

Ontario Works Act, 1997

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Purpose of Act

1. The purpose of this Act is to establish a program that,
 - (a) recognizes individual responsibility and promotes self reliance through employment;
 - (b) provides temporary financial assistance to those most in need while they satisfy obligations to become and stay employed;
 - (c) effectively serves people needing assistance; and
 - (d) is accountable to the taxpayers of Ontario. 1997, c. 25, Sched. A, s. 1.

Definitions

2. In this Act,

- “administrator” means an administrator for a geographic area appointed under section 43; (“administrateur”)
- “applicant” means a person who applies for basic financial assistance or on whose behalf such an application is made; (“auteur de demande”)
- “assistance” means employment assistance and basic financial assistance; (“aide”)
- “basic financial assistance” means assistance under section 5; (“aide financière de base”)
- “benefit unit” means a person and all of his or her dependants on behalf of whom the person applies for or receives basic financial assistance; (“groupe de prestataires”)
- “benefits” means the prescribed items, services or payments; (“prestations”)
- “biometric information” means information derived from an individual’s unique characteristics but does not include a photographic or signature image; (“renseignements biométriques”)
- “community participation” includes participation in community activities that contribute to the betterment of the community; (“participation communautaire”)
- “delivery agent”, for a geographic area, means the delivery agent designated by the Minister to administer this Act and provide assistance in that area; (“agent de prestation des services”)
- “Director” means the Director of Ontario Works appointed by the Minister; (“directeur”)
- “district social services administration board” means a board established under the *District Social Services Administration Boards Act*; (“conseil d’administration de district des services sociaux”)
- “emergency assistance” means assistance provided to help with basic needs and shelter on an emergency basis; (“aide en cas d’urgence”)
- “employment assistance” means assistance under section 4; (“aide à l’emploi”)
- “employment measures” includes job search, job search support services, referral to basic education and job specific skills training, and employment placement; (“mesures d’emploi”)
- “income assistance” means assistance provided for purposes of basic needs and shelter; (“aide au revenu”)
- “Minister” and “Ministry” mean the Minister and Ministry of Community and Social Services; (“ministre”, “ministère”)
- “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*; (“renseignements personnels”)
- “prescribed” means prescribed by the regulations made under this Act; (“prescrit”)
- “recipient” means a person to whom basic financial assistance is provided; (“bénéficiaire”)
- “regulations” means the regulations made under this Act; (“règlements”)
- “Tribunal” means the Social Benefits Tribunal established under section 60. (“Tribunal”) 1997, c. 25, Sched. A, s. 2; 2002, c. 17, Sched. F, Table.

PART I ELIGIBILITY FOR AND PROVISION OF ASSISTANCE

Assistance

3. There are two forms of assistance under this Act: employment assistance and basic financial assistance. 1997, c. 25, Sched. A, s. 3.

Employment assistance

4. Employment assistance is assistance to help a person to become and stay employed and includes,

- (a) community participation; and
- (b) other employment measures, as prescribed. 1997, c. 25, Sched. A, s. 4.

Basic financial assistance

5. Basic financial assistance includes,

- (a) income assistance provided for purposes of basic needs and shelter;
- (b) benefits; and
- (c) emergency assistance. 1997, c. 25, Sched. A, s. 5.

Who receives employment assistance

6. Employment assistance may be provided for,

- (a) a recipient or a dependant;
- (b) a person eligible to receive income support under the *Ontario Disability Support Program Act, 1997* or a dependant; and
- (c) members of a prescribed class of persons. 1997, c. 25, Sched. A, s. 6.

Who receives income assistance

7. (1) Income assistance shall be provided in accordance with the regulations to persons who satisfy all conditions of eligibility under this Act and the regulations.

Who are the beneficiaries

(2) Income assistance shall be provided for the benefit of the eligible person and his or her dependants.

Eligibility for income assistance

(3) No person is eligible for income assistance unless,

- (a) the person is resident in Ontario;
- (b) the budgetary requirements of the person and any dependants exceed their income and their assets do not exceed the prescribed limits, as provided for in the regulations;
- (c) the person and the prescribed dependants provide the information and the verification of information required to determine eligibility including,
 - (i) personal identification information, as prescribed,
 - (ii) financial information, as prescribed, and
 - (iii) any other prescribed information; and
- (d) the person and the person's dependants meet any other prescribed conditions relating to eligibility.

Same

(4) A recipient and any prescribed dependants may be required as a condition of eligibility for basic financial assistance to,

- (a) satisfy community participation requirements;
- (b) participate in employment measures;
- (c) accept and undertake basic education and job specific skills training; and
- (d) accept and maintain employment. 1997, c. 25, Sched. A, s. 7.

Who receives benefits

8. Benefits may be provided for,

- (a) a recipient or a dependant;
- (b) a person eligible to receive income support under the *Ontario Disability Support Program Act, 1997* or a dependant; and
- (c) members of the prescribed classes of persons. 1997, c. 25, Sched. A, s. 8.

Who receives emergency assistance

9. Emergency assistance may be provided in accordance with the regulations to or for the benefit of a person who meets the prescribed conditions. 1997, c. 25, Sched. A, s. 9.

Temporary care assistance

10. The administrator shall provide income assistance and benefits in accordance with the regulations to an adult on behalf of a child if,

- (a) the child is in the temporary care of the adult;
- (b) the child is in financial need;
- (c) the child is not a dependant under this Act or the *Ontario Disability Support Program Act, 1997*;
- (d) the adult does not have a legal obligation to support the child, as prescribed;
- (e) the child is not receiving residential care by a person who receives compensation for caring for the child under the *Child and Family Services Act*; and
- (f) the adult and the child meet any other prescribed conditions of eligibility. 1997, c. 25, Sched. A, s. 10.

Assistance in exceptional circumstances

11. In cases presenting exceptional circumstances and in which investigation shows the advisability of assistance being provided to a person who is not eligible for it, the Lieutenant Governor in Council may by order direct that assistance be provided to the person in accordance with the terms of the order. 1997, c. 25, Sched. A, s. 11.

12. REPEALED: 2009, c. 33, Sched. 8, s. 5 (1).

Agreement to reimburse and assignment

13. (1) An administrator shall in prescribed circumstances, as a condition of eligibility for basic financial assistance, require an applicant, a recipient, a dependant or a prescribed person to agree to reimburse the administrator for the assistance provided or to be provided.

Same

- (2) An agreement under subsection (1) may require an assignment, as prescribed.

Same

- (3) This section does not apply to,
 - (a) a payment that would be exempt as income or assets under this Act or the regulations; or
 - (b) that portion of employment earnings, pension income or other prescribed income that is paid with respect to a period after the period during which the person receives assistance. 1997, c. 25, Sched. A, s. 13.

Failure to comply

14. (1) If an applicant, recipient or dependant fails to comply with or meet a condition of eligibility in this Act or the regulations, the administrator shall, as prescribed:

1. Refuse to grant assistance.
2. Declare the person ineligible for assistance for the prescribed period.
3. Reduce or cancel assistance or that part of it provided for the benefit of the person who has failed to comply.
4. Suspend assistance or suspend that part of it provided for the benefit of the person who has failed to comply.

Reinstatement

(2) If assistance is suspended, reduced or cancelled under this section, it shall be returned to its former level or reinstated only in accordance with the regulations. 1997, c. 25, Sched. A, s. 14.

Application for basic financial assistance

15. (1) An application for basic financial assistance shall be made in the prescribed manner and shall contain the prescribed information.

Same

(2) Despite any decision of an administrator, the Tribunal or a court, a further application for assistance may be made by an applicant or recipient upon new or other evidence or if material circumstances have changed. 1997, c. 25, Sched. A, s. 15.

Determination of assistance

16. (1) The amount of basic financial assistance to be provided and the time and manner of providing that assistance shall be determined in accordance with the regulations.

Determination of employment assistance

(2) The amount and type of employment assistance provided and the time and manner of providing that assistance shall be determined in accordance with the regulations. 1997, c. 25, Sched. A, s. 16.

Appointment of person to act for recipient

17. (1) An administrator may appoint a person to act for a recipient 18 years of age or older if there is no guardian of property or trustee for the recipient and the administrator is satisfied that the recipient is using or is likely to use his or her assistance in a way that is not for the benefit of a member of the benefit unit.

Same

(2) An administrator shall appoint a person to act for a recipient who is under the age of 18 years if there is no guardian of property or trustee for the recipient.

Same

(3) An administrator may provide assistance for the benefit of a recipient to the recipient's guardian of property or trustee or to a person appointed under subsection (1) or (2).

Compensation

(4) A person to whom assistance is provided under subsection (3) is not entitled to a fee or other compensation or reward or to reimbursement for costs or expenses incurred by acting under this section, except as prescribed.

Report and account

(5) A person appointed under this section to act for a recipient shall report and account in accordance with the regulations. 1997, c. 25, Sched. A, s. 17.

