



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **SOCIAL ASSISTANCE ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to November 29, 2023. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## SOCIAL ASSISTANCE ACT

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## SOCIAL ASSISTANCE ACT

### CHAPTER S-4.3

#### 1. Definitions

In this Act

- (a) repealed by 2001,c.19,s.2;
- (a.1) “**Board**” means the Social Programs Appeal Board established under section 5;
- (b) repealed by 2001,c.19,s.2;
- (c) “**community development services**” means services designed to encourage and assist residents of a community to participate in or continue to participate in improving the social and economic conditions of the community for the purpose of preventing, lessening or removing the causes and effects of poverty, child neglect or dependence on public assistance in the community;
- (c.1) “**Director of Child Protection**” means the Director of Child Protection appointed pursuant to the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1 and includes a delegate of the Director;
- (d) “**Department**” means the Department of Social Development and Seniors;
- (d.1) “**Director**” means the Director of Social Assistance appointed under section 4.4;
- (d.2) “**financial assistance**” means a type of social assistance provided as
  - (i) payment for food, shelter, clothing, fuel, utilities, household supplies and personal requirements,
  - (ii) payment for special needs of the kind prescribed by the regulations,
  - (iii) payment for care in residential institutions,
  - (iv) payment for travel and transportation expenses,
  - (v) payment for funeral and burial expenses,
  - (vi) payment for health care services and supplies prescribed by the regulations;
  - (vii) comfort allowances and allowances for other needs of residents of residential institutions;
- (e) repealed by 2020,c.66,s.21(2)(b);
- (f) “**Minister**” means the Minister of Social Development and Seniors;
- (g) “**person in need**” means a person who, in accordance with the regulations, is unable to provide adequately for himself or herself on the basis of a test that relates the person’s liabilities to the assets available to the person to meet those liabilities, and may include
  - (i) dependents of the person,
  - (ii) a person under the age of eighteen who is living apart from parents and guardians and who meets the prescribed criteria, and
  - (iii) the estate of a deceased person;

- (g.1) repealed by 2005, c.53, s.1;
- (h) “**residential institution**” means an institution approved in accordance with the regulations that provides living accommodations and temporary or continuing care for persons in need;
- (h.1) “**social assistance**” means assistance provided in accordance with this Act to persons in need and other persons and includes
  - (i) financial assistance, and
  - (ii) social services;
- (i) “**social assistance agency**” means
  - (i) a department of the government, or
  - (ii) a person or an agency
 authorized under this Act and the regulations to accept applications for social assistance, to determine eligibility for social assistance, and to provide or pay social assistance;
- (j) “**social services**” means services of the kind prescribed by the regulations that have as their object the lessening, removal or prevention of the causes or effects of poverty, child neglect or dependence on public assistance. *R.S.P.E.I. 1974, Cap.W-4, s.1; 1980, c.2, s.3; 1981, c.12, s.53; 1993, c.30, s.61; 2000(2nd), c.3, s.62; 2001, c.19, s.1; 2005, c.53, s.1; 2010, c.28, s.42; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3; 2019, c.1, s.3; 2020, c.66, s.21; 2019, c.35, s.23(2); 2023, c.20, s.2.*

## 2. Social assistance to persons in need

- (1) The Minister shall, in accordance with the regulations, provide social assistance to persons in need.

### Types of social assistance

- (2) Social assistance may be provided, in accordance with the regulations, to an applicant as
  - (a) emergency assistance for a period not exceeding one month;
  - (b) short-term assistance for a period of less than four consecutive months;
  - (c) long-term assistance for a period of four or more consecutive months; or
  - (d) special assistance.

### Social assistance

- (3) The Minister may provide social assistance to an applicant who is not a person in need in accordance with the regulations. *R.S.P.E.I. 1974, Cap.W-4, s.2; 2001, c.19, s.3.*

## 3. Powers of Minister

The Minister may

- (a) plan, develop, operate and manage any project or enterprise that has as its object to render recipients of assistance capable of self-support;
- (b) make grants to any organization, group or body of citizens for the purpose of providing assistance to persons in need or likely to become in need;
- (c) construct or acquire, maintain and operate residential institutions;
- (d) sponsor, develop, or operate community development services;
- (e) enter into agreements with agencies or other persons for the provision of social services in the province;

- (f) approve residential institutions in the province for the purposes of this Act;
- (g) provide for such other matters as he or she considers necessary to attain the purposes of this Act. *R.S.P.E.I. 1974, Cap. W-4, s.3; 2001, c.19, s.4; 2005, c.53, s.2.*

#### **4. Agreements with Canada and provinces or territories**

The Minister may with the approval of the Lieutenant Governor in Council enter into agreements with the Government of Canada or with the government of any province or territory respecting any matter within the scope and ambit of this Act or prescribed by the regulations. *R.S.P.E.I. 1974, Cap. W-4, s.4; 2001, c.19, s.5.*

#### **4.1 Categories and rates of social assistance**

- (1) The Lieutenant Governor in Council may establish, and always had the power to establish, categories and rates of assistance that may be granted under this Act.

