, building machinery, road-building equipment, house building machinery - that can be used for commercial purposes,
- (xviii) gifts of material goods or property described by the Law on Social Assistance or by this Implementing Rule, from any person.

8.8 Assessment of reckonable assets

The following assets will **disqualify** an Applicant and family from receiving Social Assistance:

- (i) total property in Kosovo or in any country, including the primary residence in Kosovo, that is 0.5 hectares or more in measurement will be counted as a reckonable asset and will disqualify the Applicant and family from receiving Social Assistance;
- (ii) any form of land or property in Kosovo or in any country, excluding the primary residence less than 0.5 hectares in Kosovo, that is being used *or* that can be used for commercial purposes will disqualify the Applicant and family from receiving Social Assistance;
- (iii) any motor vehicle, excluding a 'motor vehicle used solely by the family for domestic purposes and not used to generate income' or a motorized wheelchair or single-person vehicle for disabled persons as defined at 1.23 above, will be counted as a reckonable asset and will disqualify the Applicant and family from receiving Social Assistance;
- (iv) livestock that is not solely for the domestic non-commercial use of the Applicant or family will be counted as a reckonable asset and will disqualify the Applicant and family from receiving Social Assistance;
- (v) part or full ownership rights to any property or land or commercial business or state-owned enterprise, part-ownership or full-ownership by the Applicant or family members in land or property that is not the principal primary residence of the Applicant or family will be counted as a reckonable asset and will disqualify the Applicant and family from receiving Social Assistance;
- (vi) machinery - including excavation equipment, building machinery, mechanical road-building equipment, house building machinery - that can be used for commercial purposes will be counted as a reckonable asset and will disqualify the Applicant and family from receiving Social Assistance;

Subject to sub-Section 8.7, paragraphs (i) to (iv) above, the following reckonable assets will be **valued** for the purposes of assessing the benefit to the Applicant and family:

- (vii) all lump sum payments to the Applicant and/or family members;

- (viii) all lump sums of cash held by Applicant and/or the family - such lump sums will include bank deposits or money held in other forms such as bonds, securities, loan notes, investment shares (including any form of equity);
- (ix) lump-sum payments from the system of Individual Savings Pensions to the participants or their beneficiaries - as provided for in Regulation 2001/35;
- (x) lump-sum payments by way of compensation for an accident, injury, death, business contract or any other form of compensation in cash or in property or in goods;
- (xi) lump-sum payments awarded by a court or institution with competence to award such payments;
- (xii) lump-sum payments by way of pension from any institution within Kosovo or outside of Kosovo.

The method of assessment of reckonable assets will be as follows: the value of the sum total of lump sum(s) at (i) to (vi) above will be divided by 6 to get the Net Monthly Asset Value. [6 months is maximum payment period for a SA application]

The Net Monthly Asset Value is added to the Net Monthly Income Value - to determine the amount to be deducted from Monthly Gross Standard Rate. Then, only if the product of that deduction is greater than zero can SA be payable.

In the month in which lump sums at (i) to (vi) above are received they shall be treated as reckonable income. For subsequent months these lump sums will be treated as reckonable assets.

- 8.9 Income is classified as 'reckonable' and 'non-reckonable'.
- 8.10 Only income that is reckonable will be counted in the Income Test.
- 8.11 Only applications that succeed in the Asset Test may be considered for the Income Test.
- 8.12 Only applications that succeed in **both** the Asset Test *and* Income Test may qualify for Social Assistance payments.
- 8.13 Income Test:

The following income will be regarded as **non-reckonable** and will **not be counted** in the Income Test:

- (i) lump sum payments to the Applicant and/or family, that have been taken into account in the Asset Test for this SA application;
- (ii) all lump sums of cash held by Applicant and/or the family, such lump sums will include bank deposits or money held in other forms such as bonds, that have been taken into account in the Asset Test for this SA application;
- (iii) securities, loan notes, investment shares (including any form of equity), that have been taken into account in the Asset Test for this SA application;
- (iv) lump-sum payments from the system of Individual Savings Pensions to the participants or their beneficiaries - as provided for in Regulation 2001/35, that have been taken into account in the Asset Test for this SA application;
- (v) lump-sum payments by way of compensation for an accident, injury, death, business contract or any other form of compensation in cash or in property or in goods, that have been taken into account in the Asset Test for this SA application;
- (vi) lump-sum payments awarded by a court or institution with competence to award such payments, that have been taken into account in the Asset Test for this SA application;
- (vii) lump-sum payments by way of pension or benefit from any institution within Kosovo or outside of Kosovo, that have been taken into account in the Asset Test for this SA application;
- (viii) Basic Pension (as defined in Regulation 2001/35);
- (ix) Disability Pension, as defined in sub-Section 1.3 of the SA Law and sub-Section 1.10 of this Implementing Rule;
- (x) once-off payments to families eligible for Social Assistance as specified in Section 11 of the SA Law;
- (xi) home produce of food for consumption by the family;
- (xii) loans or grants, excluding any payments made at sub-Section 8.12 (xxiv) and sub-Section 8.12 (xxv) below, payable by a Ministry or a competent Government

authority to the Applicant or family for the sole purpose of formal education of the Applicant or family members, or under the foster care scheme, or the UNHCR refugee host family scheme.

The following income will be regarded as **reckonable** and **will be counted** in the Income Test:

- (xiii) lump sum payments to the Applicant and/or family, that have **not** been taken into account in the Asset Test for this SA application;
- (xiv) all lump sums of cash held by Applicant and/or the family, such lump sums will include bank deposits or money held in other forms such as bonds, that have **not** been taken into account in the Asset Test for this SA application;
- (xv) securities, loan notes, investment shares (including any form of equity), that have **not** been taken into account in the Asset Test for this SA application;
- (xvi) lump-sum payments from the system of Individual Savings Pensions to the participants or their beneficiaries - as provided for in Regulation 2001/35, that have **not** been taken into account in the Asset Test for this SA application;
- (xvii) lump-sum payments by way of compensation for an accident, injury, death, business contract or any other form of compensation in cash or in property or in goods, that have **not** been taken into account in the Asset Test for this SA application;
- (xviii) lump-sum payments awarded by a court or institution with competence to award such payments, that have **not** been taken into account in the Asset Test for this SA application;
- (xix) lump-sum payments by way of pension from any institution within Kosovo or outside of Kosovo, that have **not** been taken into account in the Asset Test for this SA application;
- (xx) income from rent or hire;
- (xxi) remittances from any person in Kosovo or outside of Kosovo;
- (xxii) benefits awarded to the Applicant or 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',
- (xxiii) pensions from the system of Individual Savings Pensions and Supplementary Individual or Employer Pensions - as provided for in Regulation 2001/35,
- (xxiv) payments received as a result of partaking in any scheme, including training programmes, that supports persons who are unemployed;
- (xxv) payments made by any Ministry, Agency, Municipality or any other official source in Kosovo to persons who are unemployed;
- (xxvi) pensions received from outside Kosovo,
- (xxvii) interest or dividends received from any source;
- (xxviii) proceeds from the sale of property, land, livestock or other material goods;
- (xxix) any other income from any other source;
- (xxx) the MLSW may define further sources of reckonable income and these will be added to this Implementing Rule as an Annex.

8.14 Assessment of reckonable income

The method of assessment of reckonable income will be as follows: the value of the sum total of reckonable income at (xiii) to (xxx) above will be divided by 6 to get the Net Monthly Income Value. [6 months is maximum period for payment of a SA application]

8.15 Calculation of amount of Social Assistance payable

- (i) The family size that will be taken into account when deciding the Monthly Gross Standard Rate to be applied will be obtained by reducing the number of persons in the family by those family members who are:
 - (a) aged sixty-five (65) years or older, or
 - (b) who have applied for a Disability Pension and where a decision on their DP application is not yet given, or
 - (c) or who are in receipt of a Disability Pension.
- (ii) The Net Monthly Asset Value is added to the Net Monthly Income Value - to determine the amount to be deducted from Monthly Gross Standard Rate applicable to the size of the applicant family.