Money paid to third party

18. A portion of basic financial assistance may be provided directly to a third party on behalf of a recipient if an amount is payable by a member of the benefit unit to the third party for costs relating to basic needs or shelter, as prescribed. 1997, c. 25, Sched. A, s. 18.

Recovery of overpayments

19. (1) If an amount has been provided to a recipient under this Act in excess of the amount to which the recipient was entitled, the amount of the excess is an overpayment. 1997, c. 25, Sched. A, s. 19 (1).

Same

(2) If a recipient or a dependant fails to honour an assignment or an agreement to reimburse the delivery agent, the prescribed amount is an overpayment. 1997, c. 25, Sched. A, s. 19 (2).

Overpayment as debt

(2.1) An overpayment by a delivery agent under this Act is a debt due to the delivery agent and may also be deemed by the Director to be a debt due to the Crown in right of Ontario. 2006, c. 19, Sched. E, s. 3 (1).

Recovery of overpayments from other programs

(3) An overpayment enforceable against a recipient or the recipient's spouse under the *Ontario Disability Support Program Act, 1997*, the *Family Benefits Act* or the *General Welfare Assistance Act* is recoverable under this Act even though the overpayment was made by,

- (a) the Director under the *Ontario Disability Support Program Act, 1997*;
- (b) a welfare administrator under the *General Welfare Assistance Act*; or

(c) the Director under the *Family Benefits Act*. 1997, c. 25, Sched. A, s. 19 (3); 1999, c. 6, s. 50 (2); 2005, c. 5, s. 54 (2).

Methods of recovery

(4) An overpayment may be recovered by one or more of reduction of basic financial assistance under section 20, notice under section 21 or a proceeding under section 22. 1997, c. 25, Sched. A, s. 19 (4).

Reduction of basic financial assistance

20. (1) The administrator may recover the amount of an overpayment by deducting it from the recipient's basic financial assistance.

Same

(2) The amount deducted under subsection (1) shall not exceed the prescribed amount unless the recipient agrees to a greater amount being deducted. 1997, c. 25, Sched. A, s. 20.

Notice of overpayment

21. (1) The administrator may give a recipient notice in writing of a decision determining that an overpayment exists and, if the administrator does, the notice shall set out the amount of the overpayment and the prescribed information concerning the decision. 1997, c. 25, Sched. A, s. 21 (1).

Effect of notice

(2) A decision determining that an overpayment exists shall be final and enforceable against the recipient as if it were an order of the Superior Court of Justice if,

- (a) notice of it has been given under subsection (1);
- (b) the time for commencing an appeal to the Tribunal has expired; and
- (c) no appeal has been commenced. 1997, c. 25, Sched. A, s. 21 (2); 2006, c. 19, Sched. C, s. 1 (1).

Effect of appeal

(3) If the decision is appealed and an overpayment is determined, the decision of the Tribunal shall be final and enforceable against the recipient as if it were an order of the Superior Court of Justice. 1997, c. 25, Sched. A, s. 21 (3); 2006, c. 19, Sched. C, s. 1 (1).

Notice to spouse

(4) If a recipient had a dependent spouse when an overpayment was incurred, the administrator may give notice in writing to the spouse respecting the overpayment. 1997, c. 25, Sched. A, s. 21 (4); 1999, c. 6, s. 50 (3); 2005, c. 5, s. 54 (3).

Effect of notice to spouse

(5) If the administrator provides notice to a spouse under subsection (4), subsections (2) and (3) apply with necessary modifications to the spouse. 1997, c. 25, Sched. A, s. 21 (5); 1999, c. 6, s. 50 (4); 2005, c. 5, s. 54 (4).

Proceeding for recovery of overpayment

22. The administrator may recover an overpayment as a debt due to the delivery agent in a court of competent jurisdiction, whether or not notice has been provided under section 21. 1997, c. 25, Sched. A, s. 22.

Method of recovery, debt due to the Crown

22.1 The Crown in right of Ontario may recover an overpayment that is deemed to be a debt due to the Crown by any remedy or procedure that is available to the Crown by law if the administrator has given a recipient a notice in writing under section 21 and,

- (a) the time for commencing an appeal to the Tribunal has expired and no appeal has been commenced; or
- (b) the decision is appealed and an overpayment is determined by the decision of the Tribunal. 2006, c. 19, Sched. E, s. 3 (2).

No attachment, etc., of basic financial assistance

23. (1) Basic financial assistance,

- (a) is not subject to alienation or transfer by the recipient; and
- (b) is not subject to garnishment, attachment, execution, seizure or receivership under any other Act.

Deduction re money owed for family support, etc.

- (2) Despite subsection (1), an administrator may deduct a portion of basic financial assistance to recover,
- (a) the amount of a support deduction order that is enforceable against a member of the benefit unit under section 20 of the *Family Responsibility and Support Arrears Enforcement Act, 1996*; or
 - (b) the prescribed government debts owed by a member of the benefit unit.

Maximum amount deducted

(3) The total amount deducted from basic financial assistance under subsection (2) shall not exceed the prescribed amount unless the recipient agrees to a greater amount.

Payment of amount deducted

- (4) The administrator shall pay any amount deducted under this section to the prescribed person.

Application of section

(5) This section applies even if the amount has been paid into the person's account at a financial institution. 1997, c. 25, Sched. A, s. 23.

**PART II
EFFECTIVE DATE OF DECISIONS, INTERNAL REVIEW AND APPEALS**

Notice of decision

24. An administrator shall give notice to the applicant or recipient of a decision that may be appealed and the notice shall advise the applicant or recipient that he or she may request an internal review of the decision. 1997, c. 25, Sched. A, s. 24.

When decision takes effect

25. (1) A decision of the administrator shall be effective from the date fixed by the administrator, whether it is before, on or after the date of the decision. 1997, c. 25, Sched. A, s. 25 (1).

When decision is final

- (2) An administrator's decision that may not be appealed is final when it is made. 1997, c. 25, Sched. A, s. 25 (2).

Same

- (3) An administrator's decision that may be appealed is final,
- (a) when the prescribed time for requesting an internal review expires, if no internal review is requested within that time; or
 - (b) on the earliest of the day the prescribed time for completing the internal review expires, the day the results of the completed internal review are received and the day the results of the completed internal review are deemed to be received under section 68, if an internal review has been requested. 1997, c. 25, Sched. A, s. 25 (3); 2009, c. 33, Sched. 8, s. 5 (2).

Decisions which may be appealed

26. (1) Any decision of an administrator affecting eligibility for or the amount of basic financial assistance, other than a decision referred to in subsection (2), may be appealed to the Tribunal.

Exceptions

- (2) No appeal lies to the Tribunal with respect to the following matters:
- 1. A decision with respect to employment assistance that does not affect eligibility for or the amount of income assistance or a mandatory benefit.
 - 2. A decision respecting discretionary benefits.
 - 3. A decision of the Lieutenant Governor in Council respecting assistance in exceptional circumstances.
 - 4. A decision to provide a portion of basic financial assistance directly to a third party.
 - 5. A decision made under subsection 17 (2) to appoint a person to act on behalf of a recipient.
 - 6. A variation, refusal or cancellation of assistance caused by an amendment to this Act or the regulations.
 - 7. A decision respecting emergency assistance.
 - 8. A prescribed decision. 1997, c. 25, Sched. A, s. 26.

Internal review before appeal

27. (1) No appeal may be commenced unless an internal review has been requested.

Same

(2) The request for internal review must be made within the prescribed time.

If review requested

(3) If the applicant or recipient requests an internal review, the review shall be completed in the prescribed manner and within the prescribed period.

SPPA does not apply

(4) The *Statutory Powers Procedure Act* does not apply to an internal review. 1997, c. 25, Sched. A, s. 27.

Appeal to Tribunal

28. (1) An applicant or recipient may appeal a decision of an administrator within the prescribed period after an internal review by filing a notice of appeal that shall include reasons for requesting the appeal. 1997, c. 25, Sched. A, s. 28 (1).

Same

(2) The Tribunal may extend the time for appealing a decision if it is satisfied that there are apparent grounds for an appeal and that there are reasonable grounds for applying for the extension. 1997, c. 25, Sched. A, s. 28 (2).

Same

(3) An appeal to the Tribunal shall be commenced and conducted in accordance with the regulations. 1997, c. 25, Sched. A, s. 28 (3).

Parties

(4) The administrator, the applicant or recipient who requested the hearing and any other persons specified by the Tribunal are parties to the proceedings before the Tribunal. 1997, c. 25, Sched. A, s. 28 (4).

Add party

(5) At any stage of an appeal, the Tribunal shall add the Director as a party, on his or her request. 1997, c. 25, Sched. A, s. 28 (5).