##### **Publication in Gazette**

- (2) Notice of the rates and changes in the rates of financial assistance established by the Lieutenant Governor in Council shall be published in the Royal Gazette. *2001, c.19, s.6.*

#### **4.2 Delegation**

The Minister may delegate to an employee of the department specified powers and duties of the Minister under this Act or the regulations. *2001, c.19, s.6; 2005, c.53, s.3.*

#### **4.3 Powers and duties of regional authority**

Repealed by *2005, c.53, s.4. 2001, c.19, s.6; 2005, c.53, s.4.*

#### **4.4 Directors**

- (1) The Minister shall appoint a Director of Social Assistance who shall be an employee of the department.

##### **Director absent**

- (2) Where the Director appointed pursuant to this section is absent or there is a vacancy in the office of the Director, the power and duties of the Director shall be exercised and performed by such employees of the department as the Minister may designate.

##### **Duties and responsibilities**

- (3) The Director appointed under this section shall provide advice and assistance to the Minister with respect to
  - (a) the administration and enforcement of the provisions of this Act respecting the determination of who a person in need is and the calculation of social assistance that may be provided, in accordance with the regulations; and
  - (b) the initiation of preventive and rehabilitative measures to ensure that
    - (i) alternatives to financial assistance are provided to applicants to assist them to build or attain economic self-sufficiency, including work or job incentives,
    - (ii) all applicants avail themselves of opportunities to build or regain economic self-sufficiency, and

- (iii) appropriate resources or services are provided to those applicants who require long-term social assistance to assist growth toward economic self-sufficiency.

**Preventive rehabilitative measures**

- (4) Repealed by 2005,c.53,s.5.

**Administrative procedures**

- (5) Subject to the approval of the Minister, the Director shall establish administrative procedures, controls, safeguards and written policies for the more effective and efficient administration of this Act and the regulations.

**Binding effect**

- (6) Where administrative procedures, controls, safeguards or written policies have been established pursuant to this section, all persons engaged in the administration of this Act or the regulations and all applicants for social assistance are bound thereby as if the administrative procedures, controls, safeguards or written policies were set forth in the regulations.

**Regulations prevail**

- (7) Where there is a conflict or inconsistency between a regulation made under this Act and an administrative procedure, control, safeguard or written policy made pursuant to subsection (5), the regulations shall prevail.

**Duties of Director**

- (8) The Director shall
  - (a) oversee the operation and delivery of social assistance under this Act;
  - (b) monitor and evaluate service delivery under this Act;
  - (c) make annual reports to the Minister respecting the provision of social assistance in the province; and
  - (d) perform such other duties as may be required by this Act, the regulations, or the Minister. 2001,c.19,s.6; 2005,c.53,s.5.

**5. Social Programs Appeal Board**

- (1) There is established a Social Programs Appeal Board composed of not less than seven and not more than nine members with relevant experience in human services, appointed by the Lieutenant Governor in Council, which shall include
  - (a) at least two members residing in Prince County;
  - (b) at least two members residing in Queens County;
  - (c) at least two members residing in Kings County;
  - (d) at least one member who is fluent in French and English; and
  - (e) at least one member who is a recipient or former recipient of welfare assistance, social assistance, disability supports under a government program, supports or assured income under the *Supports for Persons with Disabilities Act* R.S.P.E.I. 1988, Cap. S-9.2, or benefits under a social program specified in the regulations.

**Chairperson**

- (2) The Lieutenant Governor in Council shall appoint the chairperson and vice-chairperson of the Board from among its members.



**Term of office**

- (3) The term of office for the members of the Board shall be three years and members may be *re-*appointed, provided that a member may not serve more than two consecutive terms.

**Rules of procedure**

- (4) Subject to the regulations, the Board shall establish its own rules of procedure.

**Remuneration**

- (5) Board members shall receive such remuneration and be entitled to be reimbursed for such expenses as the Minister may determine.

