

1970

## c 157 Family Benefits Act

Ontario

© Queen's Printer for Ontario, 1970

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

---

### Bibliographic Citation

*Family Benefits Act*, RSO 1970, c 157

### Repository Citation

Ontario (1970) "c 157 Family Benefits Act," *Ontario: Revised Statutes*: Vol. 1970: Iss. 2, Article 31.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1970/iss2/31>

## CHAPTER 157

## The Family Benefits Act

## 1. In this Act,

Interpre-  
tation

- (a) "allowance" means an allowance provided on the basis of need under this Act and the regulations;
- (b) "applicant" means a person who applies, or on whose behalf an application is made, for one or more benefits;
- (c) "beneficiary" means a person on whose behalf a benefit is provided;
- (d) "benefit" means a benefit provided on the basis of need under this Act and the regulations, and includes an allowance;
- (e) "dependent child" means a person who resides in Ontario and,
  - (i) is supported by his mother, dependent father or the person who stands *in loco parentis* to him,
  - (ii) is under twenty-one years of age, and
  - (iii) attends an educational institution of a class defined by the regulations and is making satisfactory progress with his studies;
- (f) "dependent father" means a father who is permanently unemployable by reason of physical or mental disability, and includes a father who is blind or otherwise disabled as defined by the regulations;
- (g) "Director" means the Director of the Family Benefits Branch of the Department of Social and Family Services;
- (h) "field worker" means a person employed as such by the Department of Social and Family Services or any other employee of the Department whom the Minister designates as such;
- (i) "Minister" means the Minister of Social and Family Services;
- (j) "mother" means the mother of a dependent child;
- (k) "recipient" means a person to whom an allowance is provided;

- (l) "regional administrator" means a regional welfare administrator or any other employee of the Department of Social and Family Services whom the Minister designates as such for the purposes of this Act;
- (m) "regulations" means the regulations made under this Act. 1966, c. 54, s. 1, *amended*.

Agreements  
with  
Canada

1966-67,  
c. 45 (Can.)

**2.** Where the Minister, with the approval of the Lieutenant Governor in Council, has made an agreement on behalf of the Government of Ontario with the Crown in right of Canada respecting the payment by Canada to Ontario, in accordance with the *Canada Assistance Plan* and the regulations made under it, of any portion of any expenditures made by Ontario pursuant to this Act and the regulations thereunder and for any reason the Government of Canada ceases to make the contributions provided for under the *Canada Assistance Plan* or fails to carry out the agreement, all benefits under this Act shall cease. 1966, c. 54, s. 2.

Duties of  
Director

**3.—(1)** The Director shall,

- (a) receive applications for benefits; and
- (b) determine the eligibility of each applicant to receive a benefit and, where the applicant is eligible, determine the amount of the allowance or other benefit and direct provision thereof accordingly, and may from time to time vary any amount so determined.

Acting  
Director

(2) Where the Director is absent or there is a vacancy in the office, his powers and duties shall be exercised and performed by such civil servant as the Minister may designate. 1966, c. 54, s. 3.

Delegation  
of power

(3) The Director, with the consent in writing of the Deputy Minister of Social and Family Services, may authorize any employee or class of employee of the Family Benefits Branch of the Department of Social and Family Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act. 1968, c. 39, s. 1.

Power  
to take  
affidavits

R.S.O. 1970,  
c. 72

**4.** The Director, every regional administrator and every field worker is, in the performance of his duties under this Act, a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1966, c. 54, s. 4.

No attach-  
ment, etc.,  
of allow-  
ances

**5.** An allowance,

- (a) is not subject to alienation or transfer by the recipient; and
- (b) is not subject to attachment or seizure in satisfaction of any claim against the recipient. 1966, c. 54, s. 5.

**6.** The receipt of a benefit does not by itself constitute a disqualification of the recipient or beneficiary from voting at any provincial or municipal election. 1966, c. 54, s. 6. Voting rights

**7.—(1)** An allowance shall and other benefits may be provided in accordance with the regulations to any person in need who is resident in Ontario as determined by the regulations and, Who entitled to an allowance and other benefits

- (a) who has attained the age of sixty-five years and who is not in receipt of a pension under the *Old Age Security Act* (Canada); or R.S.C. 1952, c. 200
- (b) who has attained the age of sixty years but has not attained the age of sixty-five years and is a widow, an unmarried woman, or a woman,
  - (i) whose husband is a patient in an institution under *The Mental Hospitals Act*, a sanatorium under *The Sanatoria for Consumptives Act*, a hospital for the chronically ill or a nursing home, or a resident in a home for the aged under *The Homes for the Aged and Rest Homes Act* or *The Charitable Institutions Act*, and has been a patient or resident therein, as the case may be, for a continuous period of six months or more, R.S.O. 1970, cc. 270, 422
  - (ii) whose husband has deserted her for three months or more and his whereabouts is unknown,
  - (iii) whose husband is imprisoned in a penal institution and at the date of application has a term of imprisonment remaining to be served of six months or more,
  - (iv) who is divorced and has not remarried, or
  - (v) who is living separate and apart from her husband and has been living separate and apart from him for a continuous period of five years or more; or R.S.O. 1970, cc. 206, 62
- (c) who has attained the age of eighteen years and is blind or otherwise disabled as defined by the regulations and is not in receipt of a pension under the *Old Age Security Act* (Canada); or
- (d) who is a mother with a dependent child and,
  - (i) who is a widow, or
  - (ii) whose husband has deserted her for three months or more, or
  - (iii) whose husband has deserted her and was a dependent father at the time of the desertion, or
  - (iv) whose husband is a patient in a sanatorium, hospital or similar institution, or

