



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

SUPPORTS FOR PERSONS WITH DISABILITIES 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).

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SUPPORTS FOR PERSONS WITH DISABILITIES ACT

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CHAPTER S-9.2

SUPPORTS FOR PERSONS WITH DISABILITIES ACT

PART 1 – INTERPRETATION AND ADMINISTRATION

1. Definitions

In this Act,

- (a) “**assured income**” means funds to assist a person with a disability to cover the costs of the person’s basic needs, and those of the person’s spouse and dependents, where applicable, including but not limited to food, shelter, clothing and transportation;
- (b) “**Department**” means the Department of Social Development and Seniors;
- (c) “**Director**” means the Director appointed in accordance with subsection 4(1);
- (d) “**Minister**” means the Minister of Social Development and Seniors;
- (e) “**person with a disability**” means a person who has a substantial physical, intellectual, sensory, neurological or mental impairment that
 - (i) is continuous or recurrent,
 - (ii) is expected to last for at least one year, and
 - (iii) has a direct and cumulative effect on, and results in a substantial restriction in, the person’s ability to function in his or her home, the community or a workplace;
- (f) “**program**” means the program established in accordance with subsection 3(1);
- (g) “**supports**” means goods, services or funds to assist a person with a disability to alleviate restrictions in the person’s ability to function in the person’s home, the community or a workplace that are attributable to the person’s disability. *2019,c.35,s.1; 2023,c.20,s.2.*

2. Administration of Act

The Minister is responsible for the administration of this Act and the regulations. *2019,c.35,s.2.*

3. Program

- (1) The Minister shall establish a program for the provision of supports and assured income to eligible persons with a disability, based on the principles that
 - (a) everyone has an inherent and equal worth, regardless of circumstance and ability, and deserves to be treated with respect and empathy; and
 - (b) the Government has an important role in facilitating and supporting the conditions for individual and family success and in providing assistance to those in need.

Provision of supports directly or by agreement

- (2) The Minister may provide supports or assured income directly or may enter into an agreement with any agency or person for the provision of supports or assured income, jointly or severally.

Agreements for funding

- (3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements with the Government of Canada or with any agency or person respecting funding for the provision of supports or assured income. *2019,c.35,s.3.*

4. Appointment of Director

- (1) The Minister shall appoint a Director of the program who shall be an employee of the Department.

Duties of Director

- (2) The Director shall
- (a) subject to the approval of the Minister, establish policies and procedures for the administration of the program;
 - (b) oversee, monitor and evaluate the operation of the program; and
 - (c) perform other duties that may be required of the Director by this Act, the regulations or the Minister.

Delegation of powers and duties

- (3) The Director may, in writing, delegate to an employee of the Department specified powers and duties of the Director under this Act or the regulations. *2019,c.35,s.4.*

PART 2 - SUPPORTS**5. Application for supports**

- (1) A person with a disability may apply to the Director, in the form required by the Director, for supports.

Eligibility

- (2) To be eligible for supports, a person with a disability shall
- (a) be a permanent resident or citizen of Canada;
 - (b) be a resident of Prince Edward Island;
 - (c) be under 65 years of age on the day an application for supports for the person is submitted; and
 - (d) meet any other requirements or conditions set out in the regulations.

Not eligible

- (3) Notwithstanding subsection (2), a person with a disability may not be eligible for supports in circumstances set out in the regulations.

Refusal to provide

- (4) Notwithstanding subsection (2), the Director may refuse to provide supports to a person with a disability in circumstances set out in the regulations.

Discretion

- (5) Notwithstanding subsection (2), the Director may provide supports to a person with a disability who is not eligible for supports, in accordance with the regulations. *2019,c.35,s.5.*

6. Determination of supports to be provided

- (1) Any supports to be provided to an eligible person with a disability, and the time and manner of providing those supports, shall be determined in accordance with the regulations, taking into account factors including but not limited to
- (a) the abilities and challenges of the person;
 - (b) the needs of the person related to the person's disability; and
 - (c) the ability of the person and any other person specified in the regulations to contribute to the cost of supports.

