1980

c 336 Ontario Guaranteed Annual Income Act

Ontario

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CHAPTER 336

Ontario Guaranteed Annual Income Act

1. In this Act,

(a) "applicant" means a person who has applied for an increment;

(b) "application" means an application for an increment under this Act;

(c) "base calendar year" means the calendar year ending next before the commencement of the current fiscal year;

(d) "basic monthly income" of a beneficiary for a month means,

(i) for any month in which the beneficiary is unmarried, and for which he is entitled to receive in the month a pension or a supplement, an amount equal to the sum of one-twelfth of his income for the base calendar year, plus the amount of any pension or supplement that he is entitled to receive in the month,

(ii) for any month throughout the whole of which the beneficiary is married to a person who is entitled to receive in the month an increment and a pension or a supplement, and for which the beneficiary is entitled to receive a pension or a supplement, an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, plus the amount of any pension or supplement that the beneficiary is entitled to receive in the month,

(iii) for any month throughout the whole of which the beneficiary is married to a person who is not entitled to receive in the month a pension or a supplement, and for which the
beneficiary is entitled to receive a pension or a supplement, an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, minus the lesser of,

(A) one-half of the amount of any pension that the beneficiary is entitled to receive in the month, or

(B) an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse,

plus

(C) the amount of any pension or supplement that the beneficiary is entitled to receive in the month,

(iv) for any month in which the beneficiary is unmarried, and for which he is not entitled to receive a pension or a supplement, an amount equal to one-twelfth of his income for the base calendar year,

(v) for any month throughout the whole of which the beneficiary is married to a person who is entitled to receive in the month an increment, and for which neither the beneficiary nor his spouse is entitled to receive a pension or a supplement, an amount equal to one-twenty-fourth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse,

(vi) for any month throughout the whole of which the beneficiary is married to a person who is not entitled to receive in the month an increment, a pension, or a supplement, and for which the beneficiary is not entitled to receive a pension or a supplement,

(A) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is less than an amount equal to twelve times the maximum amounts of pension and supplement that are authorized to be
paid in that month under the Old Age Security Act (Canada) to an unmarried person,

an amount equal to one-twelfth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, or

(B) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is not less than an amount equal to twelve times the maximum amounts of pension and supplement that are authorized to be paid in that month under the Old Age Security Act (Canada) to an unmarried person, and is less than an amount equal to the sum of,

1. an amount equal to twenty-four times the amount of the pension that is authorized to be paid in the month under the Old Age Security Act (Canada),

2. an amount equal to twelve times the maximum amount of supplement that is authorized to be paid in the month under the Old Age Security Act (Canada) to an unmarried person, and

3. the amount of $48.00,

an amount equal to the sum of the amount of the pension that is authorized to be paid in the month under the Old Age Security Act (Canada), plus the maximum amount of the supplement that is authorized to be paid in that month under the Old Age Security Act (Canada) to an unmarried person, or

(C) where the aggregate of the incomes for the base calendar year of the beneficiary and his spouse is equal to or greater than the sum of the amounts described in paragraph 1, 2 or 3 of sub-subclause (B),

an amount equal to the sum of,

1. the amount equal to one-thirty-sixth of the result obtained by subtracting
from the amount of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse
the sum of the amounts described in paragraphs 1 and 2 of sub-subclause (B) and $12.00,

2. the amount of the pension that is authorized to be paid in the month under the *Old Age Security Act* (Canada), and

3. the maximum amount of the supplement that is authorized to be paid in the month under the *Old Age Security Act* (Canada) to an unmarried person, or

(vii) for any month throughout the whole of which the beneficiary is married to a person who is entitled to receive an increment and a pension or supplement, and for which the beneficiary is not entitled to receive a pension or supplement, an amount equal to one-twelfth of the aggregate of the incomes for the base calendar year of the beneficiary and his spouse, plus the aggregate of,

(A) the amount of any increment, and

(B) the amount of any pension or supplement,

that the spouse of the beneficiary is entitled to receive in the month;

(e) "beneficiary" means a person to whom payment of an increment has been approved;

(f) "current fiscal year" means the fiscal year in respect of which an application for an increment is made by an applicant or on his behalf;

(g) "defined income" means any amount that is a supplement, a pension, a spouse's allowance, a payment similar to a supplement, pension or spouse's allowance under a law of a province of Canada, a private pension income, a benefit, other than a death benefit, under the *Canada Pension Plan* or a
provincial pension plan as defined in section 3 of the Canada Pension Plan, and any amount that is R.S.C. 1970, c. C-3 income prescribed for the purpose of this clause;

