



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

LONG-TERM CARE SUBSIDIZATION ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to May 19, 2010. 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).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca



LONG-TERM CARE SUBSIDIZATION ACT

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LONG-TERM CARE SUBSIDIZATION ACT

CHAPTER L-16.1

1. Definitions

In this Act

- (a) “**accommodation assistance**” means the amount of financial assistance payable, at the established rates, for room, board and related accommodation expenses in a residential institution;
- (a.1) “**Department**” means the Department of Health and Wellness;
- (b) “**Director**” means the Director of Long-term Care appointed under section 7;
- (b.1) “**established rates**” means the rates of financial assistance that are established under section 5 by the Lieutenant Governor in Council for the categories of assistance that may be granted under this Act;
- (c) “**financial assistance**” means any moneys, including accommodation assistance, that are provided at the established rates to a person in need
 - (i) to assist with the payment of his or her cost of room and board and related accommodation expenses in a residential institution,
 - (ii) as comfort allowances, or
 - (iii) to assist with the payment of pre-approved health related travel and transportation expenses that are incurred by the person;
- (d) “**financial 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 financial assistance, to determine eligibility for financial assistance, and to provide or pay financial assistance;
- (e) repealed by 2006, c.11, s.1;
- (f) “**Minister**” means the Minister of Health and Wellness;
- (g) “**Panel**” means the Financial Assistance Appeal Panel established under section 8;
- (h) “**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 income available to the person to meet those liabilities, and may include
 - (i) dependents of the person, and
 - (ii) the estate of a deceased person;
- (i) “**residential institution**” means an institution approved in accordance with the regulations that provides living accommodations and temporary or continuing care for persons in need. 2005, c.45, s.1; 2006, c.11, s.1; 2010, c.31, s.3.

2. Financial assistance to persons in need

- (1) On application, the Minister shall, in accordance with this Act and the regulations, provide financial assistance to any person who is a person in need.

Financial assistance to persons not in need

- (2) On application, the Minister may, in accordance with this Act and the regulations, provide financial assistance to any person who is not a person in need. *2005, c.45, s.2; 2006, c.11, s.2.*

3. Powers of Minister

The Minister may

- (a) make grants to any organization, group or body of citizens for the purpose of providing financial assistance to persons in need;
- (b) construct or acquire, maintain and operate residential institutions;
- (c) enter into agreements with agencies or other persons for the provision of financial assistance in the province;
- (d) approve residential institutions in the province for the purposes of this Act; and
- (e) provide for such other matters as the Minister considers necessary to attain the purposes of this Act. *2005, c.45, s.3.*

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. *2005, c.45, s.4.*

5. Categories and rates of financial assistance

- (1) The Lieutenant Governor in Council may establish categories and rates of financial 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 Gazette. *2005, c.45, s.5.*

6. Delegation

The Minister may delegate to an employee of the Department specified powers and duties of the Minister under this Act or the regulations. *2005, c.45, s.6.*

7. Director

- (1) The Minister shall appoint a Director of Long-term Care.

Director absent

- (2) Where the Director is absent or there is a vacancy in the office of the Director, the powers and duties of the Director shall be exercised and performed by such persons as the Minister may designate.

Duties and responsibilities

- (3) The Director shall provide advice and assistance to the Minister with respect to the administration and enforcement of the provisions of this Act respecting the determination of who a person in need is and the calculation of financial assistance that may be provided, in accordance with the regulations, and shall
- (a) oversee the operation and delivery of financial assistance under this Act; and
 - (b) monitor and evaluate service delivery under this Act.

Administrative procedures

- (4) 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

- (5) Where administrative procedures, controls, safeguards and 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 financial assistance are bound thereby as if the administrative procedures, controls, safeguards and written policies were set forth in the regulations.

Regulations prevail

- (6) Where there is a conflict or an inconsistency between a provision of a regulation made under this Act and an administrative procedure, control, safeguard or written policy made pursuant to subsection (4), the provision of the regulation shall prevail. *2005,c.45,s.7; 2009,c.7,s.7(1); 2009,c.7,s.7(2).*

8. Financial Assistance Appeal Panel

- (1) There is established a Financial Assistance Appeal Panel composed of not more than three members, appointed by the Minister, on an ad hoc or as required basis.

Chairperson

- (2) The Minister shall, where applicable, appoint a chairperson of the Panel from among its members to act for the duration of an appeal.

Rules of procedure

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

Remuneration

- (4) Panel members shall receive such remuneration and be entitled to be reimbursed for such expenses as the Minister may determine. *2005,c.45,s.8.*

9. Notice of appeal

- (1) A person who is dissatisfied with a decision respecting the provision of financial assistance under this Act may appeal the decision to the Panel by providing written notice of the appeal to the Minister not later than 30 days from the date the decision was made known to the person.

Not to exceed amounts

- (2) The Panel may, on the referral of a written notice of an appeal by the Minister, confirm or vary a decision appealed, but may not render a decision which has the effect of providing more financial assistance than is otherwise payable under this Act and the regulations.