Notice to spouse

(6) If an appeal relates to a determination of an overpayment of which the administrator has given notice to a spouse under subsection 21 (4), the spouse shall be added as a party. 1997, c. 25, Sched. A, s. 28 (6); 1999, c. 6, s. 50 (5); 2005, c. 5, s. 54 (5).

Same

(7) A spouse who has been added as a party to the appeal of a determination may not commence an appeal in relation to that determination. 1997, c. 25, Sched. A, s. 28 (7); 1999, c. 6, s. 50 (6); 2005, c. 5, s. 54 (6).

Submission

(8) The administrator and the Director may make written submissions in place of or in addition to appearing at a hearing. 1997, c. 25, Sched. A, s. 28 (8).

Same

(9) If written submissions are to be made, the parties to the hearing shall be given an opportunity before the hearing to examine the submissions, as prescribed. 1997, c. 25, Sched. A, s. 28 (9).

Written or documentary evidence

(10) The parties to a hearing shall be given an opportunity before the hearing to examine any written or documentary evidence that a party proposes to introduce at the hearing, as prescribed. 1997, c. 25, Sched. A, s. 28 (10).

Onus

(11) The onus lies on the appellant to satisfy the Tribunal that the decision of the administrator is wrong. 1997, c. 25, Sched. A, s. 28 (11).

Notice to Director

29. The administrator shall notify the Director of the prescribed appeals to the Tribunal. 1997, c. 25, Sched. A, s. 29.

Interim assistance

30. (1) The Tribunal may direct the administrator to provide the prescribed interim assistance to an applicant or recipient if the Tribunal is satisfied that the person will suffer financial hardship during the period needed for the Tribunal to complete its review and give notice of its decision.

Same

(2) An applicant or recipient may receive interim assistance directed under subsection (1) only so long as he or she meets all conditions of eligibility for assistance other than a condition relating to the issue under appeal.

Procedure

(3) The *Statutory Powers Procedure Act* does not apply to proceedings of the Tribunal with respect to interim assistance. 1997, c. 25, Sched. A, s. 30.

Order of Tribunal

31. (1) In an appeal to the Tribunal, the Tribunal may,

- (a) deny the appeal;
- (b) grant the appeal;
- (c) grant the appeal in part; or
- (d) refer the matter back to the administrator for reconsideration in accordance with any directions the Tribunal considers proper.

Reasons

(2) The Tribunal shall give reasons for its decision.

Administrator to give effect

(3) The administrator shall give effect to the Tribunal's directions under this section.

Order takes effect

(4) A decision of the Tribunal takes effect when it is made and, if it is appealed, continues in effect until a decision of the Divisional Court is made on appeal. 1997, c. 25, Sched. A, s. 31.

Recovery of interim assistance

32. If the amount of interim assistance provided exceeds the amount that would have been payable under the final order of the Tribunal or Court during the period for which interim assistance was provided, the amount of the excess shall be deemed to be an overpayment. 1997, c. 25, Sched. A, s. 32.

Appeal frivolous, vexatious

33. The Tribunal shall refuse to hear an appeal if it determines the appeal to be frivolous or vexatious. 1997, c. 25, Sched. A, s. 33.

Appeal denied

34. (1) An appeal to the Tribunal shall be denied if,

- (a) the person appealing fails, without reasonable cause, to file the information required for the appeal within the required time;
- (b) in the case of a hearing held in person, the person appealing fails, without reasonable cause, to attend the hearing at the time and place fixed for it;
- (c) in the case of a hearing held by telephone, video conference or some other means, the person appealing fails, without reasonable cause, to be available to be contacted for the purpose of the hearing.

Limitation on subsequent appeal

(2) If an appeal is denied under subsection (1), the appellant may not appeal a subsequent decision on the same issue during the prescribed period. 1997, c. 25, Sched. A, s. 34.

If no appeal commenced

35. If an administrator's decision is not appealed to the Tribunal within the time required under this Act, no further appeal lies to the Tribunal or a court with regard to that decision. 1997, c. 25, Sched. A, s. 35.

Appeal to Court

36. (1) The Director and any party to a hearing may appeal the Tribunal's decision to the Divisional Court on a question of law.

Record to be filed in court

(2) If a party appeals from a decision of the Tribunal, the Tribunal shall forthwith file with the Divisional Court the prescribed documents, which shall constitute the record in the appeal.

Notice to Director

(3) The person appealing shall serve the notice of appeal on the Director and any other party before the Tribunal.

Minister entitled to be heard

(4) The Minister is entitled to be heard by counsel or otherwise on an appeal under this section.

Powers of Court on appeal

(5) In an appeal to the Court of a decision of the Tribunal, the Court may,

(a) deny the appeal;

(b) grant the appeal;

(c) grant the appeal in part; or

(d) refer the matter back to the Tribunal or the administrator for reconsideration in accordance with any directions the Court considers proper.

Same

(6) The Tribunal or the administrator shall give effect to any direction given by the Court under this section. 1997, c. 25, Sched. A, s. 36.

PART III ADMINISTRATION OF THE ACT

Geographic areas designated

37. The Minister shall by regulation designate geographic areas of Ontario for the purposes of this Act. 1997, c. 25, Sched. A, s. 37.

Delivery agents designated

38. (1) The Minister may by regulation designate a municipality, band or prescribed board as a delivery agent for each geographic area to exercise the powers and duties of a delivery agent in that geographic area.

Terms and conditions

(2) The Minister may attach terms and conditions to a designation under subsection (1).

Revoke designation

(3) The Minister may revoke a designation under this section. 1997, c. 25, Sched. A, s. 38.

Powers and duties of delivery agent

39. (1) Each delivery agent is responsible for the administration of this Act and the provision of employment assistance and basic financial assistance in the delivery agent's geographic area.

Standard of services

(2) A delivery agent shall meet the prescribed standards in its performance of its functions and follow the prescribed procedures and practices.

Additional powers of delivery agent

(3) A delivery agent shall have the prescribed powers. 1997, c. 25, Sched. A, s. 39.

Provision of information related to Act

40. (1) Each delivery agent shall provide to the Director information relevant to its administration of this Act that is requested by the Director, including information about present and former applicants and recipients under this Act, the *Ontario Disability Support Program Act, 1997*, the *Family Benefits Act* or the *General Welfare Assistance Act*.

Same

(2) The information shall be provided in the form and manner requested by the Director. 1997, c. 25, Sched. A, s. 40.

Use of information related to Act

41. (1) Information collected by a delivery agent for the purposes of this Act may be used by the delivery agent and by the Minister for the purposes of and in accordance with this Act.

Use of personal information

(2) Personal information collected by a delivery agent for the purposes of this Act may be used by the delivery agent and by the Minister only for the purpose for which it was collected or for a consistent purpose or as authorized under this Act. 1997, c. 25, Sched. A, s. 41.

Record keeping

42. Each delivery agent shall keep information collected under this Act in the form and electronic system required by the Director. 1997, c. 25, Sched. A, s. 42.

Administrator appointed

43. Each delivery agent shall, with the approval of the Director, appoint an administrator to oversee the administration of this Act and the provision of assistance in the delivery agent's geographic area. 1997, c. 25, Sched. A, s. 43.

Powers and duties of administrator

44. Each administrator shall carry out the following duties:

1. Receive applications for basic financial assistance from persons residing in his or her geographic area.
2. Determine the eligibility of each applicant for basic financial assistance.
3. If an applicant is found eligible for basic financial assistance, determine the amount of the assistance and direct its provision.
4. Determine eligibility for employment assistance and direct its provision.
5. Carry out the prescribed duties. 1997, c. 25, Sched. A, s. 44.

Contracting authority, delivery agent

45. (1) A delivery agent may enter into an agreement with regard to any matter relating to the administration of this Act or the provision of assistance in the delivery agent's geographic area, subject to the restrictions or conditions in the designation as delivery agent. 1997, c. 25, Sched. A, s. 45.

Contracting authority, municipality

(2) The council of a municipality may enter into an agreement with a delivery agent under subsection (1) and, if it does so, the municipality has all of the powers and duties of the delivery agent that relate to the subject-matter of the agreement. 1999, c. 12, Sched. E, s. 4.

Delegation of administrator's powers and duties

46. (1) An administrator may, in writing, authorize a person or class of persons employed by the delivery agent for the purpose to exercise any of his or her powers and duties under his or her supervision and direction.

Same

(2) A decision made by a person exercising the administrator's powers or duties under this section shall be deemed to be a decision of the administrator. 1997, c. 25, Sched. A, s. 46.

Director

47. (1) The Director shall exercise the powers and duties imposed or conferred on the Director by this Act and the regulations.

Acting Director

(2) If the Director is absent or unable to act or the office of the Director is vacant, the employee of the Ministry designated by the Minister has and shall exercise the powers and duties of the Director.

Delegation of Director's powers and duties

(3) The Director may, in writing, authorize a person or class of persons to exercise any of the powers or duties of the Director under his or her supervision and direction.