(h) "eligible person" means a person who,

(i) has attained 65 years of age or such lesser age as may be prescribed,

(ii) is actually residing in Ontario and is entitled to receive a supplement that is paid to him or to his credit through the Ontario regional office of the Income Security Branch of the Department of National Health and Welfare of the Government of Canada,

(iii) has resided in Canada for the ten years immediately preceding the date on which his application is approved or, if he has not so resided in Canada, has either,

(A) been present in Canada, prior to those ten years and after attaining 18 years of age, for a continuous period of, or for periods the aggregate of which is, at least equal to three times the aggregate periods of absence from Canada during those ten years, and has resided in Canada for at least one year immediately preceding the date on which his application is approved, or

(B) resided in Canada, after attaining 18 years of age and prior to the date on which his application is approved, for a continuous period, or for periods the aggregate of which is, at least forty years,

and

(iv) has resided in Ontario for a period of one full year immediately prior to the date on which his application is approved or, after attaining 18 years of age and prior to the date on which his application is approved, has resided in Ontario for a continuous period, or for periods the aggregate of which is, at least twenty years;
(i) "fiscal year" means a period of twelve consecutive months commencing on the 1st day of April or on such other date as may be prescribed by the Lieutenant Governor in Council;

(j) "guaranteed income limit" means, unless a higher amount is prescribed,

(i) in the case of a beneficiary who is described in any of subclauses 1 (d), (i), (iv) or (vi), or who is described in subclause 1 (d) (iii) and is married to a spouse who is not entitled to receive a spouse's allowance authorized to be paid under Part II.I of the Old Age Security Act (Canada), the amount of $5,447.52;

(ii) in the case of a beneficiary who is described in subclause 1 (d) (ii) or (v), the amount of $5,117.52;

(iii) in the case of a beneficiary described in subclause 1 (d) (iii) and who is married to a spouse who is entitled to receive a spouse's allowance authorized to be paid under Part II.I of the Old Age Security Act (Canada), the amount of $4,889.88; and

(iv) in the case of a beneficiary described in subclause 1 (d) (vii), the amount of $10,235.04.

(k) "income for the base calendar year" of a person or an applicant means his income for the calendar year ended next before the current fiscal year and computed in accordance with the Income Tax Act (Canada), minus,

(i) the amount of any increment,

(ii) the amount of any pension, supplement, spouse's allowance, or allowance under the Family Allowances Act, 1973 (Canada), and the amount of any similar payments made under a law of a province of Canada,

(iii) the amount of any death benefit under the Canada Pension Plan or a provincial pension plan as defined in section 3 of the Canada Pension Plan, and

(iv) any amount required by paragraph 82 (1) (b) of the Income Tax Act (Canada) to be included in
income, or any amount prescribed for the purpose of this subclause,

that is included in computing that income, and means any amount deemed by section 5 to be income for the base calendar year;

(l) "increment" means the monthly guaranteed annual income increment authorized to be paid under this Act, and is an amount equal to the amount by which one-twelfth of the guaranteed income limit applicable to a beneficiary exceeds the beneficiary's basic monthly income for the month for which the payment authorized under this Act is being made;

(m) "Minister" means the Minister of Revenue;

(n) "month throughout the whole of which the beneficiary is married" includes the month in which the beneficiary ceases to be married as a result of the death of his spouse or otherwise, and "month in which the beneficiary is unmarried" does not include the month in which he so ceases to be married;

(o) "pension" means a monthly pension authorized to be paid under Part I of the Old Age Security Act R.S.C. 1970, c. O-6 (Canada);

(p) "prescribed" means prescribed by regulation;

(q) "previous fiscal year" means the fiscal year next before the current fiscal year;

(r) "qualifying date" means the 1st day of July, 1974 or, in the case of an individual who is not an eligible person on that date, the first date after the 1st day of July, 1974 on which such individual becomes an eligible person;

(s) "regulation" means a regulation made under this Act;

(t) "spouse" in relation to a beneficiary includes a person of the opposite sex who has lived with the beneficiary for three or more years where there is a bar to their marriage or for at least one year where there is no such bar and the beneficiary and that person have publicly represented themselves as man and wife;
(u) "spouse's allowance" means a monthly payment authorized to be paid under Part II.1 of the *Old Age Security Act* (Canada);

(v) "supplement" means a monthly guaranteed income supplement authorized to be paid under Part II of the *Old Age Security Act* (Canada). 1974, c. 58, s. 1; 1976, c. 33, s. 1; 1977, c. 50, s. 1; O. Reg. 1094/80.