- (v) whose husband is imprisoned in a penal institution and at the date of the application has a term of imprisonment remaining to be served of six months or more, or
- (vi) who is divorced from the father of her dependent child and has not remarried, or
- (vii) whose dependent child was born out of wedlock, where the mother is sixteen years or more of age and her dependent child is three months or more of age; or
- (e) who is a dependent father with a dependent child and,
  - (i) who lives with the mother of his dependent child, or
  - (ii) whose wife has deserted him, or
  - (iii) whose wife is a patient in a sanatorium, hospital or similar institution, or is imprisoned in a penal institution, or
  - (iv) who is a widower; or
- (f) who is a foster mother with a foster child.

Qualifica-  
tions for  
children

(2) No benefit shall be provided in respect of a dependent child who is under eighteen years of age and who is not attending school, unless the dependent child,

- (a) is of pre-school age; or
- (b) is unable to attend school by reason of mental or physical disability; or
- (c) is on vacation from school and the Director is satisfied that the dependent child will return to school at the end of the vacation period.

Failure to  
comply  
with Act  
and  
regulations

(3) Any benefit may be suspended or cancelled if the recipient fails to comply with any requirement of this Act or the regulations. 1966, c. 54, s. 7.

Special  
cases

**8.**—(1) In cases presenting special circumstances and in which investigation shows the advisability of an allowance being provided to an applicant who is not eligible for an allowance, the Lieutenant Governor in Council may direct that an allowance be provided to the applicant.

Variation  
of amount

(2) The Director may determine the amount of any allowance directed to be provided under subsection 1 and may from time to time vary the amount so determined.

Additional  
benefits

(3) Every person who is provided with an allowance under subsection 1 is eligible for other benefits as if he were eligible under subsection 1 of section 7. 1966, c. 54, s. 8.

**9.** A benefit shall be provided only after the receipt by the Director of an application therefor in the prescribed form. 1966, c. 54, s. 9. Application

**10.—(1)** Where a recipient dies, his allowance shall be paid to the end of the month in which he died. Where recipient dies

(2) In the case of a recipient,

(a) for whom a committee or trustee is acting; or

(b) who, in the opinion of the Director, is using or is likely to use his allowance otherwise than for his own benefit, or is incapacitated or is incapable of handling his affairs,

Where allowance may be paid to a trustee, etc.

the Director may appoint a person to act for the recipient, and the allowance may be paid for the benefit of the recipient to the committee or trustee or to the person so appointed.

(3) A person acting for a recipient under subsection 2 is not entitled to any fee or other compensation or reward or to any reimbursement for any costs or expenses incurred by him. 1966, c. 54, s. 10. Compensation

**11.—(1)** There shall be a board of review that shall be composed of not more than such number of members as is prescribed by the regulations, who shall be appointed by the Lieutenant Governor in Council. Board of review

(2) One of the members of the board of review shall be appointed by the Lieutenant Governor in Council to be chairman of the board of review and one or more other of the members of the board may be appointed by the Lieutenant Governor in Council to be vice-chairmen of the board. Chairman and vice-chairmen

(3) The members of the board of review shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. Remuneration

(4) Each member of the board of review shall hold office for three years. Term of office

(5) Three members of the board of review constitute a quorum and are sufficient for the exercise of all the powers of the board. Quorum

(6) Such officers, clerks and servants as are from time to time considered necessary by the Lieutenant Governor in Council for the proper conduct of the business of the board of review may be appointed under *The Public Service Act*. Staff  
R.S.O. 1970,  
c. 386

(7) Sittings of the board of review may be held at such places in Ontario and at such times as the board considers most convenient for the proper discharge and speedy dispatch of its business. 1968, c. 39, s. 2, *part*. Sittings

Review

**12.—**(1) Any applicant or recipient may, by notice in writing served upon the chairman of the board of review, request a hearing and review by the board of a decision, order or directive of the Director affecting the applicant or recipient, as the case may be.

Notice of hearing

(2) Where a hearing and review are requested, the chairman of the board of review shall serve notice upon the applicant or recipient who requested the review notifying him of the time and place of the hearing.

Powers on review

(3) Where a review is taken under this section, the board of review may by its order direct the Director to make such decision as the Director is authorized to make under this Act and as the board considers proper, and thereupon the Director shall act accordingly.

