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c 352 Ontario Pensioners Property Tax Assistance Act

Ontario

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CHAPTER 352

Ontario Pensioners Property Tax Assistance Act

1. In this Act,

Interpre-
tation

- (a) "applicant" means an individual who has applied for a grant under this Act;
- (b) "application" means an application for a grant under this Act;
- (c) "eligible person" means an individual who is ordinarily resident in Ontario and,

(i) is eligible to receive a pension under Part I of the *Old Age Security Act* (Canada), or

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(ii) is a Canadian citizen or a person who has been lawfully admitted to Canada for permanent residence and has attained the age of sixty-five years on or before the 31st day of December in the year in respect of which a grant is applied for under subsection 2 (1),

and incurs, or whose spouse incurs, occupancy cost;

(d) "family unit" means,

(i) an individual and his spouse, or

(ii) any individuals occupying the same principal residence, whether or not they are related to each other;

(e) "housing unit" includes any premises that an individual ordinarily occupies and inhabits as his residence during the year, but does not include premises that are part of a chronic care facility or other similar institution that is prescribed or that are part of any charitable institution, home for special care, home for the aged, public nursing home or private nursing home;

(f) "Minister" means the Minister of Revenue or such other member of the Executive Council to whom the administration of this Act is assigned;

(g) "municipal tax" means,

(i) taxes for municipal and school purposes levied in

respect of real property in Ontario that is assessed as residential or farm property,

(ii) taxes levied for local improvements to real property in Ontario,

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(iii) taxes levied under the *Provincial Land Tax Act* or the *Local Roads Boards Act*, and

(iv) such other taxes or special rates as are prescribed,

but "municipal tax" does not include any tax or rate that was payable prior to the 1st day of January, 1980;

(h) "occupancy cost" means,

(i) municipal tax paid or payable in the year to which the application relates in respect of a principal residence of the applicant or his spouse to the extent that such principal residence is beneficially owned by them or either of them or is held in trust for the use and occupation of them or either of them and their dependants as a principal residence, or

(ii) 20 per cent of,

A. municipal tax paid in the year to which the application relates in respect of a principal residence that is not beneficially owned by the applicant and his spouse or either of them or is not held in trust for them or either of them and their dependants, but only to the extent that such municipal tax is included by the owner of such principal residence in computing his taxable income under the *Income Tax Act* (Canada) for the taxation year, and

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B. rent paid in the year to which the application relates for occupation of a principal residence of the applicant where such rent is paid by or on behalf of the applicant or his spouse and is calculated to exclude all payments on account of meals or board and all payments of rent for occupation prior to the 1st day of January, 1980;

- (i) "prescribed" means prescribed by the regulations;
- (j) "principal residence" means a housing unit in Ontario that was in the year to which the application relates occupied by the applicant as his principal residence, and that is designated by the applicant in the prescribed manner as a principal residence of his in the year to which the application relates;
- (k) "regulations" means the regulations made under this Act;
- (l) "separation agreement" means an agreement under which an individual and his spouse live separate and apart and maintain separate principal residences. 1980, c. 18, s. 1.

2.—(1) Subject to section 6, an individual may make an application for a grant in the form prescribed by the Minister in respect of a year in which he was an eligible person and the Minister may, subject to the provisions of this Act, pay a grant to that individual. Application for and payment of grant

(2) A grant under subsection (1) shall not exceed the lesser of, Limits

(a) \$500; or

(b) the occupancy costs of the applicant or his spouse incurred in the year to which the application relates.

(3) In 1981 and subsequent years, the Minister may pay a grant under this section in two or more instalments and may, without receipt of an application, pay to an eligible person that portion of a grant which does not exceed one half of such eligible person's entitlement in the prior year under this section, but the balance of such grant shall be paid only upon receipt of an application. 1980, c. 18, s. 2. Instalment payments

3.—(1) Subject to subsection (2), the Minister shall pay only one grant under section 2 to a family unit in respect of each year. Grant limits

(2) Where an individual and his spouse are separated and have entered into a separation agreement, the Minister may make a grant under section 2 to each spouse who makes an application in respect of each year in which the applicant is an eligible person. Spouses separated

(3) No individual shall make an application for or receive more than one grant under section 2 in respect of each year. 1980, c. 18, s. 3. One grant per year

Where principal residence shared

4.—(1) Subject to subsection (2), where the occupancy cost of a principal residence is shared among the members of a family unit, two or more of whom are eligible persons or their spouses, the grant under section 2 to which they are entitled shall be applied for jointly by such eligible persons and there shall be designated on the application that portion of the grant or the whole thereof that is to be received by any of such applicants.