2.—(1) Subject to this Act and the regulations, a monthly benefit may be paid for any month after the month of June, 1977 to every person who is not eligible on the 30th day of June, 1977 to be paid an increment and who,

(a) has attained sixty-five years of age or such lesser age as may be prescribed;

(b) is actually resident in Ontario and is entitled to receive a partial monthly pension authorized to be paid under subsection 3 (1.1) of the *Old Age Security Act* (Canada) and to receive a supplement that is paid to him or to his credit through the Ontario regional office of the Income Security Branch of the Department of National Health and Welfare of the Government of Canada;

(c) has resided in Canada, after attaining eighteen years of age and prior to the day on which his application is approved, for a period or periods the aggregate of which is not less than ten years and not more than forty years; and

(d) has resided in Ontario for a period of one full year immediately prior to the date on which his application is approved or, after attaining eighteen years of age and prior to the date on which his application is approved, has resided in Ontario for a continuous period of, or for periods the aggregate of which is, at least twenty years.

(2) A person who is not entitled to an increment under this Act on or before the 30th day of June, 1977 is eligible to be paid a monthly benefit under this section only when on or after the 1st day of July, 1977, he becomes entitled to receive a supplement and if, on the day preceding the day on which his application is approved, he is a Canadian citizen residing in Ontario or, if not a Canadian citizen, is then legally resident in Canada and is residing in Ontario.

(3) "monthly benefit" means the payment authorized by subsection (1) and is an amount equal to the maximum
increment payable for the month under this Act to a person in receipt of a supplement, minus $1.00,

(a) for every full $24.00 of the income for the base calendar year of the person to whom the monthly benefit is paid, if he is unmarried;

(b) for every full $48.00 of the aggregate of the incomes for the base calendar year of the person and his spouse, if the person to whom the monthly benefit is paid is married to a spouse who is entitled to receive in the month a monthly benefit or an increment under this Act; or

(c) for every full $48.00 of the amount by which the aggregate of the incomes for the base calendar year of the person and his spouse exceeds the product of twelve times the maximum amount of pension that is authorized to be paid in the month under the Old Age Security Act (Canada) to an unmarried person, if the person to whom the monthly benefit is paid is married either to a spouse who is not entitled to receive in the month an increment, a pension, a supplement or a monthly benefit, or to a spouse who is entitled to receive in the month a spouse’s allowance.

(4) Notwithstanding subsections (1) to (3), where the result of an international agreement concluded in accordance with section 22.2 of the Old Age Security Act (Canada) is that a person resident in Ontario becomes entitled to receive a supplement, the Lieutenant Governor in Council may make regulations respecting the manner in which this Act shall apply to any such case or class of cases affected by the agreement, for adapting this Act thereto, and for determining such person’s or class of persons’ entitlement to, and the amount of, a monthly benefit under this Act, as appears to the Lieutenant Governor in Council to be necessary and advisable.

(5) In clauses 1 (a), (b) and (e) and in sections 3 to 17, “increment” shall, unless the context otherwise requires, include the monthly benefit authorized to be paid by this section.

(6) The Lieutenant Governor in Council may make regulations respecting the meaning of legal residence for the purpose of this section. 1977, c. 50, s. 2.

3.—(1) Subject to this Act and the regulations, an increment may be paid to every eligible person for each month in a fiscal year, such that the first payment shall be made for the month following the month in which the
beneficiary’s qualifying date occurs or, where an application is received after the applicant’s qualifying date, for the month following the month in which the application is approved. 1974, c. 58, s. 2 (1).

(2) No increment may be paid to any eligible person for any month in any fiscal year unless an application therefor has been made by him or on his behalf and payment of the increment for months in that fiscal year has been approved by the Minister, and except as otherwise provided in this Act and the regulations, no increment may be paid to any eligible person, pursuant to an application therefor, for,

(a) subject to clause (d), any month more than eleven months before the month in which the application is received;

(b) any month prior to the 1st day of July, 1974;

(c) any month throughout the whole of which the beneficiary is absent from Ontario, having absented himself from Ontario, either before or after becoming a beneficiary, and having remained out of Ontario before that month for six consecutive months, exclusive of the month in which he left Ontario; or

(d) any month prior to the month following the month in which his qualifying date occurs. 1974, c. 58, s. 2 (2); 1976, c. 33, s. 2 (2); 1977, c. 50, s. 3 (1).

(3) Where, after becoming a beneficiary, a person remains out of Ontario for six consecutive months, exclusive of the month in which he left Ontario, payment of his increment in any subsequent month during which he is only temporarily resident in Ontario may, without a hearing, be suspended, but payment may be resumed with the month in which he returns to Ontario to become principally resident in Ontario.