Exception

- (2) Notwithstanding clause 1(c), the ability of the person with a disability or any other person specified in the regulations to contribute to the cost of supports shall not be considered where the person with a disability is under 18 years of age. *2019,c.35,s.6.*

7. Notification of change

A recipient of supports shall, in the manner required by the Director, promptly notify the Director of any change in the circumstances of the recipient or any other person that could affect the eligibility of the recipient for supports or the type of supports to be provided to the recipient. *2019,c.35,s.7.*

8. Review of eligibility and supports

- (1) A review of the eligibility of a recipient for supports and the type of supports being provided to the recipient shall be conducted periodically as specified in the regulations, and may be conducted at any time on the request of the recipient or at the discretion of the Director, in accordance with the regulations.

Information and verification

- (2) For the purposes of conducting a review under this section, the Director may
- (a) direct a recipient to provide the Director with information required by the Director, within the time and in the manner required by the Director; and
 - (b) seek or direct a recipient to provide verification of information provided to the Director by the recipient.

Sections 5 and 6 apply

- (3) Sections 5 and 6 apply, with any necessary changes, in determining, on a review under this section, the continued eligibility of a recipient for supports, the type of supports to be provided and the time and manner of providing supports to a recipient.

Results of review

- (4) Following a review under this section, the Director may, in accordance with the regulations,
- (a) continue or vary the type of supports provided and the time and manner of providing those supports to the recipient; or
 - (b) suspend or cancel the provision of supports to the recipient. *2019,c.35,s.8.*

9. Suspension or cancellation of supports

The Director may, at any time and in accordance with the regulations, suspend or cancel the provision of supports to a recipient, if

- (a) the recipient requests the suspension or cancellation of supports;
- (b) the recipient ceases to meet any of the eligibility requirements or conditions for supports in subsection 5(2) or the regulations;
- (c) the recipient becomes ineligible for supports in accordance with the regulations;
- (d) the recipient refuses or fails to provide information or verification of information, as required under this Act or the regulations;
- (e) the recipient refuses or fails to participate in a review process in accordance with the regulations;
- (f) in the opinion of the Director, the recipient is not obtaining an appreciable benefit from the supports provided;
- (g) the recipient has obtained supports through misrepresentation, deceit, fraud or a failure to disclose information;
- (h) the recipient is deceased; or
- (i) any other relevant circumstance set out in the regulations occurs. *2019,c.35,s.9.*

PART 3 – ASSURED INCOME**10. Categories and rates of assured income**

- (1) The Lieutenant Governor in Council may, by order, establish categories and rates for categories of assured income that may be provided under this Act.

Rates equal to or higher than social assistance

- (1.1) The rates of assured income shall be equal to or higher than the rates of social assistance under the *Social Assistance Act* R.S.P.E.I. 1988, Cap. S-4.3.

Publication

- (2) Notice of the rates and changes to the rates of assured income shall be published in the Royal Gazette.

Annual review

- (3) The Lieutenant Governor in Council shall review the established rates of assured income annually to determine their adequacy in meeting the needs of recipients and, in reviewing the rates, may consider
 - (a) measures of poverty;
 - (b) the comparative rates of social assistance under the *Social Assistance Act*;
 - (c) cost of living increases; and
 - (d) any other factors prescribed by the regulations. *2019,c.35,s.10.*

11. Director to provide assured income

- (1) The Director shall provide assured income to eligible persons with a disability, in accordance with this Act, the regulations and any order made pursuant to subsection 10(1).

Discretion

- (2) The Director may provide assured income to a person with a disability who is not eligible for assured income, in accordance with the regulations. *2019,c.35,s.11.*

12. Application for assured income

- (1) A person with a disability may apply to the Director, in the form required by the Director, for assured income.

Eligibility for assured income

- (2) To be eligible for assured income, a person with a disability shall
- (a) be a permanent resident or citizen of Canada;
 - (b) be a resident of Prince Edward Island;
 - (c) be under 65 years of age on the day an application for assured income for the person is submitted;
 - (d) have insufficient financial resources to provide for the basic needs of the person and the person's spouse and dependents, if applicable, as determined in accordance with the regulations; and
 - (e) meet any other prescribed requirements or conditions.