Apportionment

(2) Where a grant under section 2 is to be apportioned under subsection (1), such apportionment shall be made on the basis of the occupancy cost attributable to each applicant or to the spouse of an applicant where the applicant himself has not incurred any occupancy cost. 1980, c. 18, s. 4.

Date of eligibility
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5.—(1) An individual who becomes eligible to receive a pension under Part I of the *Old Age Security Act* (Canada) in January of any year, shall be deemed to be an eligible person for the immediately preceding year and may apply for a grant under section 2 or receive a grant under section 7 in respect of that preceding year.

Where tax credits not to be claimed

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cc. 213, 134

(2) No individual who is eligible for a grant under section 2 or 7 shall apply for, or receive in respect of any year in which a grant is received under this Act, any tax credit provided under section 7 of the *Income Tax Act*, except a tax credit for a payment that is a contribution for the purposes of the *Election Finances Reform Act*. 1980, c. 18, s. 5.

Time limit on application

6. An application for a grant under section 2 must be received by the Minister not later than twelve months from the end of the year to which the grant application relates. 1980, c. 18, s. 6.

Additional grant

7. In addition to any grant paid under section 2, the Minister may, in respect of each year, pay a grant of \$50 to every individual who is ordinarily resident in Ontario and,

- (a) is eligible to receive a pension under Part I of the *Old Age Security Act* (Canada); or
- (b) is a Canadian citizen or a person who has been lawfully admitted to Canada for permanent residence and has attained the age of sixty-five years on or before the 31st day of December in the year in respect of which a grant may be paid under this section. 1980, c. 18, s. 7.

Ineligibility

8. In the event that,

- (a) an eligible person ceases to have a principal residence;
- (b) an individual ceases to be an eligible person; or
- (c) an eligible person dies,

at any time in a year, the Minister may pay a grant to the applicant, his trustee, executor or administrator, the Public Trustee or a person entitled by law to apply for letters probate or letters of administration respecting the estate of the deceased, upon prescribed terms and conditions and in such amount as may be determined in the prescribed manner. 1980, c. 18, s. 8.

9.—(1) The Minister upon receiving an application for a grant shall forthwith consider the application and he may, Minister to consider application

(a) approve payment of a grant and determine the amount thereof that may be paid to the applicant; or

(b) determine that no grant may be paid to the applicant.

(2) Where particulars of the basis on which the amount of any grant that may be paid to the applicant was determined by the Minister are requested by the applicant, or where the Minister determines that no grant may be paid to the applicant, the Minister shall forthwith, in writing, notify the applicant of the basis upon which the amount was determined or of the basis upon which his determination was reached that no grant may be paid and shall notify the applicant of his right to object under this section. Notification of Minister's decision

(3) Where an applicant is dissatisfied with the determination of the Minister under subsection (1) or with the decision of the Minister under subsection (2), he may object to the determination or decision, and, within sixty days from the date of notice of such determination or decision by the Minister, serve on the Minister a notice of objection in the prescribed form setting out the reasons for the objection and all relevant facts. Objection by applicant

(4) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister, but the Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required. Notice

(5) Upon receipt of the notice of objection, the Minister shall forthwith reconsider the determination or decision objected to and confirm, vary or reverse such determination or decision, and he shall thereupon notify the person making the objection of his action by registered mail. Minister to reconsider

(6) A decision of the Minister under subsection (5) is final and is not subject to appeal except where the decision involves the interpretation of a provision of this Act, or involves an issue solely of law. 1980, c. 18, s. 9. Minister's decision final

10. In any dispute over a determination or decision of the Minister under subsection 9 (5), the Minister may, where Appeal on question of law

the dispute involves the interpretation of a provision of this Act, or involves an issue solely of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined. 1980, c. 18, s. 10.

Information
confidential

11.—(1) Except as provided in subsection (2), all information obtained under this Act by any officer, employee or agent of the Ministry is privileged and confidential, and no such officer, employee or agent shall knowingly communicate or allow to be communicated to any person not legally entitled thereto any such information, or allow any person not legally entitled to do so to inspect or have access to any statement or other writing containing such information.

Exceptions

(2) Any information referred to in subsection (1) that is obtained by any officer, employee or agent of the Ministry in the administration of this Act may be communicated to any officer or employee of the Department of National Health and Welfare of the Government of Canada or of the Department of National Revenue of the Government of Canada or of the Ministry of Treasury and Economics of the Government of Ontario. 1980, c. 18, s. 11.

Information
Minister
may act
upon

12.—(1) In order to facilitate the carrying out of the intent and purpose of this Act, or for the purpose of ascertaining any fact necessary to establish that a person is an eligible person under this Act, the Minister may act upon any decision made by the Minister of National Health and Welfare of the Government of Canada or by a court or tribunal to which an appeal is taken as provided for in the *Old Age Security Act* (Canada).