- (iii) The sum of the Net Monthly Asset Value and the Net Monthly Income Value will be deducted from the Monthly Gross Standard Rate.
- (iv) If the product of (iii) is a sum greater than zero then that amount will be the amount of Social Assistance payable to the Applicant, subject to a minimum amount of 10 Euro - as set out in sub-Section 10.4 below.
- (v) If the product of (iii) is equal to or less than zero then the SA application will be rejected.

Example 1: An SA application is made for a family of 5 persons. One of these 5 family members is receiving Basic Pension.

The Net Monthly Asset Value = 15 Euro

The Net Monthly Income Value = 7 Euro

22 Euro

The sum of Net Monthly Asset Value and Net Monthly Income Value is 22 Euro.

The Monthly Gross Standard Rate applicable to a family of 4 persons (deduct the family member receiving Basic Pension) is 60 Euro.

Therefore, the amount of Social Assistance payable to that family is 38 Euro (60 Euro minus 22 Euro).

Example 2: An SA application is made for a family of 3 persons.

The Net Monthly Asset Value = 25 Euro

The Net Monthly Income Value = 27 Euro

52 Euro

The sum of Net Monthly Asset Value and Net Monthly Income Value is 52 Euro.

The Monthly Gross Standard Rate applicable to a family of 3 persons is 55 Euro.

Therefore, the amount of Social Assistance payable to that family is 10 Euro (55 Euro minus 52 Euro, but subject to a minimum of 10 Euro).

Example 3: An SA application is made for a family of 4 persons.

The Net Monthly Asset Value = 00 Euro

The Net Monthly Income Value = 60 Euro

60 Euro

The sum of Net Monthly Asset Value and Net Monthly Income Value is 60 Euro.

The Monthly Gross Standard Rate applicable to a family of 4 persons is 60 Euro.

Therefore, the application will be rejected (60 Euro minus 60 Euro equals zero).

Example 4: An SA application is made for a family of 7 persons.

The Net Monthly Asset Value = 00 Euro

The Net Monthly Income Value = 10 Euro

10 Euro

The sum of Net Monthly Asset Value and Net Monthly Income Value is 10 Euro.

The Monthly Gross Standard Rate applicable to a family of 7 persons is 75 Euro.

Therefore, the family will be awarded 65 Euro (75 Euro minus 10 Euro).

- 8.16 The status of the assets and income set out in the following sub-Sections may not be amended except by an amendment to the Law on Social Assistance (2003/16) that must then be approved by the Assembly of Kosovo:
- (a) sub-Section 8.7, paragraphs (i), (iv), (vii), (x), (xi), (xii), (xiii), (xiv), (xvii)
 - (b) sub-Section 8.13, paragraphs (i), (ii), (iii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xx), (xix), (xxi), (xxii), (xxiii), (xxvi), (xxvii)

Section 9

Decision-making

- 9.1 The authority to make a decision on an SA application rests with the SA Officers at each RO. The Head of Social Welfare Payments Division will, in consultation with the RO Manager, appoint such SA Officers to make decisions on behalf of the MLSW.
- 9.2 There will be a division of responsibility between the SA Officers who accept and check the SA application, and the officers who make decisions. The same officer must not perform both functions.
- 9.3 There will be a division of responsibility between the officers who undertake field visits/means verification/other reviews, and officers who make decisions. The same officer must not perform both functions.
- 9.4 Decisions on each SA application will be recorded on the SA Decision Form (see Annex B). A copy of this form will be given to the Applicant.
- 9.5 Decisions must be made and communicated in writing to the Applicant within 45 days of receipt of a properly completed SA application.
- 9.6 The Applicant must be given, in writing on their SA decision notice, information about their right to appeal any decision that they disagree with. This information will include how, where, when and to whom they can make an appeal.