Not eligible

- (3) Notwithstanding subsection (2), a person with a disability may not be eligible for assured income in the following circumstances:
- (a) the person is a dependent under the age of 18 years residing with a parent or guardian;
 - (b) the person has voluntarily terminated employment without reasonable excuse;
 - (c) other circumstances set out in the regulations.

Refusal to provide

- (4) Notwithstanding subsection (2), the Director may refuse to provide assured income to a person with a disability in the following circumstances:
- (a) the person or the person's spouse has refused to provide requested information for income verification;
 - (b) the person or the person's spouse has previously obtained social assistance, supports or assured income through misrepresentation or fraud;
 - (c) other circumstances set out in the regulations.

Interim income

- (5) Notwithstanding subsection (2), in urgent circumstances, the Director may provide interim income to an applicant pending the assessment of the applicant's application for assured income. *2019,c.35,s.12.*

13. Notification of change

- (1) A recipient of assured income shall, in the manner required by the Director, promptly notify the Director of any change in the circumstances of the recipient or any other person that could affect the eligibility of the recipient for assured income or the amount of assured income provided to the recipient.

Review

- (2) Where the Director becomes aware of a change in the circumstances referred to in subsection (1), the Director shall review the eligibility, financial resources and basic needs of the recipient and maintain, adjust, suspend or cancel the assured income in accordance with this Act and the regulations.

Information and verification

- (3) For the purposes of conducting a review under this section, the Director may
- (a) direct a recipient to provide the Director with information required by the Director, within the time and in the manner required by the Director; and
 - (b) seek or direct a recipient to provide verification of information provided to the Director by the recipient. *2019,c.35,s.13.*

14. Suspension or cancellation of assured income

The Director may, at any time and in accordance with the regulations, suspend or cancel the provision of assured income to a recipient, if

- (a) the recipient requests the suspension or cancellation of assured income;
- (b) the recipient ceases to meet any of the eligibility requirements or conditions for assured income in subsection 12(2) or the regulations;
- (c) the recipient becomes ineligible for assured income in accordance with the regulations;
- (d) the recipient refuses or fails to provide information or verification of information, as required under this Act or the regulations;
- (e) the recipient fails to comply with this Act or the regulations;
- (f) the recipient has obtained assured income through misrepresentation, deceit, fraud or a failure to disclose information;
- (g) the recipient is deceased; or
- (h) any other relevant circumstance set out in the regulations occurs. *2019,c.35,s.14.*

PART 4 – GENERAL**15. Notice of decision**

- (1) The Director shall give notice, in writing, to the affected person of a decision made under this Act or the regulations respecting the person's eligibility for supports or assured income, the type of supports or amount of assured income to be provided to the person, or the suspension or cancellation of supports or assured income being provided to the person.

Reasons and right to appeal

- (2) A notice given under subsection (1) shall include reasons for the decision and information respecting the person's right to appeal the decision under section 16. *2019,c.35,s.15.*

16. Right to appeal

A person who is aggrieved by a decision of the Director referred to in section 15 may appeal the decision to the Social Programs Appeal Board in accordance with the *Social Assistance Act R.S.P.E.I. 1988, Cap. S-4.3. 2019,c.35,s.16.*

17. Repayment of cost of supports or assured income

- (1) The Minister may require a recipient of supports or assured income to repay all, or a part of, the cost of supports or the assured income provided to the recipient
- (a) where the recipient obtained the supports or assured income
- (i) through misrepresentation, deceit, fraud or a failure to disclose information, or
- (ii) in excess of what the recipient should have been provided with as determined under this Act and the regulations; or
- (b) in accordance with the regulations,
- and the amount required to be repaid is a debt owed by the recipient to the Government, which may be recovered by the Minister from the recipient or the recipient's estate.

Intention and timing not relevant

- (2) Subsection (1) applies regardless of whether
- (a) the recipient intended to obtain the supports or assured income in the manner or circumstances described in subsection (1) or the regulations; or
- (b) the cost of the supports was incurred or the assured income was paid before the coming into force of this section.