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Agreements
for
information

(2) The Minister is authorized to enter into and to proceed upon any arrangement with the Minister of National Health and Welfare of the Government of Canada for obtaining, exchanging and keeping confidential any information furnished under this Act or under the *Old Age Security Act* (Canada), or any arrangement that will, in the opinion of the Minister, facilitate the implementation and carrying out of the provisions of this Act and the payment of grants to which an eligible person is entitled under this Act. 1980, c. 18, s. 12.

Grant not
assignable

13. A grant under this Act shall not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, attach, anticipate or give as security a grant is void. 1980, c. 18, s. 13.

14.—(1) Where a person receives or obtains a grant under this Act to which he is not entitled or the payment of an amount in excess of the grant to which he is entitled, he shall forthwith return to the Minister such grant or excess amount, as the case may be.

Repayment
of grant
where
ineligible

(2) Where a person receives or obtains the payment of a grant to which he is not entitled or the payment of an amount in excess of the grant to which he is entitled, the amount or excess amount, as the case may be, may be recovered in any court of competent jurisdiction as a debt due to the Crown in proceedings commenced at any time, and, where the person is or subsequently becomes an eligible person, the amount of any such indebtedness may be deducted and retained out of any grant payable to him or out of any payment to which he may be entitled at any time thereafter under subsection 7 (7) of the *Income Tax Act*, and where applicable, the amount of any such indebtedness may be recovered in the manner provided for in the *Financial Administration Act*, 1980, c. 18, s. 14.

Item

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15.—(1) Every person who,

Offence

- (a) knowingly, makes a false or misleading statement in an application or statement required or permitted by this Act, and who does so for the purpose of obtaining a grant under this Act to which he is not entitled or to which a person on whose behalf he is acting is not entitled;
- (b) knowingly, fails to disclose any information that is required to be disclosed and by reason thereof obtains a payment of a grant under this Act to which he is not entitled or to which the person on whose behalf he is acting is not entitled;
- (c) knowingly, converts to his own use a payment of a grant under this Act to which he is not entitled; or
- (d) contravenes section 11 or 16,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500.

(2) No proceedings in respect of an offence under this Act shall be commenced except within five years of the time when the offence was or is alleged to have been committed. 1980, c. 18, s. 15.

Limitation

16.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where

Investigation

anything is done in connection with any business or where any books or records are kept and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or to the amount of a grant paid or payable under this Act;
- (b) examine property described in any conveyance or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any application required by this Act or in ascertaining the information that is or should be in the books or records or in such application, or the amount of any grant paid or payable under this Act;
- (c) require any person on the premises to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, he may require such person to attend at the premises or place with him; and
- (d) if during the course of any audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Production of
documents and
records to
Minister

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person any information or additional information, or the production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents within such reasonable time as is stipulated therein, provided that, in the opinion of the Minister or of the person authorized by him, it is necessary to make the demand in order to determine eligibility or possible eligibility for a grant under this Act.

Copies of
documents
and records

(3) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(4) No person shall hinder or interfere with any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing, and notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. Compliance

(5) Any officer or employee in the Ministry of Revenue who is authorized by the Minister may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every person so authorized has, in respect of any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. 1980, c. 18, s. 16. Administration
of oaths

17.—(1) The Minister may make regulations, Regulations

- (a) prescribing any form, notification or statement to be prescribed or that is required by this Act or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, notification or statement shall be completed and what information it shall contain and requiring any information to be verified by statutory declaration;
- (b) prescribing classes of persons to be eligible persons who reside in a premises that is not a housing unit;
- (c) prescribing by class or type the kinds of institutions that are not housing units;
- (d) providing for the payment of interest where no grant was payable or on over-payments of a grant and prescribing the rate of interest payable thereon;
- (e) prescribing the manner in which occupancy costs shall be attributed for the purposes of subsection 4 (2).

(2) The Lieutenant Governor in Council may make regulations, Idem

- (a) prescribing the evidence to be furnished to the Minister to establish facts relevant to the entitlement of any person to receive a grant and to establish the amount of such grant;
- (b) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;

- (c) prescribing the manner in which any amount required by this Act to be deducted and retained out of any grant shall be so deducted and retained;
- (d) prescribing any amount greater than the amount set out in clause 2 (2) (a) or set out in section 7;
- (e) prescribing the conditions of eligibility to any grant payable under this Act;
- (f) defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act;
- (g) prescribing any condition that an applicant must meet prior to receiving a grant;
- (h) prescribing any matter required by this Act to be prescribed by the regulations.

Retro-
activity

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1980, c. 18, s. 17.

Moneys
required
for Act

18. The moneys required for the purposes of this Act shall, until the 31st day of March, 1981, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. 1980, c. 18, s. 18.