**Transitional**

- (5.1) Notwithstanding subsection (1), the persons who are members of the Social Assistance Appeal Board immediately before the date this subsection comes into force shall, on the date this subsection comes into force, constitute the Social Programs Appeal Board and continue as members for the remainder of their terms, unless they sooner cease to be members in accordance with this Act or the regulations.

**Expiry**

- (6) Repealed by 2019,c.35,s.23(3)(c).

**Transitional**

- (7) Repealed by 2005,c.53,s.6. *R.S.P.E.I. 1974, Cap.W-4,s.5; 2001,c.19,s.7; 2005,c.53,s.6; 2019,c.35,s.23(3).*

**5.1 Notice of appeal**

- (1) A person who is dissatisfied with a decision respecting the provision of financial assistance under this Act, the provision of supports or assured income under the *Supports for Persons with Disabilities Act*, or the provision of benefits under a social program specified in the regulations may appeal the decision by notice to the chairperson of the Board not later than 30 days from the date the decision was made known to the person.

**Hearing and decision**

- (1.1) The Board shall hold a hearing and render a decision in respect of an appeal within 30 days of receipt of the notice under subsection (1).

**Not to exceed amounts**

- (2) The Board may confirm or vary a decision appealed from, but may not render a decision which has the effect of providing more social assistance, supports, assured income or benefits than is otherwise possible under the applicable legislation or policy.

**Decision final and binding**

- (3) Except where a right of review is prescribed by the regulations, a decision by the Board is final and binding upon the parties and the Board may not
- (a) reconsider any matter; or
  - (b) rescind, alter or amend any decision or order made by it. *2001,c.19,s.8; 2019,c.35,s.23(4).*

**6. Records**

- (1) The Minister, the Director and social assistance agencies may maintain records containing information gathered in the administration of this Act.

**Disclosure**

- (2) Subject to this section and the regulations, information contained in a record may be disclosed where
- (a) the disclosure is with the written consent of the person to whom it pertains;
  - (b) the disclosure is made for the purposes of a criminal investigation or criminal proceedings;
  - (c) the disclosure is made for the purposes of an investigation or court proceedings under this Act;
  - (d) the disclosure is made to a person or organization providing social assistance services in this province or in another jurisdiction in Canada;
  - (e) the information is provided to a person or organization for the purposes of maintaining it in information systems to be used for the administration of this Act;
  - (f) the disclosure is an aggregate of information which does not identify particular persons; or
  - (g) the disclosure is, in the opinion of the Minister, essential for the administration of this Act.

**Refusal to disclose**

- (3) Notwithstanding any other provision of this section, the disclosure of information shall be refused or limited where the disclosure
- (a) may jeopardize a criminal investigation or an investigation under this Act; or
  - (b) is prohibited by law.

**Statistical information**

- (4) Information concerning the dates on which, and the amounts of, social assistance that is provided to an applicant may be disclosed or published in statistical form for audit, accreditation or budgetary purposes provided that information identifying the applicant is not revealed.

**Publication, disclosure**

- (5) No person shall
- (a) publish information that is disclosed under this Act, except in accordance with the purposes and the conditions which govern the disclosure; or
  - (b) disclose information obtained pursuant to this Act except as permitted by this Act or the regulations. *R.S.P.E.I. 1974, Cap. W-4, s.6; 1993, c.30, s.61; 2001, c.19, s.9; 2005, c.53, s.7.*

**6.1 Debt to government**

- (1) The Minister, in accordance with the regulations, may require a recipient of social assistance
- (a) to repay financial assistance; and
  - (b) to pay fees, rates or charges to cover costs of providing special assistance,
- and all or part of the amount required to be paid or repaid is a debt due by the recipient to the government, which may be recovered by the Minister from the person or the person's estate.

**Excess assistance**

- (2) Where a person has obtained social assistance
- (a) through misrepresentation, deceit, fraud or failure to disclose information; or
  - (b) in excess of amounts permitted by this Act and the regulations,

all or part of the social assistance obtained is a debt due by the person to the government, which may be recovered by the Minister from the person or the person's estate.

**Intention not relevant**

- (3) Subsection (2) applies whether or not the person intended to obtain social assistance in the manner or circumstances described by that subsection, and whether or not the payment was made before the coming into force of this section.

**Minister's powers**

- (4) Subject to the regulations, the Minister may, where there is a debt due pursuant to subsections (1) or (2)
- (a) enter into agreements for repayment;
  - (b) issue a certificate stating the amount owing and the name of the debtor and serve it on the debtor or the debtor's estate, as applicable; or
  - (c) recommend the cancellation, discharge or write-off of the debt in accordance with the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9.