Recovery of debt

- (3) Where a recipient owes a debt to the Government pursuant to subsection (1), the Minister may, with respect to all or a part of the debt,
- (a) enter into an agreement with the recipient or any other person for repayment;
- (b) deduct all or a part of the amount owing from the supports or assured income payable to the recipient until the debt is recovered;
- (c) issue a certificate stating the amount owing and the name of the recipient and serve it on the recipient or the recipient's estate, as applicable; or
- (d) 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 after 30 days has elapsed 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.

Recovery of debt, Social Assistance Act

- (5) Where a recipient owes a debt to the Government pursuant to the *Social Assistance Act*, in addition to the remedies provided under that Act, the Minister may, with respect to all or a part of the debt, deduct all or a part of the amount owing from the supports or assured income payable to the recipient until the debt is recovered. *2019,c.35,s.17.*

18. Offences and penalties

- Every person who
- (a) knowingly

- (i) makes a false or misleading statement or fails to disclose information, the non-disclosure of which is misleading, in any application or document submitted under this Act or the regulations,
 - (ii) provides information, or makes a statement, that is false or misleading, or fails to disclose information, the non-disclosure of which is misleading, to any person involved in the administration of this Act, or
 - (iii) subject to subsections 5(5) and 11(2), accepts supports or assured income for which the person is not eligible under this Act; or
- (b) contravenes section 7 or subsection 13(1) or 20(3),
is guilty of an offence and liable on summary conviction to a fine not exceeding \$2,000.
2019, c.35, s.18.

19. 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 the person's functions under this Act or the regulations.

Information or report

- (2) Any person who, in good faith, provides information or a report under this Act or the regulations is not liable to any civil action in respect of providing that information or report.
2019, c.35, s.19.

20. Personal information

- (1) In this section, "personal information" means personal information as defined in the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01.

Disclosure

- (2) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, the Minister, the Director and any other person involved in the administration of this Act may
- (a) disclose the following to a person involved in the administration of similar legislation or a similar program in another province:
 - (i) personal information needed to identify a person, such as a person's name or birth date, and
 - (ii) the status of the person in relation to the program; and
 - (b) disclose personal information collected in the administration of this Act in accordance with the terms of an agreement made pursuant to subsection 3(2) or (3).

Confidentiality under agreement

- (3) Where an agency or a person, including the Government of Canada, enters into an agreement with the Minister pursuant to subsection 3(2) or (3), the agency or person shall maintain confidentiality respecting personal information collected by or disclosed to the agency or person under the agreement and shall not use or disclose that personal information except in accordance with the terms of the agreement. *2019, c.35, s.20.*

20.1 Annual report

The Minister shall submit annually to the Legislative Assembly a report respecting the administration of this Act. *2019, c.35, s.20.1.*

21. Regulations

The Lieutenant Governor in Council may make regulations respecting any matter within the scope of this Act, and generally for the better administration of this Act, including regulations

- (a) respecting the determination of whether a person is a person with a disability;
- (b) respecting duties of the Director;
- (c) respecting applications for supports and the information to be provided in support of applications;
- (d) respecting the determination of residence in Prince Edward Island;
- (e) specifying other eligibility requirements for supports;
- (f) specifying conditions of eligibility for supports, including entering into an individual support agreement;
- (g) respecting individual support agreements, including the contents;
- (h) specifying persons who are not eligible for supports;
- (i) specifying circumstances in which the Director may refuse to provide supports;
- (j) respecting the provision of supports to a person who is not eligible including a person 65 years of age or older;
- (k) respecting the determination of supports to be provided to an eligible person with a disability, including
 - (i) assessing the abilities and challenges of the person,
 - (ii) developing a support plan,
 - (iii) determining the degree to which the person's ability to function is restricted by the person's disability,
 - (iv) calculating the required financial contribution of the person or other persons, and
 - (v) calculating the financial support to be provided;
- (l) specifying persons who are required to contribute to the cost of supports;
- (m) establishing categories of function;
- (n) establishing maximum financial support levels for each category of function;
- (o) respecting the time and manner of providing supports;
- (p) respecting the review of a recipient's eligibility for supports and the type of supports provided to a recipient, including the required frequency of reviews;
- (q) respecting the suspension or cancellation of the provision of supports to a recipient;
- (q.1) respecting the factors described in clauses 10(3)(a) - (c) and prescribing other factors to be considered in reviewing rates of assured income;
- (r) respecting applications for assured income and the information to be provided in support of the applications;
- (s) specifying other eligibility requirements for assured income;
- (t) specifying conditions of eligibility for assured income;
- (u) specifying persons who are not eligible for assured income;
- (v) specifying circumstances in which the Director may refuse to provide assured income;
- (w) respecting the provision of assured income to a person who is not eligible;
- (x) respecting financial resources and the manner in which they are considered in determining eligibility for assured income;