(4) Where a beneficiary, either before or after becoming a beneficiary, is convicted of an offence and sentenced to a term of imprisonment exceeding ninety days, payment of his increment for any period he continues to be imprisoned shall be suspended, but may be resumed upon his release from imprisonment.

(5) Where a beneficiary fails to comply with any of the provisions of this Act or the regulations, payment of his increment may, without a hearing, be suspended, and where payment of an increment is so suspended, it shall be resumed when the beneficiary has complied with such provisions, and shall be paid in accordance with the amount
of any increment to which the beneficiary is then entitled. 1974, c. 58, s. 2 (3-5).

6. When an applicant is, on his qualifying date or on the last day of the month in which his application is received, whichever is the later day, entitled to receive a full pension or a supplement for which he has not applied, his application shall not be approved until his entitlement to receive a full pension or a supplement is determined. 1974, c. 58, s. 2 (6); 1977, c. 50, s. 3 (2).

7. Where a beneficiary becomes entitled to receive a full pension or a supplement and does not apply therefor, the beneficiary’s increment shall be reduced to that amount that would be payable to him were he receiving the full pension and, where applicable, the supplement to which he would be entitled upon making an application as provided in the Old Age Security Act (Canada). 1974, c. 58, s. 2 (7); 1977, R.S.C. 1970, c. O-6, s. 50, s. 3 (3).

4.—(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 who has applied for or is entitled to a supplement is or is not entitled to an increment, 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) or may act upon any statement or information furnished under that Act, and for the purpose of determining the entitlement of any person to an increment or of determining the amount thereof, the Minister may treat an application under the Old Age Security Act (Canada) for a supplement or a statement of income furnished under that Act as an application or statement, as the case requires, under this Act, and when so treated, such application or statement shall be deemed an application or statement under this Act.

(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 increments to which any eligible person is entitled under this Act, but if any such arrangement is made with a person who is not subject to the provisions of section 11, the Minister shall take all steps necessary
to ensure that any information coming to such person's knowledge concerning any beneficiary or applicant is not divulged or disclosed to any person not legally entitled thereto.

(3) Where an arrangement is entered into under subsection (2), the Minister may in writing delegate the exercise or discharge of any power or duty conferred or imposed upon him by this Act, including a discretion, and where the exercise of any discretion is delegated, the Minister shall in writing define the extent to which and, where applicable, the terms upon which the discretion is exercisable, and every delegation made under this subsection may be revoked or may be made upon such conditions as the Minister may impose to ensure the carrying out of the purposes of this Act and compliance with its provisions. 1974, c. 58, s. 3.

5.—(1) Subject to section 3 and subject to the regulations, an application may be approved and increments paid from any date that is prior to that on which the application was received and that is neither earlier than the date eleven months before the application was received nor earlier than the earliest date in such prior period on which the applicant could be approved as an eligible person, and where the applicant would be an eligible person if his application were approved on or after the day on which his application was received, the application may be approved and increments paid from the first day on or after the receipt of the application on which the applicant could be approved as an eligible person, provided that if the applicant cannot be approved as an eligible person within the three months following the month in which his application was received, his application may be rejected without prejudice to his right to apply again when he can be approved as an eligible person. 1976, c. 33, s. 3, part; 1977, c. 50, s. 4.

(2) Subject to this Act and the regulations, an increment shall continue to be paid during the lifetime of a beneficiary, and shall cease with the payment for the month in which the beneficiary dies.

(3) Payment of an increment for any month shall be made at any time during the month, except that where payment of an increment in respect of any fiscal year is approved after the end of the month for which the first payment of the increment may be made, payments thereof for the month in which the payment of the increment is approved and for months preceding that month may be made during the two months following the month in which payment of the increment is approved.
(4) Where the increment to which a beneficiary is entitled in any month is more than zero and less than $2.50, the beneficiary shall be paid an increment in the amount of $2.50 for that month. 1974, c. 58, s. 4 (3-5).

6.—(1) Every applicant in respect of a current fiscal year shall in his application make a statement of his income for the base calendar year. 1974, c. 58, s. 5 (1).

(2) Where in any current fiscal year an applicant, or an applicant’s spouse who has filed a statement as described in clause 7 (2) (a), has ceased to hold an office or employment previously held by him or has ceased to carry on a business previously carried on by him, the applicant or the applicant’s spouse, as the case may be, may, not later than the end of the fiscal year next following the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of the applicant, or in addition to filing a statement as described in clause 7 (2) (a) in the case of the applicant’s spouse, file a statement of his estimated income, other than his estimated income from that office or employment or from that business, as the case may be, for the calendar year in which he ceased to hold that office or employment or ceased to carry on that business, in which case,

(a) his income for that calendar year, calculated as described in clause 1 (k) and as though he had no income from that office or employment or from that business, as the case may be, and no defined income in that calendar year,

plus

(b) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (2); 1977, c. 50, s. 5 (1).