Decision of acting Director

(4) A decision made by a person exercising the Director's powers or duties under subsection (3) shall be deemed to be a decision of the Director. 1997, c. 25, Sched. A, s. 47.

Director's powers and duties

48. (1) The Director shall,

- (a) supervise the administration of this Act and the provision of assistance by delivery agents, including setting and monitoring delivery standards;
- (b) audit the costs of each delivery agent in administering this Act and providing assistance;
- (c) determine how the payment of the costs of administering this Act and providing assistance is to be allocated;
- (d) ensure that the appropriate payments are made or withheld, as the case may be; and
- (e) exercise the prescribed powers and duties.

Contracting authority, Director

(2) The Director may enter into an agreement with regard to any matter relating to the administration of this Act or the provision of assistance. 1997, c. 25, Sched. A, s. 48.

Agreement for delivery of assistance

49. (1) The Minister may enter into an agreement with a band or person providing that the band or person shall exercise the powers and duties of a delivery agent in a geographic area.

Terms and conditions

(2) An agreement under this section shall be subject to the prescribed terms and conditions and to any additional terms and conditions set out in it.

Payment of costs

(3) An agreement under this section shall provide for the payment by Ontario of a portion of the band's or person's costs, as prescribed.

Personal information

(4) An agreement under this section shall provide for the ownership, collection, use, disclosure and safeguarding of privacy of personal information and for a person's access to his or her own personal information, subject to the prescribed conditions.

Administrator

(5) The agreement shall provide for the appointment of an administrator.

Deemed reference

(6) If there is an agreement under this section, a reference to a delivery agent in this Act or the regulations shall be deemed to be a reference to the band or person and a reference to an administrator in this Act or the regulations shall be deemed to be a reference to the administrator appointed by the band or person.

Director to supervise

(7) If there is an agreement under this section, the Director shall,

- (a) supervise the band's or person's administration of this Act and of the provision of assistance and shall audit its costs in administering this Act and providing assistance;
- (b) ensure that the appropriate payments are made to the band or person or withheld from it, as the case may be, in accordance with this Act and the regulations; and
- (c) supervise compliance with any requirements regarding the collection, use, disclosure and safeguarding of the privacy of personal information. 1997, c. 25, Sched. A, s. 49.

Ministry as delivery agent

50. (1) The Ministry may act as a delivery agent for a geographic area if the Minister determines that it is necessary to do so.

Administrator

(2) The Minister shall appoint an administrator in a geographic area in which the Ministry is the delivery agent. 1997, c. 25, Sched. A, s. 50.

Cost sharing

51. The prescribed costs incurred under this Act shall be shared by Ontario, municipalities, and persons living in territory without municipal organization in accordance with the regulations. 1997, c. 25, Sched. A, s. 51.

Payments to delivery agents

52. (1) The Minister shall pay to every delivery agent,

- (a) an amount determined in accordance with the regulations for Ontario's share of the delivery agent's costs incurred under this Act; and
- (b) if there is territory without municipal organization in the delivery agent's geographic area, the amount determined in accordance with the regulations for that territory's share of the delivery agent's costs incurred under this Act.

Payments to bands, persons

(2) Despite subsection (1), the Minister shall pay to every band or person that enters into an agreement under section 49 an amount determined under the agreement. 1997, c. 25, Sched. A, s. 52.

Apportionment

53. (1) If a geographic area includes more than one municipality, the municipalities' share of the delivery agent's costs incurred under this Act shall be apportioned among the prescribed municipalities in accordance with the regulations.

Apportionment of Ontario's costs

(2) The Director shall apportion the municipal share of the costs incurred by the Ministry under this Act in accordance with the regulations. 1997, c. 25, Sched. A, s. 53.

Payment by municipalities

54. (1) Each municipality shall pay the amounts required to be provided by it for its share of the delivery agent's costs under this Act to the delivery agent for its geographic area, on demand.

Same, if agreement under s. 49

(2) If a person is acting as a delivery agent under an agreement under section 49, each municipality shall pay the amounts required to be provided by it for its share of the delivery agent's costs under this Act to Ontario, in accordance with the regulations.

Same, for Ontario's costs

(3) Each municipality shall pay to Ontario the amounts required to be provided by it under this Act with respect to the municipal share of the costs incurred by the Ministry under this Act.

Penalty

(4) The delivery agent or Ontario, as the case may be, may charge a municipality the prescribed interest and penalty for non-payment of amounts payable under this section. 1997, c. 25, Sched. A, s. 54.

Collection, territory without municipal organization

55. The amount required to be provided by persons living in territory without municipal organization with respect to the costs incurred under this Act by delivery agents, persons under an agreement under section 49 and the Ministry may be collected under the *Provincial Land Tax Act, 2006* as if the amount was tax imposed under it. 2006, c. 33, Sched. Z.3, s. 26 (1).

Deduction of amounts owed

56. (1) If a delivery agent owes an amount to Ontario under this or any other Act, the Minister may deduct that amount from an amount required to be paid under this or any other Act for which the Minister is responsible.

Same

(2) The Minister shall deduct an amount under this section in accordance with the regulations.

Reduction, etc., of amounts under other Acts

(3) The minister responsible for the administration of another Act may deduct from an amount payable to a person or body under the other Act any amount owed to Ontario under this Act.

Interest and penalty

(4) The Minister may charge a delivery agent the prescribed interest and penalty if the delivery agent does not pay to Ontario an amount required to be paid under this Act. 1997, c. 25, Sched. A, s. 56.

Fraud control unit

57. (1) The Director may establish a social assistance fraud control unit.

Local fraud control unit

(2) Each delivery agent may establish a local fraud control unit.

Mandate

(3) A fraud control unit established under subsections (1) or (2) may investigate eligibility of present and past applicants and recipients, including possible violations of this Act, the *Ontario Disability Support Program Act, 1997*, the *Family Benefits Act*, the *General Welfare Assistance Act* and the *Vocational Rehabilitation Services Act*.

Law enforcement

(4) Persons engaged in investigations for the purposes of this section or section 58 shall be deemed to be engaged in law enforcement for the purposes of the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*. 1997, c. 25, Sched. A, s. 57.

Eligibility review officers

58. (1) The Director or an administrator may designate persons as eligibility review officers.

Same

(2) An eligibility review officer may investigate a person's past or present eligibility for payments under this Act, the *Ontario Disability Support Program Act, 1997*, the *General Welfare Assistance Act*, the *Family Benefits Act* and the *Vocational Rehabilitation Services Act* and for that purpose has the prescribed powers including the authority to apply for and act under a search warrant. 1997, c. 25, Sched. A, s. 58.

Family support workers

59. (1) An administrator may designate persons as family support workers to assist applicants, recipients and dependants in taking whatever action is necessary to pursue financial support from persons with a legal obligation to provide it.

Same

(2) Family support workers have the prescribed powers and duties including the authority to collect and disclose personal information for purposes of assisting in legal proceedings for support and in the enforcement of agreements, orders and judgments relating to support. 1997, c. 25, Sched. A, s. 59.

PART IV SOCIAL BENEFITS TRIBUNAL

Social Benefits Tribunal

60. (1) A tribunal to be known in English as the Social Benefits Tribunal and in French as Tribunal de l'aide sociale is hereby established.

Same

(2) The Tribunal shall conduct those hearings and carry out those duties that are assigned to it by or under this Act or any other Act. 1997, c. 25, Sched. A, s. 60.

Members of Tribunal

61. (1) The members of the Tribunal shall be appointed by order of the Lieutenant Governor in Council subject to the conditions set out in the order.

Remuneration

(2) The members of the Tribunal shall be paid the remuneration and expenses determined from time to time by the Lieutenant Governor in Council. 1997, c. 25, Sched. A, s. 61.

Chair and vice-chairs

62. (1) The Lieutenant Governor in Council shall appoint one member of the Tribunal as Chair and one or more other members as vice-chair. 2006, c. 19, Sched. E, s. 3 (3).

Same

(2) If the Chair is absent or unable to act or the office of Chair is vacant, a person designated by the Minister has and shall exercise the jurisdiction and power of the Chair including the power to complete any unfinished matter. 1997, c. 25, Sched. A, s. 62 (2).

Employees

63. Such employees as are considered necessary for the proper conduct of the business of the Tribunal may be appointed under Part III of the *Public Service of Ontario Act, 2006*. 2006, c. 35, Sched. C, s. 106.

Hearing by one or more members

64. (1) The Chair of the Tribunal may authorize one or more members of the Tribunal to conduct a hearing and those members have all the powers of the Tribunal for the purpose of the hearing and any decision of those members shall be a decision of the Tribunal.

Same

(2) If the Chair authorizes more than one member of the Tribunal to preside over a hearing, the Chair shall designate one of them as the presiding member of the panel conducting the hearing. 1997, c. 25, Sched. A, s. 64.