**Certificate**

- (5) A certificate issued pursuant to subsection (4)
- (a) may be filed with the Registrar of the Supreme Court, 30 days after service on the debtor; and
  - (b) after filing, has the same force and effect as a judgment filed pursuant to the *Judgment and Execution Act* R.S.P.E.I. 1988, Cap. J-2. *2001, c.19, s.10; 2005, c.53, s.8.*

**7. Regulations**

The Lieutenant Governor in Council may make regulations respecting any matter within the scope and ambit of this Act and without limiting the generality thereof

- (a) respecting applications for social assistance, including information and verification of information, eligibility requirements, tests, standards and procedures and all other matters regarding the provision of social assistance to applicants;
- (b) prescribing procedures for the consideration of information and the granting of social assistance;
- (c) repealed by *2001, c.19, s.11*;
- (d) providing for the investigation of applications in order to determine the eligibility of applicants;
- (e) respecting financial resources and the manner in which they are considered in determining eligibility for social assistance;
- (f) respecting kinds of and amounts of social assistance that may be granted to an applicant and the manner and time in which social assistance may be given;
- (g) prescribing the circumstances and conditions under which social assistance is required to be *re-assessed*, changed or revoked;
- (h) repealed by *2001, c.19, s.11*;
- (i) respecting the payment of social assistance to persons other than an applicant on behalf of an applicant;
- (i.1) respecting disclosure of information gathered in the administration of this Act, and the protection of privacy;
- (j) prescribing the forms to be used under this Act;

- (k) respecting the approval of residential institutions and the granting of social assistance to residents of them;
- (k.1) respecting all aspects of the granting of social assistance by authorized agencies under this Act;
- (k.2) respecting the recovery of overpayments of social assistance and repayment of moneys granted or paid under this Act;
- (l) defining words, phrases or terms for which no definition is given in the Act;
- (m) repealed by 2001,c.19,s.11;
- (n) repealed by 2001,c.19,s.11;
- (o) respecting audits of social assistance provided under this Act;
- (p) respecting the administration of the Act;
- (q) respecting the payment of moneys under the Act;
- (r) repealed by 2001,c.19,s.11;
- (s) providing for the operation of the Social Programs Appeal Board, and its jurisdiction and powers;
- (t) respecting social assistance agencies, their authorization and responsibilities under this Act and the regulations;
- (u) generally, for the better administration of this Act. *R.S.P.E.I. 1974, Cap.W-4,s.7; 1993,c.30,s.61; 2000(2nd),c.3,s.62; 2001,c.19,s.11; 2019,c.35,s.23(5).*

## 8. Offences and penalties

Every person who knowingly

- (a) makes a false or misleading statement in any application or report under this Act or makes any application or report that by reason of any non-disclosure of facts is false or misleading;
- (b) provides any person employed in the administration or enforcement of this Act with any statement or information that is false in any material part;
- (c) cashes any cheque for an assistance to which the person is not entitled;
- (d) fails to report that the circumstances which caused the person to qualify for assistance have changed;
- (e) contravenes section 6 by communicating or allowing to be communicated to any person privileged information or by allowing any person to inspect or have access to any statement or other writing containing any such information;
- (f) persistently refuses or neglects to maintain any other person for whose maintenance the person is liable,

is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$2,000 or to both. *R.S.P.E.I. 1974, Cap.W-4,s.8; 2001,c.19,s.12.*

## 9. Limitation of action

- (1) No action shall be brought against any person for anything done or not done by that person in good faith in the performance or intended performance of, or in the exercise of the person's powers or duties under this Act or the regulations.

**Idem**

- (2) A person who makes a report, provides information or who does anything to assist in an investigation carried out by the Director is not liable to any civil action in respect of providing such information or assistance.

**False information**

- (3) Subsections (1) and (2) do not apply to a person who knowingly makes a report or provides information that is false or misleading. *R.S.P.E.I. 1974, Cap. W-4, s.9; 2001, c.19, s.13; 2005, c.53, s.9.*

**10. Annual report**

The Minister shall submit annually to the Legislative Assembly a report of the administration of this Act. *R.S.P.E.I. 1974, Cap. W-4, s.10; 2001, c.19, s.14.*

**11. Transitional**

All agreements in effect as of the coming into force of this section between an applicant and a regional authority under this Act shall be deemed to be an agreement between the applicant and the Minister under this Act. *2001, c.19, s.15; 2005, c.53, s.10.*