(3) Where in any current fiscal year an applicant, or an applicant’s spouse who has filed a statement as described in clause 7 (2) (a), has suffered a loss of income due to termination or reduction of private pension income, the applicant or the applicant’s spouse, as the case may be, may, not later than the end of the fiscal year next following the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of an applicant, or in addition to filing a statement as described in clause 7 (2) (a) in the case of the applicant’s spouse, file
a statement of his estimated income for the calendar year in which he suffered that loss, other than private pension income received by him in that part of that calendar year that is before the month in which he suffered that loss, in which case,

(a) his income for that calendar year, calculated as described in clause 1 (k) and as though he had no defined income for that calendar year,

plus

(b) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered the loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (3); 1977, c. 50, s. 5 (2).

(4) Where, in the base calendar year or in the last three months of the previous fiscal year, an applicant, or an applicant's spouse who has filed a statement as described in clause 7 (2) (a), has ceased to hold an office or employment previously held by him or has ceased to carry on a business previously carried on by him, the applicant or the applicant's spouse, as the case may be, may, not later than the end of the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of the applicant, or in addition to filing his statement as described in clause 7 (2) (a) in the case of the applicant's spouse,

(a) where he ceased to hold that office or employment or to carry on that business in the base calendar year, file a statement of his estimated income for the calendar year ending in the current fiscal year, in which case his income for that calendar year shall be deemed to be his income for the base calendar year; or

(b) where he ceased to hold that office or employment or to carry on that business in the last three months of the previous fiscal year, file a statement of his estimated income for the calendar year ending in the current fiscal year showing any income actually received by him in that calendar year from that office or employment or from that business, as the case may be, in which case,
(i) his income for that calendar year, calculated as described in clause 1(k) and as though he had no income from that office or employment or from that business, as the case may be, and no defined income in that calendar year,

plus

(ii) any defined income received by him in that part of that calendar year that is after the month in which he ceased to hold that office or employment or ceased to carry on that business, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (4); 1977, c. 50, s. 5 (3).

(5) Where, in the base calendar year or in the last three months of the previous fiscal year, an applicant, or an applicant’s spouse who has filed a statement as described in clause 7 (2) (a), has suffered a loss of income due to termination or reduction of private pension income, the applicant or the applicant’s spouse, as the case may be, may, not later than the end of the current fiscal year, in addition to making the statement of his income required by subsection (1) in the case of the applicant, or in addition to filing a statement as described in clause 7 (2) (a) in the case of the applicant’s spouse,

(a) where he suffered that loss in the base calendar year, file a statement of his estimated income for the calendar year ending in the current fiscal year, in which case his income for that calendar year shall be deemed to be his income for the base calendar year; or

(b) where he suffered that loss in the last three months of the previous fiscal year, file a statement of his estimated income for the calendar year ending in the current fiscal year, showing the amount of private pension income actually received by him in that part of that calendar year that is before the month in which he suffered that loss, in which case,
(i) his income for that calendar year, calculated as described in clause 1 (k) and as though he had no defined income in that calendar year,

plus

(ii) any defined income received by him in that part of that calendar year that is after the month next before the month in which he suffered that loss, divided by the number of months in that part of that calendar year and multiplied by twelve,

shall be deemed to be his income for the base calendar year. 1974, c. 58, s. 5 (5); 1977, c. 50, s. 5 (4).

Where statement filed under subs. (2) or (3), a statement of estimated income is filed by an applicant or by an applicant's spouse, no increment calculated on the basis of that statement may be paid to the applicant for any month in the current fiscal year before,

(a) the month next following the month shown in the statement as the month in which the applicant or the applicant's spouse, as the case may be, ceased to hold the office or employment previously held by him or ceased to carry on the business previously carried on by him; or

(b) the month shown in the statement as the month in which the applicant or the applicant's spouse, as the case may be, suffered the loss of income due to termination or reduction of private pension income,

as the case may be.