Sittings

65. (1) Sittings of the Tribunal may be held at the places in Ontario and in the manner and at the times the Tribunal considers most convenient for the proper discharge and speedy dispatch of its business.

Same

(2) The Tribunal may hold a hearing by means of a paper hearing and shall hold a hearing by means of a paper hearing where prescribed. 1997, c. 25, Sched. A, s. 65.

Hearings

66. (1) Despite the *Statutory Powers Procedure Act*, all hearings of the Tribunal shall be heard in private.

Prior consideration, communication

- (2) Subject to subsection (3), members of the Tribunal holding a hearing,
- (a) shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing; and
 - (b) shall not communicate directly or indirectly in relation to the subject-matter of the hearing with a person except upon notice to and opportunity for all parties to participate.

Advice to the Tribunal

(3) The Tribunal may seek legal advice from an adviser independent from the parties, and members of the Tribunal may at any time consult with other members of the Tribunal.

Only members at hearing to participate

(4) No member of the Tribunal shall make a decision of the Tribunal following upon a hearing unless he or she was present throughout the hearing and heard the evidence and argument of the parties.

Financial hardship

(5) If a request for a hearing has been made and the Tribunal is satisfied that there will be financial hardship to a party or witness attending the hearing, the Tribunal may pay the party or witness travelling and living expenses necessary to enable his or her attendance at the hearing. 1997, c. 25, Sched. A, s. 66.

Jurisdiction of Tribunal

67. (1) The Tribunal shall not make a decision in an appeal under this Act that the administrator would not have authority to make.

Same

(2) The Tribunal shall not inquire into or make a decision concerning,

- (a) the constitutional validity of a provision of an Act or a regulation; or
- (b) the legislative authority for a regulation made under an Act. 1997, c. 25, Sched. A, s. 67.

PART V GENERAL

Notice

68. If notice is given by ordinary mail, it shall be deemed to be received on the third day following the date of mailing. 1997, c. 25, Sched. A, s. 68.

Power to take affidavits

69. (1) The Director and any person or class of persons designated by the Director is, in the performance of his or her duties under this Act, a commissioner for taking affidavits within the meaning of the *Commissioners for taking Affidavits Act*.

Same

(2) An administrator and any person or class of persons designated by the administrator is, in the performance of his or her duties under this Act, a commissioner for taking affidavits within the meaning of the *Commissioners for taking Affidavits Act*. 1997, c. 25, Sched. A, s. 69.

Subrogation

70. (1) If a person suffers a loss as a result of a wrongful act or omission of another person and if, as a result of the loss, the person receives assistance under this Act, the Director or delivery agent is subrogated to any right of the person to recover damages or compensation for the loss.

Same

(2) A proceeding may be commenced in the name of the Director or delivery agent or in the name of the person who suffered the loss.

Same

(3) A claim under this section shall not exceed the total of,

- (a) the costs incurred as a result of the loss for past assistance provided to the person;
- (b) the costs likely to be incurred as a result of that loss for future assistance;
- (c) the costs incurred as a result of that loss for social assistance provided under the *General Welfare Assistance Act*, the *Family Benefits Act* or the *Ontario Disability Support Program Act, 1997*, or assistance under the *Vocational Rehabilitation Services Act* by the person responsible in each case for administering that Act; and
- (d) the costs incurred as a result of that loss under a prescribed statute.

Same

(4) An applicant for or recipient of assistance shall forthwith notify the Director or the delivery agent, as the case may be, of any action brought against a person to recover damages or compensation for a loss referred to in subsection (1). 1997, c. 25, Sched. A, s. 70.

Agreement with other jurisdictions

71. (1) The Minister may enter into an agreement with respect to the collection, use and disclosure of information with the following:

1. The Government of Canada or a department, ministry or agency of it.
2. The government of a province or territory in Canada or a department, ministry or agency of it.
3. The government of the United States or the government of a state of the United States or a department or agency of either.
4. A body that is an institution under the *Freedom of Information and Protection of Privacy Act* or under the *Municipal Freedom of Information and Protection of Privacy Act*.
5. The government of another country or a department or agency of it.
6. Other prescribed bodies. 1997, c. 25, Sched. A, s. 71 (1).

Disclosure of personal information

(2) The Minister may disclose to a government or body referred to in subsection (1) personal information referred to in subsection (4) if,

- (a) the disclosure is made in accordance with the agreement;
- (b) the government or body administers or enforces a social benefit program or is conducting research related to a social benefit program or the information relates to the administration or enforcement of or research relating to the *Income Tax Act*, the *Taxation Act, 2007*, the *Income Tax Act (Canada)*, the *Immigration and Refugee Protection Act (Canada)*, or the prescribed Acts; and
- (c) the government or body agrees to use the information only for the purpose of administering or enforcing a social benefit program or conducting research related to a social benefit program, the *Income Tax Act*, the *Taxation Act, 2007*, the *Income Tax Act (Canada)*, the *Immigration and Refugee Protection Act (Canada)* or the prescribed Acts. 1997, c. 25, Sched. A, s. 71 (2); 2002, c. 18, Sched. D, s. 3 (1, 2); 2008, c. 19, Sched. V, s. 9 (1, 2).

Confidentiality

(3) An agreement under this section shall provide that personal information collected, used or disclosed under it is confidential and shall establish mechanisms for maintaining the confidentiality and security of the information. 1997, c. 25, Sched. A, s. 71 (3).

Same

(4) Subsection (2) applies with respect to personal information collected for the purposes of administering or enforcing this Act, the *Ontario Disability Support Program Act, 1997*, the *General Welfare Assistance Act*, the *Family Benefits Act*, or the *Vocational Rehabilitation Services Act*. 1997, c. 25, Sched. A, s. 71 (4).

No notice to individual required

(5) Subsection 39 (2) of the *Freedom of Information and Protection of Privacy Act* and subsection 29 (2) of the *Municipal Freedom of Information and Protection of Privacy Act* do not apply with respect to information collected under an agreement under subsection (1) or subsection 72 (1) if,

- (a) the information has been collected by data matching;
- (b) notification to the individual would frustrate an investigation; or
- (c) notification to the individual is not feasible. 1997, c. 25, Sched. A, s. 71 (5).

Collection of personal information

(6) The Minister may collect personal information from a government or body with whom he or she has made an agreement under this section in accordance with that agreement. 1997, c. 25, Sched. A, s. 71 (6).

Personal information disclosed

(7) A body under paragraph 4 of subsection (1) may disclose personal information in its possession to the Director or to a delivery agent if the information is necessary for purposes related to their powers and duties under this Act. 1997, c. 25, Sched. A, s. 71 (7).

Confidentiality provisions in other Acts

(8) Subsection (7) prevails over a provision in any other Act, other than the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*, that would prevent such disclosure. 1997, c. 25, Sched. A, s. 71 (8).

Delivery agent bound

(9) A delivery agent is bound by the terms and conditions of an agreement with a government or body referred to in subsection (1) unless the delivery agent also has a similar agreement with that body. 1997, c. 25, Sched. A, s. 71 (9).

Information about identifiable individuals

(10) Information disclosed under this section or section 72 shall not include the names of individuals unless information about identifiable individuals is necessary for purposes of the agreement. 1997, c. 25, Sched. A, s. 71 (10).

Disposition of personal information

(11) An agreement under this section or section 72 shall include a plan for the disposition of the personal information. 1997, c. 25, Sched. A, s. 71 (11).

Accuracy of information

(12) The Director and each delivery agent shall take reasonable measures to seek assurances that information collected under this section or section 72 is accurate and current. 1997, c. 25, Sched. A, s. 71 (12).

Agreements of delivery agents

72. (1) A delivery agent may, with the approval of the Director, enter into an agreement with a government or body referred to in subsection 71 (1) with respect to the collection, use and disclosure of information. 1997, c. 25, Sched. A, s. 72 (1).

Disclosure of information

(2) A delivery agent may disclose personal information collected for the purpose of administering or enforcing this Act to any government or body with whom the delivery agent has made an agreement referred to in subsection (1) if,

- (a) the disclosure is made in accordance with the agreement;
- (b) the government or body administers or enforces a social benefit program or is conducting research related to a social benefit program or the information relates to the administration or enforcement of or research relating to the *Income Tax Act*, the *Taxation Act, 2007*, the *Income Tax Act (Canada)*, the *Immigration and Refugee Protection Act (Canada)*, or the prescribed Acts; and
- (c) the government or body agrees to use the information only for the purpose of administering or enforcing a social benefit program or conducting research related to a social benefit program, the *Income Tax Act*, the *Taxation Act, 2007*, the *Income Tax Act (Canada)*, the *Immigration and Refugee Protection Act (Canada)* or the prescribed Acts. 1997, c. 25, Sched. A, s. 72 (2); 2002, c. 18, Sched. D, s. 3 (3, 4); 2008, c. 19, Sched. V, s. 9 (3, 4).