Section 10

Amount of Social Assistance

- 10.1 The maximum monthly (Monthly Gross Standard Rate) rates of payment of Social Assistance for 2003 are as follows:

Family Size	Monthly Gross Standard Rate - Euro
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

- 10.2 These rates may be changed annually by the Government, in accordance with the provisions of Sections 8 and 12 of the SA Law.
- 10.3 Any such amendment will be set out by the MLSW in a revised Implementing Rule.

- 10.4 Calculation of amount of Social Assistance: the amount of monthly Social Assistance to be paid to in respect of a successful application will be in accordance with the provisions of sub-Section 8.15 of this Implementing Rule.

Section 11

Period of Receipt of Social Assistance

- 11.1 Each application for SA will have a maximum validity period of six (6) months, after which a new SA application must be made.
- 11.2 Notwithstanding sub-Section 11. 1, SA payments may be suspended or stopped during that six months if the Applicant or family members break the conditions for receipt of SA.

Section 12

Control and Inspection

- 12.1 The MLSW will adopt a Control Plan to systematically ensure accuracy of payments, correct decisions and prevent fraud and/or corruption on SA applications. A copy of this Control Plan will be given to the Ministry of Finance and Economy. This Control Plan will be updated each year.
- 12.2 This Control Plan will be implemented at each MLSW office and targets for checking, review and field inspection will be set for each MLSW office.
- 12.3 MLSW will put in place a system to collect information about the effectiveness of implementation of the Control Plan in each MLSW office.
- 12.4 Every three months the MLSW will publish a summary of the outputs from the Control Plan. A copy of this summary will be given to the Ministry of Finance and Economy.
- 12.5 The MLSW may authorise officers to carry out random or systematic checks on an Applicant, or family applying for or in receipt of Social Assistance - in order to verify the information or documents given in the SA application. These checks can include visits to the Applicant's home, family home, place of previous employment or to other places (including farms, financial institutions, commercial premises) that the MLSW has cause to think may help with the review of the SA application.
- 12.6 The MLSW does not have to give prior notice of such checks to the Applicant or family or to any other person or organization that is the subject of such checks.
- 12.7 Checks at 12.5 above may only be carried out during daylight hours (i.e. not before dawn or after sunset).
- 12.8 When officers are authorized by MLSW to undertake checks described at 12.5 above the authorization given to them at that time will mean that they do not need to obtain separate written authorization for each visit or check they make.
- 12.9 MLSW officers who undertake checks at 12.5 above must produce official MLSW identification when making such visits or checks.
- 12.10 Applicants or family members who are unemployed may be requested at any time during the period of the application to show evidence that they continue to be unemployed and have been actively seeking employment or self-employment.
- 12.11 Applicants or family members who have refused an offer of employment or self-employment shall not be entitled to receive SA.

Section 13

Penalties for Misrepresentation and Obstruction

- 13.1 In cases of misrepresentation failure to disclose information, presenting false information, obstructing the MLSW or a designated authority then, measures will be taken by the MLSW and/or a designated authority to recover any SA amounts received for which there was no entitlement.
- 13.2 In cases of misrepresentation, failure to disclose information, presenting false information, obstructing the MLSW or a designated authority then, the SA application will be ceased and no further payments will be made.
- 13.3 In cases covered by sub-Sections 13.1 and 13.2 above the Applicant will repay the amount within 3 months, in cash, to the MLSW Finance Officer at the Social Welfare Payments Division HQ. A written receipt for all such payments will be given to the Applicant.
- 13.4 The Social Welfare Payments Division will set up a secure mechanism to deposit and record all such overpayments.
- 13.5 The Social Welfare Payments Division will publish information on the collection of such repayments at sub-Section 13.3 above. This information will be included in the Control Plan specified at sub-Section 12.1 above.