(7) For the purpose of facilitating a payment of an increment to a beneficiary, and for the purpose of making the same amount of increment payable to every beneficiary whose increment, calculated in accordance with this Act (other than this subsection) and the regulations, is more or less in the same amount, the Minister may reduce,

(a) the income for the base calendar year of any beneficiary by an amount that shall not exceed $23.99; or
(b) the aggregate incomes for the base calendar year of any beneficiary and the spouse of that beneficiary by an amount that shall not exceed $47.99, and such income or incomes, when so reduced, shall be deemed to be the income for the base calendar year of the beneficiary or the aggregate incomes for the base calendar year of the beneficiary and his spouse, as the case may be, but no reduction authorized by this subsection shall be made if it will reduce the amount of the increment to which a beneficiary is entitled. 1974, c. 58, s. 5 (6, 7).

7.—(1) Every application in respect of a fiscal year shall state whether the applicant is married on the day on which the application is made or the last day of the previous fiscal year, whichever is the earlier day, and, if so, the name and address of his spouse and whether, to his knowledge, his spouse is in receipt of an increment.

(2) Subject to subsection (3), where an application in respect of a fiscal year is made by a person who, on the day on which his application is made or the last day of the previous fiscal year, whichever is the earlier day, is married, the application shall not be considered or dealt with unless, 

(a) the applicant's spouse has filed a statement in prescribed form of the spouse's income for the base calendar year; or

(b) an application in respect of the current fiscal year has been received from the applicant's spouse.

(3) Where an application in respect of a fiscal year is made by a person, the Minister,

(a) may, without a hearing and after such investigation of the circumstances as he deems necessary, in any case where,

(i) no statement or application under subsection (2) is filed or received from the spouse of the person, or

(ii) he is satisfied that the person, as a result of circumstances not attributable to him or his spouse, was not living with his spouse in a dwelling maintained by him or his spouse at the time the application was made; and

(b) shall, where he is satisfied that on the last day of the previous fiscal year, the person was living
separate and apart from his spouse and had lived so separate and apart for a period of not less than one year immediately before that day,

direct that the application be considered and dealt with as though the person was not married on the last day of the previous fiscal year.

(4) Where, after the Minister has made a direction under subsection (3) with respect to an application made in respect of a fiscal year by a person other than a person to whom clause (3) (b) applies, a statement or application under subsection (2) is filed by or received from the applicant's spouse, the Minister may review the direction and may after his review direct that any increment paid to the applicant or his spouse for months in that fiscal year following the month in which the review is made be calculated as if,

(a) the applicant and his spouse were in fact married on the last day of the previous fiscal year; or

(b) the applicant and his spouse had not been married on the last day of the previous fiscal year.

(5) Where an application in respect of a fiscal year is made by a person, and at any time in that fiscal year the person,

(a) ceases to live separate and apart from his spouse in the case of a person referred to in clause (3) (b);

(b) is married; or

(c) ceases to be married as a result of the death of his spouse or otherwise,

the Minister may, where he is requested to do so by that person, direct that any increment paid to that person, or except where clause (c) applies, to that person or his spouse for any months in that fiscal year following the month in which the direction is made, be calculated,

(d) where clause (a) or (b) applies, as though the person and his spouse had been married on the last day of the previous fiscal year; and

(e) where clause (c) applies, as though the person had not been married on the last day of the previous fiscal year.
(6) Nothing in subsection (5) shall be construed to limit or restrict the authority of the Minister to make any direction under subsection (3) or (4), and no hearing is required to be held prior to the making of any such direction. 1974, c. 58, s. 6.

8.—(1) Where an application in respect of a fiscal year is approved, and it is subsequently determined that the income of the applicant for the base calendar year calculated as required by this Act (hereinafter referred to as his "actual income") does not accord with his income (hereinafter referred to as his "shown income") calculated as required by this Act on the basis of a statement required or permitted by section 6 to be made or filed by him,

(a) where the applicant's actual income exceeds his shown income, any amount by which the increment paid to him for months in that fiscal year exceeds the increment that would have been paid to him for those months if his shown income had been equal to his actual income, may be deducted and retained out of any subsequent payments of such increment made to him in such manner as may be prescribed; and

(b) where the applicant's shown income exceeds his actual income, there shall be paid to him an amount by which the increment that would have been paid to him for months in that fiscal year if his shown income had been equal to his actual income, exceeds the increment paid to him for those months, except that no payment shall be made under this clause where the amount of such payment is less than $5.00. 1974, c. 58, s. 7 (1); 1977, c. 50, s. 6.