Confidentiality

(3) An agreement under this section shall provide that personal information collected, used or disclosed under it is confidential and shall establish mechanisms for maintaining the confidentiality and security of the information. 1997, c. 25, Sched. A, s. 72 (3).

Same

(4) Subsection (2) applies with respect to personal information collected for the purposes of administering or enforcing this Act, the *Ontario Disability Support Program Act, 1997*, the *General Welfare Assistance Act*, the *Family Benefits Act* or the *Vocational Rehabilitation Services Act*. 1997, c. 25, Sched. A, s. 72 (4).

Collection of personal information

(5) The delivery agent may collect personal information from a government or body with whom he or she has made an agreement under this section in accordance with that agreement. 1997, c. 25, Sched. A, s. 72 (5).

Sharing of information

73. The Minister, the Director and each delivery agent may share with one another and with the Director under the *Ontario Disability Support Program Act, 1997* and any persons exercising the Director's powers and duties under section 39 of that Act personal information in their possession and collected under this Act, the *Ontario Disability Support Program Act, 1997*, the *Family Benefits Act*, the *General Welfare Assistance Act* or the *Vocational Rehabilitation Services Act* if the information is necessary for the purposes related to their powers and duties under this Act or the *Ontario Disability Support Program Act, 1997*. 1997, c. 25, Sched. A, s. 73.

Community participation

73.1 (1) The *Labour Relations Act, 1995* does not apply with respect to participation in a community participation activity under this Act.

Unionization for participants prohibited

(2) Without limiting the generality of subsection (1), under the *Labour Relations Act, 1995* no person shall do any of the following with respect to his or her participation in a community participation activity:

1. Join a trade union.
2. Have the terms and conditions under which he or she participates determined through collective bargaining.
3. Strike. 1998, c. 17, s. 1.

Regulations

74. (1) The Lieutenant Governor in Council may make regulations,

1. prescribing the persons to be included in a benefit unit;
2. respecting the determination of budgetary requirements, income and assets and the maximum value of assets permitted;
3. respecting the determination of the amount of assistance to be provided and the time and manner of providing it, including who is eligible to receive the assistance and how to determine what portion of assistance is provided with respect to each person;
4. respecting employment assistance and the standards delivery agents must meet in providing employment assistance;
5. respecting standards and conditions of community participation activities;
6. respecting income assistance and determining who may be eligible for income assistance;
7. respecting the items, services and payments that may be included as benefits and determining who may be eligible for benefits;
8. respecting emergency assistance and determining who may be eligible for emergency assistance;
9. respecting the conditions of eligibility for assistance including, without limiting the generality of the foregoing,
 - (i) additional conditions relating to eligibility for assistance,
 - (ii) information to be provided, including the time and manner of providing that information, verification of that information and home visits,
 - (iii) changes in circumstances,
 - (iv) the disposition of property,
 - (v) the obligation to satisfy participation requirements related to employment measures and community participation,
 - (vi) the obligation to obtain compensation or to realize a financial resource,
 - (vii) requirements to agree to reimburse delivery agents and to give assignments to delivery agents, and
 - (viii) a person's status in the country;
10. respecting the determination of residence in Ontario;
11. prescribing classes of persons who are not eligible for assistance;
12. respecting the provision and delivery of emergency hostel services, including funding, authority of delivery agents to contract with third parties to provide those services, the minimum standards and conditions to be included in such agreements and maximum daily amounts to be cost shared;
13. respecting the determination of financial need for the purposes of section 10;
14. REPEALED: 2009, c. 33, Sched. 8, s. 5 (3).
15. respecting applications for basic financial assistance and the information to be included in an application;
16. requiring applications and other documents to be prepared in a form and manner approved by the Director;
17. respecting the consequences of failing to satisfy a condition of eligibility including fixing periods of ineligibility;
18. respecting re-instating basic financial assistance or returning it to its former level and the procedures which apply;
19. prescribing the procedures to be followed in determining the need for and appointing a person to act for a recipient under section 17 and providing measures with respect to the person's accountability and reporting requirements;
20. providing rules for the payment of a portion of basic financial assistance for the purposes of section 18 directly to a third party;
21. respecting the reconciliation of overpayments among delivery agents where overpayments are owed to one delivery agent and recovered by another and respecting overpayments recovered by reason of subsection 19 (3);
22. respecting the information to be included in a notice of decision regarding an overpayment, the calculation and recovery of overpayments and the maximum amounts which may be deducted from basic financial assistance when recovering an overpayment;
23. prescribing debts for the purposes of subsection 23 (2) and the priority of recovery of those debts;

24. prescribing additional matters that may be appealed under this Act;
25. respecting the requirement for and procedures to be followed in conducting an internal review;
26. prescribing the time within which an internal review may be requested and, if requested, is to be completed;
27. prescribing the time within which an appeal to the Tribunal may be filed;
28. respecting the commencement and conduct of and procedures for appeals to the Tribunal and the time within which decisions are to be rendered;
29. respecting the requirement to record evidence whether by transcript or notes of members taken at a hearing;
30. respecting the record of proceedings for the purposes of proceedings before a court;
31. prescribing the classes of appeals of which delivery agents must give notice to the Director;
32. respecting the determination of interim assistance for the purposes of section 30;
33. prescribing the period within which a new appeal is not permitted for the purposes of subsection 34 (2);
- 33.1 governing appeals under this Act to the Divisional Court for the purposes of subsection 36 (1);
34. respecting the powers and duties of a delivery agent for the purposes of this Act;
35. respecting the costs incurred under this Act to which cost sharing should apply and providing for how they are to be shared, including the apportioning of those costs among Ontario, municipalities and persons living in territory without municipal organization, and prescribing the municipalities to which cost sharing applies;
36. respecting the determination of cost estimates and actual costs and the reconciliation of them and respecting reserves for working funds;
37. respecting the determination of the amounts Ontario shall pay to delivery agents and delivery agents shall pay to Ontario and the methods of determining those amounts, providing for the manner in which and the intervals at which payments shall be made, for the suspension or withholding of amounts payable by Ontario or part of them and for making deductions from them;
38. respecting the apportionment among municipalities in a geographic area of their share of the delivery agent's costs incurred under this Act and, for the purpose, prescribing the municipalities that must share in that apportionment and the manner in which that share shall be recovered;
39. providing for the recovery by Ontario from a delivery agent of any amounts paid by Ontario under this Act for which the delivery agent is liable or for the recovery by Ontario or a delivery agent from a recipient of assistance or from his or her estate of amounts paid by Ontario or the delivery agent under this Act, and prescribing the circumstances and manner in which any such recovery may be made;
40. prescribing additional powers and duties of administrators and the Director and providing for the manner in which administrators shall exercise their powers and duties;
41. respecting agreements between the Director and delivery agents and between delivery agents and third parties;
42. prescribing the powers and duties of eligibility review officers and family support workers and providing for the manner in which they shall exercise their powers and duties;
43. providing for rules of application to members of bands living on reserves with regard to the administration of this Act, including the provision, delivery, administration and funding of assistance and prescribing the reserves or geographic areas to which those rules apply;
44. respecting the giving of notice for the purposes of this Act;
45. respecting subrogation rights under section 70;
46. prescribing the powers and duties to which the penalty in section 78 may apply and the rules for determining the penalty to be imposed for each power or duty and the manner in which that penalty is to be recovered;
47. defining any word or expression used in this Act that has not been defined in this Act;
48. prescribing any matter referred to in this Act as prescribed;
49. providing for the collection, retention, use, disclosure and safeguarding of privacy of personal information referred to in clause (3) (a). 1997, c. 25, Sched. A, s. 74 (1); 2006, c. 19, Sched. E, s. 3 (4); 2009, c. 33, Sched. 8, s. 5 (3).

Regulations, Minister

- (2) The Minister may make regulations,
1. prescribing standards a delivery agent is to meet in carrying out its functions and the procedures and practices to be followed by the delivery agent;
 2. designating geographic areas and delivery agents for those geographic areas, for the purposes of this Act;
 3. prescribing policy statements which shall be applied in the interpretation and application of this Act and the regulations. 1997, c. 25, Sched. A, s. 74 (2).

Information

- (3) A regulation made under paragraph 9 of subsection (1) may include a requirement that a person,
- (a) provide evidence permitting identification of the person by means of photographic images or encrypted biometric information; and
 - (b) provide personal information about a third party that is relevant to determining the person's eligibility. 1997, c. 25, Sched. A, s. 74 (3).

Benefits may be discretionary

(4) A regulation made under paragraph 7 of subsection (1) may provide that some classes of benefits are mandatory and must be provided to persons who are eligible and other classes of benefits are discretionary. 1997, c. 25, Sched. A, s. 74 (4).