Notice of decision

(4) Notice of the decision of the board of review shall be served forthwith upon the applicant or recipient who requested the review. 1968, c. 39, s. 2, *part*.

Appeal on question of law

**13.—**(1) Where the board of review has reviewed a decision, order or directive and given its decision on the review, the applicant or recipient who requested the review may appeal on a question of law alone to the Court of Appeal.

Form of appeal

(2) Every appeal shall be upon notice of motion served upon the chairman of the board of review within thirty days after the delivery of the notice of decision under subsection 4 of section 12 and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a report or certificate of a Master of the Supreme Court.

Material on appeal

(3) The chairman of the board of review shall certify to the Registrar of the Supreme Court,

- (a) the decision, order or directive that has been reviewed by the board;
- (b) the notice of the hearing before the board;
- (c) the decision upon the review, together with the reasons therefor;
- (d) any intermediate rulings or orders made in the course of the proceedings by the board; and
- (e) all written submissions to the board and other material received by it in connection with the review.

Order for Director's decision

(4) Where an appeal is taken under this section, the court may by its order direct the Director to make such decision as the Director is authorized to make under this Act and as the court considers proper, and thereupon the Director shall act accordingly.

Further applications

(5) Notwithstanding the decision of the board of review or of the court, a further application for a benefit may be made by the

applicant or recipient upon new or other evidence or where it is clear that material circumstances have changed. 1968, c. 39, s. 2, *part*.

**14.**—(1) No person shall knowingly obtain or receive a benefit that he is not entitled to obtain or receive under this Act and the regulations. Offences

(2) No person shall knowingly aid or abet another person to obtain or receive a benefit that such other person is not entitled to obtain or receive under this Act and the regulations. Idem

(3) Every person who contravenes subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months, or to both fine and imprisonment. 1966, c. 54, s. 12. Idem

**15.** The Lieutenant Governor in Council may make such regulations with respect to benefits as are considered necessary for carrying out the purposes of this Act, and in particular, Regulations

- (a) defining person in need, blind person, disabled person and permanently unemployable person;
- (b) defining classes of educational institutions for the purpose of clause *e* of section 1;
- (c) prescribing additional duties of the Director;
- (d) prescribing the duties of regional administrators and field workers;
- (e) determining residence for the purposes of section 7;
- (f) governing the manner of applying for benefits;
- (g) prescribing the material or proof of any fact, including evidence under oath, that is to be furnished before a benefit is provided or while a benefit is being provided;
- (h) designating the number of members of the board of review, and prescribing its procedures;
- (i) establishing a medical advisory board of one or more persons to advise the Director in the performance of his duties;
- (j) designating benefits or classes of benefits;
- (k) prescribing the maximum amounts of benefits;
- (l) prescribing the manner of computing the amount of benefits;
- (m) prescribing the manner in which and the times and intervals at which an allowance is to be provided;
- (n) providing for the suspension, cancellation, reinstatement and transfer of allowances and other benefits;



- (o) prescribing standards of eligibility for benefits in addition to those mentioned in this Act;
- (p) prescribing classes of persons, in addition to those mentioned in this Act, to whom benefits may be provided;
- (q) requiring and providing for rehabilitation measures;
- (r) providing for the making of investigations for the purposes of this Act of applicants for or recipients or beneficiaries of benefits;
- (s) prescribing forms and providing for their use. 1966, c. 54, s. 13.

## Interpretation

**16.**—(1) In this section, “predecessor Acts” means,

- (a) *The Blind Persons’ Allowances Act*, being R.S.O. 1960, c. 35;
- (b) *The Disabled Persons’ Allowances Act*, being R.S.O. 1960, c. 107; and
- (c) Section 7a of *The General Welfare Assistance Act*, being R.S.O. 1960, c. 164.

## New applications

(2) Applications for benefits shall be made under this Act and not under any predecessor Act.

## Transfers

(3) Where immediately before the Revised Statutes of Ontario, 1970 come into force a person was a recipient under a predecessor Act by virtue of subsection 5 of section 16 of *The Family Benefits Act, 1967*, he shall, if eligible therefor, be paid an allowance under this Act, and his eligibility therefor shall be determined in so far as is possible in accordance with the information contained in the application and other documents on file under the predecessor Act.

## Idem

(4) Notwithstanding subsection 3, a recipient under a predecessor Act shall not be transferred under subsection 3 if to do so would result in a reduction of his allowance at the time of his transfer.

## Assistance limited

(5) A recipient under this Act is not entitled to assistance or an allowance under any predecessor Act. 1966, c. 54, s. 14, amended.

## Repeal

**17.** The Lieutenant Governor by his proclamation may from time to time repeal any of the predecessor Acts mentioned in subsection 1 of section 16. 1966, c. 54, s. 16.

## Moneys

**18.** The moneys required to provide benefits and for the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 54, s. 15, amended.