(2) Notwithstanding subsection (1), no amount may be deducted and retained in a fiscal year under that subsection with respect to any increment paid to a beneficiary for months before the immediately preceding fiscal year, unless,

(a) the beneficiary made a wilful misrepresentation or committed fraud for the purpose of receiving or obtaining such payment of increment; or

(b) the amount by which,

(i) the increment paid to the beneficiary for months in that fiscal year and the immediately preceding fiscal year,
exceeds,

(ii) the increment that would have been paid to the beneficiary for those months where his shown income had been equal to his actual income,

has been determined and an amount has been deducted and retained with respect thereto in accordance with this section, in which case the amount of the excess may be deducted and retained, in such manner as may be prescribed, out of any payment of increment made to him after any amount has been so deducted and retained. 1974, c. 58, s. 7 (2).

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

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

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

(2) Where particulars of the basis on which the amount of any increment that may be paid to an applicant was determined by the Minister are requested by the applicant, or where the Minister determines that no increment may be paid to an 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 increment may be paid and shall notify the applicant of his right of appeal under this section.

(3) Where an applicant is dissatisfied with a determination of the Minister under subsection (1) or with the decision of the Minister under section 3 to suspend payment of an increment or with a direction of the Minister under section 7, he may appeal against the determination, decision or direction as provided for in this section to the board and the decision of the board, subject only to variation by it upon application made to it by the applicant or the Minister based on evidence not previously considered by it, is final and binding on any question that is solely a question of fact.

(4) An appeal under this section shall be commenced by serving by registered mail or by personal service on the
Minister and on the board a notice of appeal setting out the reasons for the appeal and the facts on which the appellant relies in support of his appeal.

(5) No appeal under this section with respect to a determination under subsection (1) shall be commenced after the expiration of sixty days from the day when written notice is given by the Minister under subsection (2) as to the particulars requested by an applicant or as to a determination of the Minister that no increment is payable.

(6) Within sixty days of the day on which a notice of appeal is served on him, the Minister shall serve by registered mail or by personal service on the appellant, or on his agent for service shown in the notice of appeal, a reply setting out the facts and reasons relied on by the Minister in opposing the appeal.

(7) At the time that a reply is served under subsection (6), the Minister shall forward a copy thereof to the board, together with any statement of particulars or statement of the basis of his determination given under subsection (2) or his decision made under section 3, that is material on the appeal. 1974, c. 58, s. 8 (1-7).

(8) When the reply of the Minister is served, the board shall appoint a time and place for the hearing of the appeal and shall so notify the appellant and the Minister, and the board shall hear the appeal, and the practice and procedure of the board, as set out in the Ministry of Community and Social Services Act and regulations made thereunder, shall, with necessary modifications, apply to an appeal under this section, including any right of appeal from the decision of the board on a question that is not solely a question of fact. 1974, c. 58, s. 8 (8); 1976, c. 33, s. 4 (1).

(9) In disposing of an appeal under this section, the board may, with necessary modifications, exercise all the powers conferred upon it under the Ministry of Community and Social Services Act. 1974, c. 58, s. 8 (9); 1976, c. 33, s. 4 (2).

(10) The board may extend the time within which an appeal may be commenced under subsection (5), either before or after the expiration of the time therein specified, where it is satisfied that there are prima facie grounds either for claiming relief pursuant to a hearing or for an appeal and that there are reasonable grounds for applying for the extension. 1974, c. 58, s. 8 (10).

(11) In this section, “board” means the Social Assistance Review Board established and constituted under the provi-
(12) Any officer or employee in the Ministry of Community and Social Services who is authorized to administer oaths, take and receive affidavits, declarations and affirmations and any officer or employee in the Ministry of Revenue who is authorized by the Minister, may administer oaths, 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, with respect to any such oath, affidavit, declaration or affirmation, all the powers of a commissioner for taking affidavits. 1977, c. 50, s. 7.

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

(2) Where a person receives or obtains the payment of an increment to which he is not entitled or the payment of an amount in excess of the increment 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,

(a) at any time, where that person made a wilful misrepresentation or committed fraud for the purpose of receiving or obtaining the amount or excess amount;
or

(b) where clause (a) is not applicable, at any time before the end of the fiscal year next following the fiscal year in which the amount or excess amount was received or obtained,

and where that person is or subsequently becomes a beneficiary, the amount of any such indebtedness may, subject to subsection 8 (2), be deducted and retained out of any increment 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. 1974, c. 58, s. 9.
agent of the Ministry of Revenue 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.

(2) Any information referred to in subsection (1) that is obtained by any officer, employee or agent of the Ministry of Revenue 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, or of the Ministry of Community and Social Services, or to any person or class of persons prescribed by the Lieutenant Governor in Council and approved by the Minister of National Health and Welfare of the Government of Canada who are administering a program of assistance payments similar in nature to the payments authorized under this Act.