Periods of ineligibility

(5) A regulation made under paragraph 17 of subsection (1) may provide for different periods of ineligibility for assistance with respect to failure to comply with or meet different conditions of eligibility and with respect to repeated failures to comply. 1997, c. 25, Sched. A, s. 74 (5).

Same

(6) A regulation made under paragraph 17 of subsection (1) may provide for a period of ineligibility as a result of a person's conviction of an offence or crime in relation to the receipt of social assistance. 1997, c. 25, Sched. A, s. 74 (6).

Apportionment of costs

- (7) A regulation made under paragraph 38 of subsection (1) may do one or more of the following:
1. Authorize municipalities in a geographic area to determine by agreement how their costs are to be apportioned, subject to the prescribed conditions.
 2. Provide for an arbitration process for determining how the costs of those municipalities are to be apportioned.
 3. Set out the manner in which the costs of those municipalities are to be apportioned. 1997, c. 25, Sched. A, s. 74 (7).

Same

- (8) A regulation under paragraph 1 or 2 of subsection (7) may,
- (a) provide, on an interim basis, for the manner in which costs are to be apportioned and for the time and manner in which they are to be paid;
 - (b) permit an agreement or an arbitration decision to apply to costs incurred and paid before the agreement or decision is reached; and
 - (c) provide for the reconciliation of amounts paid on an interim basis. 1997, c. 25, Sched. A, s. 74 (8).

Same

(9) Where a regulation under paragraph 3 of subsection (7) is retroactive, it may provide for the reconciliation of amounts paid. 1997, c. 25, Sched. A, s. 74 (9).

First Nation regulations

(10) A provision in a regulation made under paragraph 43 of subsection (1) prevails over a provision in this Act if the regulation so provides. 1997, c. 25, Sched. A, s. 74 (10).

Same

- (11) For purposes of this Act and the regulations,

“bands”, “members of bands” and “reserves” have the same meaning as in the *Indian Act* (Canada). 1997, c. 25, Sched. A, s. 74 (11).

Regulation prevails

(12) A regulation made under this Act may give an entity designated as a delivery agent powers for the purposes of this Act and, if it does so, that regulation prevails over a provision in or under any other Act that might limit those powers. 1997, c. 25, Sched. A, s. 74 (12).

General or particular

(13) A regulation made under this section may be general or particular in its application. 1997, c. 25, Sched. A, s. 74 (13).

Retroactive effect

(14) A regulation made under this section is, if it so provides, effective with respect to a period before it is filed. 1997, c. 25, Sched. A, s. 74 (14).

Exception

(15) Despite subsection (14), no provision in a regulation that imposes a penalty or sanction or decreases assistance may be retroactive. 1997, c. 25, Sched. A, s. 74 (15).

Biometric information

75. (1) Where this Act or the regulations authorize a person to collect or use personal information, biometric information may be collected or used only for the following purposes:

1. To ensure that an individual is registered only once as an applicant, recipient, spouse or dependent adult.
2. To authenticate the identity of an individual who claims to be entitled to assistance.
3. To enable an individual to receive and give receipt for assistance provided through a financial institution or other authorized provider.
4. To enable an applicant, recipient, spouse or dependent adult to access personal information.
5. To enable an individual to make a declaration electronically by voice or other means for any purposes authorized under this Act.
6. To match data in accordance with an agreement made under section 71 or 72 for the purpose of ensuring eligibility for assistance or benefits. 1997, c. 25, Sched. A, s. 75 (1); 1999, c. 6, s. 50 (7); 2005, c. 5, s. 54 (7).

Same

(2) Biometric information may be collected under this Act only from the individual to whom it relates, in accordance with an agreement referred to in paragraph 6 of subsection (1) or in accordance with section 73. 1997, c. 25, Sched. A, s. 75 (2).

Same

- (3) Biometric information shall not be disclosed to a third party except in accordance with,
- (a) a court order or a warrant;
 - (b) an agreement under section 71 or 72 that is made for the purpose of ensuring eligibility for a social benefit program, including a social benefit program under the *Income Tax Act*, the *Taxation Act, 2007* or the *Income Tax Act* (Canada); or
 - (c) section 73. 1997, c. 25, Sched. A, s. 75 (3); 2008, c. 19, Sched. V, s. 9 (5).

Same

(4) Biometric information to be collected from the individual to whom it relates shall be collected openly and directly from the individual. 1997, c. 25, Sched. A, s. 75 (4).

Same

(5) An administrator shall ensure that biometric information can be accessed and used only by those persons who need the information in order to perform their duties under this Act and that it is not used as a unique file identifier or common personal file identifier, except as authorized under subsection (1). 1997, c. 25, Sched. A, s. 75 (5).

Same

(6) An administrator shall ensure that biometric information collected under this Act is encrypted forthwith after collection, that the original biometric information is destroyed after encryption and that the encrypted biometric information is stored or transmitted only in encrypted form and destroyed in the prescribed manner. 1997, c. 25, Sched. A, s. 75 (6).

Same

(7) Neither the Director nor an administrator shall implement a system that can reconstruct or retain the original biometric sample from encrypted biometric information or that can compare it to a copy or reproduction of biometric information not obtained directly from the individual. 1997, c. 25, Sched. A, s. 75 (7).

Same

(8) The only personal information that may be retained together with biometric information concerning an individual is the individual's name, address, date of birth and sex. 1997, c. 25, Sched. A, s. 75 (8).

Same

(9) For the purpose of section 67 of the *Freedom of Information and Protection of Privacy Act* and section 53 of the *Municipal Freedom of Information and Protection of Privacy Act*, subsection (3) is a confidentiality provision that prevails over those Acts. 1997, c. 25, Sched. A, s. 75 (9).

Electronic signature

76. (1) Where this Act or the regulations require an individual's signature, one or more of the individual's personal identification number (PIN), password, biometric information or photographic image may be used in the place of his or her signature to authenticate the individual's identity and to act as authorization of or consent to a transaction relating to an application for or the receipt of assistance.

Same

(2) If a person collects an individual's personal identification number (PIN), password, biometric information or photographic image under this Act, it shall be recorded and stored in a secure electronic environment. 1997, c. 25, Sched. A, s. 76.

No personal liability

77. (1) No action or other proceeding in damages shall be instituted against the Ministry, the Director, a delivery agent, an officer or employee of any of them or anyone acting under their authority for any act done in good faith in the execution or intended execution of a duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

Liability of Crown

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject. 1997, c. 25, Sched. A, s. 77.

Penalty

78. If a delivery agent fails to properly exercise a power or duty under this Act or the regulations, the Minister may deduct from the amount payable by Ontario a portion of the delivery agent's share of the cost of administering this Act and providing assistance, in accordance with the regulations. 1997, c. 25, Sched. A, s. 78.

Offence

79. (1) No person shall knowingly obtain or receive assistance to which he or she is not entitled under this Act and the regulations.

Same

(2) No person shall knowingly aid or abet another person to obtain or receive assistance to which the other person is not entitled under this Act and the regulations.

Obstruction

(3) No person shall obstruct or knowingly give false information to a person engaged in investigations for the purposes of section 57 or 58.

Penalty

(4) A person who contravenes subsection (1), (2) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both. 1997, c. 25, Sched. A, s. 79.

80. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 1997, c. 25, Sched. A, s. 80.

Note: The following transitional provisions were enacted as Schedule D to the *Social Assistance Reform Act, 1997*. Sections 1, 3, 12 and 13 were proclaimed into force on January 1, 1998, sections 9 and 10 were proclaimed into force on April 1, 1998, subsection 5 (1) and section 11 were proclaimed into force on May 1, 1998 and subsections 6 (1) to (3) and sections 7 and 8 were proclaimed into force on June 1, 1998. Sections 2 and 4 and subsections 5 (2) and 6 (4) were never proclaimed in force and were repealed on December 31, 2011 by operation of subsection 10.1 (2) of the *Legislation Act, 2006*.

See: 1997, c. 25, Sched. D and c. 25, s. 5.

SCHEDULE D TRANSITIONAL PROVISIONS

Applications under *F.B.A.*

1. Despite the *Family Benefits Act*, on and after January 1, 1998, no application for an allowance or benefits shall be accepted or processed under that Act with respect to,

- (a) a person who is eligible under clause 7 (1) (d) of that Act or subsection 2 (7) of Regulation 366 of the Revised Regulations of Ontario, 1990 and who is not otherwise eligible to apply for an allowance or benefits under that Act;
- (b) a person who is 60 years of age or older and less than 65 and who is not otherwise eligible to apply for an allowance or benefits under that Act; or
- (c) a person who is a foster parent with a foster child. 1997, c. 25, Sched. D, s. 1.

2. REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2011.

Cost sharing under *F.B.A.*

3. (1) The prescribed costs incurred under the *Family Benefits Act* shall be shared by Ontario, municipalities, and persons living in territory without municipal organization in accordance with the regulations. 1997, c. 25, Sched. D, s. 3 (1).