Section 14

Reviews and Appeals

- 14.1 An Applicant who believes that an official decision on their application for Social Assistance is wrong may submit an appeal in writing - stating clearly the reason they think that the decision is wrong - to the Director of the MLSW office where the application for Social Assistance was originally made.
- 14.2 Such appeals (as at 14.1) shall be submitted no later than fourteen (14) days after the Applicant receives notification of the MLSW decision.
- 14.3 The MLSW office that made the original decision shall review the appeal and notify the Applicant in writing of their appeal decision no later than twenty-one (21) days after receiving the appeal. The same officer that made the original decision may not undertake the review.
- 14.4 An Applicant who is dissatisfied with an appeal decision made in accordance with 14.3 above may address a further appeal in writing - stating clearly the reason they think that the decision is wrong - to MLSW's Appeals Commission.
- 14.5 Such appeals (as at 14.4) shall be submitted no later than fourteen (14) days after the appellant receives notification of the appeal decision under sub-Section 14.3 above.
- 14.6 The Appeals Commission shall review the appeal and notify the appellant in writing of the Appeals Commission decision no later than twenty-one (21) days after receiving the appeal.
- 14.7 In cases where the appeal concerns the result of a medical examination by a Doctor's Commission then the Appeals Commission will request a different MLSW Doctor's Commission to review the medical aspect of the appeal. This Doctor's Commission will request the person who is the subject of the appeal to undergo another medical examination.
- 14.8 The result of this medical examination will be given to the Appeals Commission who will then issue a decision on the appeal, in accordance with 14.6 above.
- 14.9 An Applicant who is directly affected by a decision made by the Appeals Commission shall have the right to have such a decision reviewed in a court.
- 14.10 The court will notify the MLSW of every case that it is asked to review. This notification will be given to the MLSW in good time so as to enable the MLSW to be present at the court hearing.
- 14.11 In every case that goes to court the MLSW will keep a record at RO and HQ of the complaint to the court.

- 14.12 When reviewing the MLSW decision the court shall take into account the provisions of the SA Law and all Implementing Rules and Management Instructions that accompany the SA Law.
- 14.13 If the decision of the court is not favourable to the MLSW then the MLSW may appeal the decision to a higher court. The decision to take such an appeal will rest with the Director of the Social Welfare Department of MLSW, in consultation with the Permanent Secretary of the MLSW.
- 14.14 If the MLSW considers that the decision of the court requires a change to SA Law then the Minister may propose such change(s)
- 14.15 During the period of the appeal process the decision that caused the appeal will remain in force.
- 14.16 Where an appeal is successful under 14.3 or 14.6 or 14.8 above then the SA payment will be made in accordance with such a revised decision by the MLSW office or Appeals Commission.

Section 15

Payments

- 15.1 Payment of SA will be made on a monthly basis only.
- 15.2 Payment of SA will be made in cash or through Applicant's bank accounts - according to arrangements made by the MLSW with organisations that provide such payment services.
- 15.3 Subject to 15.4 and 15.5 below, SA payment to a family will only be made to the Applicant.
- 15.4 In exceptional cases where the Applicant is unable to personally collect the payment (where the Applicant is too sick or is prevented by security considerations, for example) the Applicant may request the appointment of an Agent to collect the payment.
- 15.5 If an Applicant wishes to appoint an Agent then the Applicant must request the MLSW's permission to appoint the Agent. This request must be made on the MLSW's official 'Appoint Agent' form (see copy at Annex B) and, if the MLSW accepts the request, the MLSW will inform the Applicant - in writing - that the Agent is appointed. In all cases where an Agent has been appointed the Applicant will retain responsibilities and obligations applying to Applicants set out in the SA Law and Implementing Rule. All Agents appointed under this sub-Section must have a valid UNMIK ID card.
- 15.6 If the MLSW does not accept the request to appoint an Agent then the MLSW will notify the Applicant in writing.
- 15.7 Applicants who are deemed by MLSW to have been incorrectly paid SA shall be informed of this fact in writing by MLSW - within 21 days of MLSW finding out about the incorrect payment.
- 15.8 Where an Applicant has been underpaid at 15.7 above the MLSW will pay the Applicant - within 40 days - the amount of underpayment.
- 15.9 Where the Applicant has been overpaid at 15.7 above the MLSW will request the Applicant to repay - within 40 days - the money that has been overpaid - within 40 days.
- 15.10 Where the overpayment at 15.7 above has resulted from a review or check under Section 12 then, subject to 15.11 below, the amount of overpayment will be calculated only from the date of such review or check.
- 15.11 Where the overpayment at 15.7 above has occurred because an Applicant, or a family member, or an Agent, or another person connected with the application and acting with the knowledge OR approval of the Applicant or family, has:

- (i) wilfully committed fraud, or

- (ii) withheld information, or
- (iii) given false information, or
- (iv) obstructed the MLSW when undertaking a review or check, or
- (v) obstructed the MLSW in arriving at a correct decision on the SA application,

then,

the overpayment will be calculated from the date that the Applicant, or family member, or Agent, or person connected with the application, committed such an act at (i) to (v) above.

- 15.12 In the case of an overpayment being deemed to have arisen because of an action described at 15.11 above, then the provisions of Section 13 of this Implementing Rule will also apply

Section 16

Confidentiality of Personal Information

- 16.1 The MLSW and designated authorities may not share personal information collected from Applicants with any other organisation or authority, except for the purposes of verifying application data, detecting fraud and corruption.
- 16.2 In exceptional cases information may be shared with other statutory-based public bodies, upon approval of the Ministry HQ, 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.
- 16.3 The Director of Social Welfare at MLSW HQ will consider all requests for information to be shared and will make a decision on these requests.

Section 17

Exceptional Needs Scheme

- 11.1 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.
- 11.2 An exceptional need is defined as: a current, once off, extraordinary and not continuous need. Examples of exceptional needs include: costs incurred in burial of family member, emergency need for food or shelter due to floods or earthquake, loss or destruction of heating fuel.
- 11.3 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.
- 11.4 The MLSW, at CSW level, shall assess and administer the awarding of such exceptional needs support.
- 11.5 A family or individual can request support irrespective of whether or not they are in receipt of Social Assistance payments.
- 11.6 A family or individual cannot request support for the same exceptional need from more than one MLSW office.
- 11.7 Only one member of a household can request support at any given time. Separate payments to individual family members not permitted.
- 11.7 The budget for this scheme shall be apportioned at CSW level. The amount of budget provided to each CSW will be based upon the population size covered by that CSW. This information will be provided by the Statistical Office of Kosovo and/or the macro-economic unit of the Ministry of Finance and Economy.

- 11.8 Families which operate a commercial business or who have total family income (including social welfare payments from the MLSW) greater than 150 Euro per month shall not benefit from this exceptional needs scheme.
- 11.9 The maximum payment per applicant under this scheme will be 100 Euro.
- 11.10 The MLSW will require applicants to complete an application form, before a decision can be made on payment.
- 11.11 The MLSW will require official certification and documents from applicants, to support their application for a payment under the provisions of the Exceptional Needs Scheme.
- 11.12 The maximum budget that shall be set aside per annum for this scheme will be 500,000 Euro. Any increase in this budget will require agreement in writing from the Ministry of Finance and Economy.

Section 18

Management and Financing of the SA Scheme

- 18.1 The requirements of MLSW, and its' obligation to liaise with Ministry of Finance and Economy in this matter, are set out in Section 12 of the Law on Social Assistance Scheme in Kosovo (2003/16).

Section 19

Entry into Force

This Implementing Rule shall enter into force on 1st December 2003.