- (y) requiring an annual review of provisions of the Act and regulations related to the determination of the financial resources of an applicant or recipient to ensure the basic needs of recipients of assured income are met;
- (z) respecting the types and amounts of assured income that may be granted and the time and manner in which they may be provided;
- (aa) respecting the review of eligibility for assured income and the types and amounts of assured income provided to a recipient;
- (bb) respecting the suspension or cancellation of the provision of assured income to a recipient;
- (cc) respecting the payment of moneys under this Act;
- (dd) respecting the disclosure of personal information collected in the administration of this Act;
- (ee) respecting the repayment of the cost of supports or the assured income provided to a recipient and the recovery of debts owed to the Minister under this Act;
- (ff) providing for audits of the program;
- (gg) defining words, phrases or terms for which no definition is given in this Act;
- (hh) respecting the service of notices or other documents under this Act or the regulations;
- (ii) respecting the communication of information to applicants and recipients; and
- (jj) providing that the contravention of a provision of the regulations is an offence and setting out penalties for the offence. *2019,c.35,s.21.*

PART 5 – TRANSITIONAL, CONSEQUENTIAL AMENDMENTS, REPEAL AND COMMENCEMENT

Transitional Provisions

22. Definition, “former program”

- (1) In this section, “former program” means the program established by the Minister by policy in July 2018, as it existed immediately before this section came into force.

Deemed recipient

- (2) A person who, on the date this section comes into force, is receiving supports or assured income under the former program is deemed to be a recipient of supports or assured income, as the case may be, under this Act until he or she ceases to be a recipient pursuant to this Act or the regulations.

Request for reconsideration pending

- (3) Where a request for reconsideration of a decision is pending under the former program on the day this section comes into force, the decision shall be deemed to be a decision made under this Act and the request for reconsideration shall be treated as a notice of appeal under the *Social Assistance Act*.

Request for reconsideration of existing decision

- (4) Where a request is made, on or after the day this section comes into force, for reconsideration of a decision made in whole or in part under the former program before the day this section came into force, the decision shall be deemed to be a decision made under this Act and the

request for reconsideration shall be treated as a notice of appeal under the *Social Assistance Act*.

Assessments, decisions continue in effect

- (5) An assessment, decision, action, determination, finding or recommendation made or carried out under the former program that is in effect on the day this section comes into force, continues in effect until it ceases to have effect pursuant to this Act or the regulations. 2019,c.35,s.22.

Consequential Amendments

23. Social Assistance Act

- (1) **The *Social Assistance Act* R.S.P.E.I. 1988, Cap. S-4.3, is amended as provided by this section.**
- (2) **Clause 1(a.1) of the Act is amended by the deletion of the word “Assistance” and the substitution of the word “Programs”.**
- (3) **Section 5 of the Act is amended**
- (a) **by the repeal of subsection (1) and the substitution of the following:**

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.
- (b) **by the addition of the following after subsection (5):**

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.
- (c) **by the repeal of subsection (6).**

- (4) **Section 5.1 of the Act is amended**

(a) **in subsection (1), by the addition of the words “, 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” after the words “under this Act”;**

(a.1) **by the addition of the following after subsection (1):**

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).

(b) **in subsection (2), by the deletion of the words “more social assistance than is otherwise possible under this Act and the regulations” and the substitution of the words “more social assistance, supports, assured income or benefits than is otherwise possible under the applicable legislation or policy”.**

(5) **Clause 7(s) of the Act is amended by the deletion of the word “Assistance” and the substitution of the word “Programs”.**

Repeal and Commencement

24. Repeal

The *Disability Supports Act* S.P.E.I. 2013, c. 8, is repealed. 2019,c.35,s.24.