Apportionment of Ontario's costs

(2) The Director shall apportion the municipal share of the costs incurred by the Ministry under the *Family Benefits Act* in accordance with the regulations under this Schedule. 1997, c. 25, Sched. D, s. 3 (2).

Payment of Ontario's costs

(3) Each municipality shall pay to Ontario the amounts required to be provided by it under this section with respect to the municipal share of the costs incurred by the Ministry under the *Family Benefits Act*. 1997, c. 25, Sched. D, s. 3 (3).

Penalty

(4) Ontario may impose on a municipality the prescribed interest and penalty for non-payment of amounts payable under this section. 1997, c. 25, Sched. D, s. 3 (4).

Same

(5) If a regulation made under this Schedule requires municipalities in a geographic area to pay to their share of the costs incurred under the *Family Benefits Act* to a municipality or district social services administration board, the municipality or board may impose on any of those municipalities the prescribed interest and penalty for non-payment of amounts payable under this section. 1997, c. 25, Sched. D, s. 3 (5).

Collection, territory without municipal organization

(6) The amount required to be provided by persons living in territory without municipal organization with respect to the costs incurred under the *Family Benefits Act* by the Ministry may be collected under the *Provincial Land Tax Act, 2006* as if the amount was tax imposed under it. 2006, c. 33, Sched. Z.3, s. 26 (2).

4. REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2011.

Overpayments, recovery portable

5. (1) If a recipient under the *Family Benefits Act* was formerly a recipient under the *General Welfare Assistance Act* and received assistance to which he or she was not entitled under that Act, the Director shall recover the amount under section 17 of the *Family Benefits Act* as if it had been paid under the *Family Benefits Act*. 1997, c. 25, Sched. D, s. 5 (1).

(2) REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2011.

Persons receiving allowance

6. (1) A person receiving an allowance or benefits under clause 7 (1) (a), (b), (c) or (e) of the *Family Benefits Act* or under subsection 2 (5) or (11) of Regulation 366 of the Revised Regulations of Ontario, 1990 on the day Part I of the *Ontario Disability Support Program Act, 1997* is proclaimed in force shall be deemed to be a member of a prescribed class under subsection 3 (1) of the *Ontario Disability Support Program Act, 1997* for purposes of income support and shall no longer be eligible for an allowance or benefits under the *Family Benefits Act* or the regulations made under it. 1997, c. 25, Sched. D, s. 6 (1).

Same

(2) If subsection (1) applies to a person, the person shall continue to be eligible for income support as long as the person is otherwise eligible for it. 1997, c. 25, Sched. D, s. 6 (2).

Same

(3) A person who ceases to be eligible for income support shall continue to be deemed to be a member of a prescribed class under subsection (1) for the purpose of determining eligibility in the future if,

- (a) the person ceases to be eligible for income support because the person's income from employment exceeds his or her budgetary needs; and
- (b) less than 12 months have elapsed since the person ceased to be eligible for income support. 1997, c. 25, Sched. D, s. 6 (3).

(4) REPEALED. See: Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* – December 31, 2011.

Persons applying for an allowance

7. (1) On the day Part I of the *Ontario Disability Support Program Act, 1997* is proclaimed in force, section 6 of this Schedule applies to every person who has completed an application for an allowance under clause 7 (1) (a), (b), (c) or (e) of the *Family Benefits Act* or under subsection 2 (5) or (11) of Regulation 366 of the Revised Regulations of Ontario, 1990 if,

- (a) the person is a person described in clause 7 (1) (a), (b), (c) or (e) of the *Family Benefits Act*;
- (b) the person is a permanently unemployable person for the purpose of subsection 2 (5) of Regulation 366 of the Revised Regulations of Ontario, 1990, as it read on the day before Part I of the *Ontario Disability Support Program Act, 1997* is proclaimed in force; or
- (c) the person is 60 years of age or more and less than 65 years of age. 1997, c. 25, Sched. D, s. 7 (1).

Same

(2) A person has completed an application for the purpose of subsection (1) if the person has completed Form 1, Form 3 and, where required, Form 4 of Regulation 366 of the Revised Regulations of Ontario, 1990 and any supporting documentation required for such an application and has submitted them to the Director. 1997, c. 25, Sched. D, s. 7 (2).

Appeals

8. (1) A decision under subsection 7 (1) of this Schedule to refuse, suspend, vary or cancel an allowance because the person is not a person described in clause (a), (b) or (c) of that subsection may be appealed to the Social Assistance Review Board or the Social Benefits Tribunal, as the case may be, as if the provisions of the *Family Benefits Act* relating to the decision continued to apply. 1997, c. 25, Sched. D, s. 8 (1).

Same

(2) If an appeal of a refusal to grant an allowance or a suspension, variation or cancellation of an allowance is pending on the day Part I of this Act is proclaimed in force and part of it relates to whether the appellant is a person described in clause (a), (b) or (c) of subsection 7 (1) of this Schedule, that part of the appeal shall be determined as if the provisions of the *Family Benefits Act* relating to that part of the appeal continued in force. 1997, c. 25, Sched. D, s. 8 (2).

9. SPENT: 1997, c. 25, Sched. D, s. 10 (3).

10. REPEALED: 1997, c. 25, Sched. D, s. 10 (3).

General welfare assistance on reserves

11. (1) Despite the repeal of section 10 of this Schedule and the repeal of the *General Welfare Assistance Act*, that Act and the regulations under it continue to apply for the purpose of providing assistance in accordance with section 15 of that Act until the prescribed date. 1997, c. 25, Sched. D, s. 11 (1).

Same

- (2) The Lieutenant Governor in Council may by regulation,
- (a) prescribe a date for the purposes of subsection (1);
 - (b) authorize the Social Assistance Review Board to act or its powers to be continued for purposes related to this section;
 - (c) authorize the Social Benefits Tribunal to act in the place of the Social Assistance Review Board or act under the authority of the old Acts for purposes related to this section. 1997, c. 25, Sched. D, s. 11 (2).

Agreement to reimburse and assignment

12. (1) An agreement to reimburse a welfare administrator, an assignment and a direction under the *General Welfare Assistance Act* shall be deemed to be validly requested and validly given in law if it is made in accordance with section 5 of Regulation 537 of the Revised Regulations of Ontario, 1990 or its predecessor. 1997, c. 25, Sched. D, s. 12 (1).

Same

(2) An agreement to reimburse the Director, an assignment and a direction under the *Family Benefits Act* shall be deemed to be validly requested and validly given in law if it is made in accordance with section 10 of Regulation 366 of the Revised Regulations of Ontario, 1990 or its predecessor. 1997, c. 25, Sched. D, s. 12 (2).

Same

(3) This section applies regardless of whether the agreement, assignment or direction is made before or after this section comes into force. 1997, c. 25, Sched. D, s. 12 (3).

Regulations

- 13.** (1) The Lieutenant Governor in Council may make regulations,
- (a) respecting the costs incurred under the *General Welfare Assistance Act* and the *Family Benefits Act* to which cost sharing should apply and providing for how they are to be shared, including the apportionment of those costs among Ontario, municipalities and persons living in territory without municipal organization, and prescribing the municipalities to which cost sharing applies;
 - (b) respecting the apportionment among municipalities in a geographic area of their share of the costs incurred under the *General Welfare Assistance Act* and the *Family Benefits Act* and, for the purpose, prescribing the municipalities that must share in that apportionment;
 - (c) respecting any matter referred to in this Schedule as prescribed. 1997, c. 25, Sched. D, s. 13 (1).

Apportionment of costs

- (2) A regulation made under clause (1) (b) may do one or more of the following:
- 1. Authorize municipalities in a geographic area to determine by agreement how their costs are to be apportioned, subject to the prescribed conditions.
 - 2. Provide for an arbitration process for determining how the costs of those municipalities are to be apportioned.
 - 3. Set out the manner in which the costs of those municipalities are to be apportioned. 1997, c. 25, Sched. D, s. 13 (2).

Same

- (3) A regulation under paragraph 1 or 2 of subsection (2) may,
- (a) provide, on an interim basis, for the manner in which costs are to be apportioned and for the time and manner in which they are to be paid;
 - (b) permit an agreement or an arbitration decision to apply to costs incurred and paid before the agreement or decision is reached; and
 - (c) provide for the reconciliation of amounts paid on an interim basis. 1997, c. 25, Sched. D, s. 13 (3).

Same

(4) A regulation made under paragraph 3 of subsection (2) may provide for the reconciliation of amounts paid. 1997, c. 25, Sched. D, s. 13 (4).

Same

(5) A regulation under clause (1) (a) or (b) is, if it so provides, effective with respect to a period before it is filed. 1997, c. 25, Sched. D, s. 13 (5).

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