



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen'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](#).

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## CHAPTER L-16.1

### LONG-TERM CARE SUBSIDIZATION ACT

- 1. In this Act**
- Definitions**
- (a) “Department” means the Department of Health; **Department**
- (b) “Director” means the Director of Long-term Care appointed under section 7; **Director**
- (c) “financial assistance” means financial assistance provided as **financial assistance**
- (i) payment for care in residential institutions,
- (ii) payment for health care services,
- (iii) comfort allowances and allowances for other needs of residents of residential institutions, or
- (iv) payment for health-related travel and transportation expenses.
- (d) “financial assistance agency” means **financial assistance agency**
- (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) “health care services” means medical, surgical, optical, dental and nursing services, and includes drugs and special needs items as determined by the Director; **health care services**
- (f) “Minister” means the Minister of Health; **Minister**
- (g) “Panel” means the Financial Assistance Appeal Panel established under section 8; **Panel**
- (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 assets available to the person to meet those liabilities, and may include **person in need**
- (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. **residential institution**
- 2. (1) The Minister shall, in accordance with the regulations, provide financial assistance to persons in need.** **Financial assistance to persons in need**

Financial assistance	(2) The Minister may provide financial assistance to an applicant who is not a person in need in accordance with the regulations. 2005,c.45,s.2.
Powers of Minister	<p><b>3.</b> The Minister may</p> <ul style="list-style-type: none"> <li>(a) make grants to any organization, group or body of citizens for the purpose of providing financial assistance to persons in need;</li> <li>(b) construct or acquire, maintain and operate residential institutions;</li> <li>(c) enter into agreements with agencies or other persons for the provision of financial assistance in the province;</li> <li>(d) approve residential institutions in the province for the purposes of this Act; and</li> <li>(e) provide for such other matters as the Minister considers necessary to attain the purposes of this Act. 2005,c.45,s.3.</li> </ul>
Agreements with Canada and provinces or territories	<b>4.</b> 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.
Categories and rates of financial assistance	<b>5.</b> (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.
Delegation	<b>6.</b> 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.
Director	<b>7.</b> (1) The Minister shall appoint a Director of Long-term Care who shall be an employee of the Department.
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 employees of the Department as the Minister may designate.
Duties and responsibilities	<p>(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</p> <ul style="list-style-type: none"> <li>(a) oversee the operation and delivery of financial assistance under this Act; and</li> <li>(b) monitor and evaluate service delivery under this Act.</li> </ul>

(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.

Administrative procedures

(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.

Binding effect

(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.

Regulations prevail

**8.** (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.

Financial Assistance Appeal Panel

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

Chairperson

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

Rules of procedure

(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.

Remuneration

**9.** (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.

Notice of appeal

(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.

Not to exceed amounts

(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

Decision final and binding

- (a) reconsider any matter; or
  - (b) rescind, alter or amend any decision or order made by it.
- 2005,c.45,s.9.

Records	<b>10.</b> (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 <ul style="list-style-type: none"> <li>(a) the disclosure is with the written consent of the person to whom it pertains;</li> <li>(b) the disclosure is made for the purposes of a criminal investigation or criminal proceedings;</li> <li>(c) the disclosure is made for the purposes of an investigation or court proceedings under this Act;</li> <li>(d) the disclosure is made to a person or an organization providing financial assistance services in this province or in another jurisdiction in Canada;</li> <li>(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;</li> <li>(f) the disclosure is an aggregate of information which does not identify particular persons; or</li> <li>(g) the disclosure is, in the opinion of the Minister, essential for the administration of this Act.</li> </ul>
Refusal to disclose	(3) No person shall disclose information where the disclosure <ul style="list-style-type: none"> <li>(a) may jeopardize a criminal investigation or an investigation under this Act; or</li> <li>(b) is otherwise prohibited by law.</li> </ul>
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 <ul style="list-style-type: none"> <li>(a) publish information that is disclosed under this Act, except in accordance with the purposes and the conditions which govern the disclosure; or</li> <li>(b) disclose information obtained pursuant to this Act except as permitted by this Act and the regulations. 2005,c.45,s.10.</li> </ul>
Debt to government	<b>11.</b> (1) The Minister may, in accordance with the regulations, require a recipient of financial assistance to repay financial 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.

- (2) Where a person has obtained financial assistance
  - (a) through misrepresentation, deceit, fraud or failure to disclose information; Excess assistance
  - (b) in the form of subsidized care in a nursing home, and the person has moved from the nursing home or has died; or
  - (c) 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 recipient to the government, which may be recovered by the Minister from the person or the person's estate.
  
- (3) Subsection (2) 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 payment was made before the coming into force of this section. Intention not relevant
  
- (4) Subject to the regulations, the Minister may, where there is a debt due pursuant to subsections (1) or (2) Minister's powers
  - (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 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.
  
- (5) A certificate issued pursuant to subsection (4) Certificate
  - (a) may be filed with the Registrar of the Supreme Court, 30 days after service on the debtor or the debtor'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.
  
- 12.** The Lieutenant Governor in Council may make regulations 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 financial resources and the manner in which such resources are 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.

Offences and penalties

**13.** 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.** (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. *Limitation of action*

(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. *Idem*

(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. *False information*

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

**16.** Where a notice of appeal was served before the coming into force of this section, the appeal *Transitional*

(a) if no hearing has commenced, shall be before a Panel established under section 8; or

(b) if a hearing has commenced, the Social Assistance Appeal Board shall complete the appeal process, and apply the law as it existed at the time the notice of appeal was filed. 2005,c.45,s.16.

**17.** 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. *Idem*