Decision final and binding

- (3) Except where a right of review is prescribed by the regulations, a decision by the Panel is final and binding upon the parties and the Panel may not
- (a) reconsider any matter; or
 - (b) rescind, alter or amend any decision or order made by it. *2005, c.45, s.9.*

10. Records

- (1) The Minister, the Director and financial 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 an organization providing financial assistance services in this province or in another jurisdiction in Canada;
 - (e) the information is provided to a person or an 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) No person shall disclose information where the disclosure
- (a) may jeopardize a criminal investigation or an investigation under this Act; or
 - (b) is otherwise prohibited by law.

Statistical information

- (4) Information concerning the dates on which, and the amounts of, financial 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 and the regulations. *2005,c.45,s.10.*

11. Excess assistance

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

- (2) Subsection (1) applies whether or not the person intended to obtain financial assistance in the manner or circumstances described by that subsection, and whether or not the financial assistance was paid to that person before the day this section comes into force.

Minister's powers

- (3) Subject to the regulations, the Minister may, where there is a debt due by a person to the government pursuant to subsection (1),
 - (a) enter into an agreement for repayment of the debt;
 - (b) issue a certificate stating the amount owing by the person and the name of the person and serve it on the person or the person's estate, as the case may be; 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

- (4) A certificate issued pursuant to subsection (3)
 - (a) may be filed with the Registrar of the Supreme Court, 30 days after service on the person or the person's estate, as the case may be; 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. *2005,c.45,s.11; 2006,c.11,s.3.*

12. 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 financial assistance, including information and verification of information, eligibility requirements, tests, standards and procedures, and all other matters regarding the provision of financial assistance to applicants;
- (b) prescribing procedures for the consideration of information and the granting of financial assistance;
- (c) providing for the investigation of applications in order to determine the eligibility of applicants for financial assistance;
- (d) respecting the income of applicants for financial assistance and the manner in which such income is considered in determining the eligibility of applicants for financial assistance;
- (e) respecting the type and amount of financial assistance that may be granted to an applicant and the manner and time in which financial assistance may be given to an applicant;

- (f) prescribing the circumstances and conditions under which financial assistance is required to be *re*-assessed, changed or revoked;
- (g) respecting the payment of financial assistance to persons other than an applicant on behalf of an applicant;
- (h) respecting disclosure of information gathered in the administration of this Act, and the protection of privacy;
- (i) prescribing the forms to be used under this Act;
- (j) respecting the approval of residential institutions and the granting of financial assistance to residents of them;
- (k) respecting all aspects of the granting of financial assistance by authorized agencies under this Act;
- (l) respecting the recovery of overpayments of financial assistance and repayment of moneys granted or paid under this Act;
- (m) defining words, phrases or terms for which no definition is given under this Act;
- (n) respecting audits of financial assistance provided under this Act;
- (o) respecting the administration of this Act;
- (p) respecting the payment of moneys under this Act;
- (q) providing for the operation of the Financial Assistance Appeal Panel, and its jurisdiction and powers;
- (r) respecting financial assistance agencies, their authorization and responsibilities under this Act and the regulations;
- (s) generally, for the better administration of this Act. *2005,c.45,s.12; 2006,c.11,s.4.*

13. Offences and penalties

Every person who

- (a) makes a false or misleading statement in any application or report made 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 a cheque for financial 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 10; or
- (f) persistently refuses or neglects to maintain any other person for whose maintenance the person is liable,

is guilty of an offence and is liable, on summary conviction, to a fine of not more than \$2,000. *2005,c.45,s.13.*

14. 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. *2005,c.45,s.14.*

15. Annual report

The Minister shall submit to the Legislative Assembly an annual report of the administration of this Act. *2005,c.45,s.15.*

16. Transitional appeals

- (1) Where, before the day this section comes into force,
- (a) a person has, in accordance with the regulations, commenced an appeal in respect of a decision concerning the provision of financial assistance; and
 - (b) that appeal has not been heard or decided by the Financial Assistance Appeal Panel, the Financial Assistance Appeal Panel shall hear and decide the appeal in accordance with the provisions of this Act and the regulations as they read immediately before the day this section comes into force.

Transitional agreements

- (2) For greater certainty, any agreement entered into before the day this section comes into force by a person with the Director, under which the person agrees to repay any financial assistance provided to the person, shall continue to be valid and enforceable, according to its terms on and after the day this section comes into force, with respect to any amount that is owed by the person for financial assistance received before the day this section comes into force.

Transitional -reassessment of persons receiving assistance

- (3) Any person who, immediately before the day this section comes into force, is a resident in a residential institution and is receiving financial assistance shall continue, on and after the day this section comes into force, to receive such financial assistance until the person can be *re-*assessed under this Act and the regulations to determine the amount and types of financial assistance that the person is eligible to receive.

Transitional - assessment of persons not receiving assistance

- (4) Any person who, immediately before the day this section comes into force, is a resident in a residential institution and is not receiving financial assistance, shall
- (a) continue, on and after the day this section comes into force, to pay his or her own costs, including health care costs, until the person can be assessed under this Act and the regulations to determine the amount and types of financial assistance that the person is eligible to receive; and
 - (b) be reimbursed for any health care costs paid by that person for the period from January 1, 2007 to the date of the person's reassessment. *2005,c.45,s.16; 2006,c.11,s.5.*

17. *Idem*

All agreements or applications between an applicant for financial assistance and the Minister of Health and Social Services or a regional authority as of the date this section comes into effect shall be deemed to be an agreement entered into pursuant to the provisions of this Act and the regulations. *2005, c.45, s.17.*