(3) Notwithstanding any other Act or law, no officer, agent or employee of Her Majesty shall be required, in connection with any legal proceedings, to give evidence relating to any information that is privileged under subsection (1) or to produce any statement or other writing containing any such information.

(4) Subsections (1) and (3) do not apply in respect of proceedings relating to the administration or enforcement of this Act. 1974, c. 58, s. 10.

12. An increment shall not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, attach, anticipate or give as security and increment is void. 1974, c. 58, s. 11.

13.—(1) Where an applicant or a beneficiary entitled to receive an increment dies, the Minister may pay any increment to which the applicant or beneficiary was entitled at his death to the executor or administrator of his estate or, if no executor or administrator is, in the opinion of the Minister, likely to be appointed or granted letters probate, to such applicant’s or beneficiary’s surviving spouse or to the person who appears to the Minister to be discharging the duties of executor or administrator of the deceased applicant’s or beneficiary’s estate, although not so constituted or appointed by the Surrogate Court.
(2) In the case of a beneficiary,

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

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

the Minister may appoint a person to act on behalf of the beneficiary, and the increment may be paid for the benefit of the beneficiary to the committee or trustee or to the person so appointed.

(3) A person acting for a beneficiary 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. 1974, c. 58, s. 12.

14. Where a deduction is made from an increment payable under this Act or from any payment under a statute of Canada or of a province of Canada that is relevant in determining the income for the base calendar year of the person to whom any increment may be paid under this Act, and the deduction is made by the Crown to reduce or discharge a liability to the Crown of the person, such person’s entitlement under this Act shall not thereby be increased. 1974, c. 58, s. 13.

15.—(1) Any person 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 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 an increment 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 increment 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 made under this Act, 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.

(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 an increment under this Act.

(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.
(5) Every person who fails to comply with or contravenes this section is guilty of an offence and, in addition to any penalty otherwise provided, is liable on conviction to a fine of $100 or $25 for each day during which the default continues, whichever is the greater. 1977, c. 50, s. 8.

16.—(1) Every person who,

(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 payment of an increment 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 an increment 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 an increment under this Act to which he is not entitled; or

(d) contravenes section 11,

is guilty of an offence and on conviction is liable to a fine of not less than $50 and not more than $300 for each offence. 1974, c. 58, s. 15 (1); 1977, c. 50, s. 9.

(2) An information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(3) An information in respect of an offence under this Act shall be laid within five years of the time when the offence was committed. 1974, c. 58, s. 15 (2, 3).

17.—(1) The Minister may make regulations 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. 1974, c. 58, s. 16 (1).

(2) The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry
out effectively the intent and purpose of this Act, and without limiting the generality of the foregoing, may make regulations,

(a) prescribing the amount of the guaranteed income limit;

(b) prescribing the evidence to be furnished to the Minister to establish facts relevant to the entitlement of any person to receive an increment and to establish the amount of such increment;

(c) 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;

(d) prescribing amounts that may be included in or excluded from defined income or income for the base calendar year;

(e) defining intervals of absence from Ontario that shall be deemed not to have interrupted residence in Ontario;

(f) providing for the suspension of payment of an increment during any investigation into the eligibility of a beneficiary, and the reinstatement or resumption of the payment thereof;

(g) prescribing the manner in which any amount required by this Act to be deducted and retained out of any increment shall be so deducted and retained;

(h) providing for the making of any application, statement or notification, or the doing of any other act or thing required or permitted by this Act, by any person or agency, and for the payment of a benefit to any person or agency on behalf of any other person or beneficiary where it is established, in such manner and by such evidence as may be prescribed, that such other person or beneficiary is, by reason of infirmity, illness, insanity or other cause, incapable of managing his own affairs, and prescribing the manner in which any increment authorized to be paid to any such person or agency shall be administered and expended for the benefit of the beneficiary and accounted for;

(i) fixing a date, other than the 1st day of April, for the commencement of a fiscal year for the purposes of this Act, and extending or abridging the period
of any fiscal year, current fiscal year or previous fiscal year to provide for the orderly transition to the prescribed fiscal year from the fiscal year in effect prior to the prescribing of a different fiscal year under this clause;

(j) defining the meaning of private pension income for the purposes of this Act and the regulations;

(k) prescribing, for the purposes of clause 1 (h), an age that is less than sixty-five years of age;

(l) altering the provisions of clause 1 (h) by reducing or eliminating any period of residence therein specified; and

(m) prescribing dates other than those specified in subsection 5 (1) as of which the application may be approved before or after it was received. 1974, c. 58, s. 16 (2); 1976, c. 33, s. 5.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. 1974, c. 58, s. 16 (3).