

Bill 6

BILL 6

2002

STUDENT FINANCIAL ASSISTANCE ACT

(Assented to , 2002)

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this statute,

- (a) “agreement” means an agreement entered into under this Act;
- (b) “Board” means the Students Finance Board continued by section 4(1);
- (c) “eligible student” means a student who is eligible under section 12(1) for financial assistance;
- (d) “financial assistance” means monetary assistance, in all or any of its forms as the case may be, that has been or that may be provided under this Act;
- (e) “financing institution” means
 - (i) with respect to financial assistance other than a loan, the Government, and

- (ii) with respect to a loan, the Government or a bank, treasury branch, credit union, loan corporation or trust corporation;
- (f) “lender” means a financing institution referred to in clause (e)(ii) and includes any other person or entity that has acquired the rights of the creditor under a loan;
- (g) “loan” means financial assistance involving the lending and borrowing of money;
- (h) “member” means a member of the Board;
- (i) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this statute;
- (j) “non-government financing institution” means a financing institution other than the Government;
- (k) “prescribed” means prescribed or otherwise provided for by the regulations;
- (l) “repealed legislation” means the *Students Finance Act*, the *Student Loan Act* and the regulations made under them, or any of those enactments, as the case may be;
- (m) “student” means an individual who is enrolled in a program of study at an educational institution, both the program and the institution having been approved by the Minister for the purposes of this clause;
- (n) “this Act” includes the regulations.

(2) References in this statute to a federal Act include references to the regulations under that Act.

(3) References in this statute to the issuing of a certificate refer to the issuing of a certificate of eligibility, or the authorization of a loan by any other means, under section 19(1), and “certificate” includes those means.

(4) The Lieutenant Governor in Council may, for the purposes of this statute or specified provisions of this statute, by regulation define any expression used in this statute but not defined, and the expression has the meaning so defined.

Application

2(1) This Act does not apply with respect to scholarships within the meaning of the *Alberta Heritage Scholarship Act* or scholarships and awards under the *Queen Elizabeth II Golden Jubilee Recognition Act*.

(2) This Act binds the Government.

Part 1 Administration

Minister's general responsibilities

3 The Minister is responsible for

- (a) the operation and administration of financial assistance programs and of programs under the *Canada Student Loans Act* (Canada) and the *Canada Student Financial Assistance Act* (Canada) whose operation and administration have been assigned to the Minister or the Government, and
- (b) the apportionment and distribution of financial assistance and of monetary assistance under any such federal program.

Students Finance Board

4(1) The Students Finance Board, established by the *Students Finance Act*, is continued.

(2) The Board is to consist of not more than 11 individuals appointed as members of it by the Minister.

(3) Unless or except to the extent that the Minister has otherwise previously notified the Board in writing, 2 (and only 2) of the members must be individuals who

- (a) are students, or
- (b) were students at any time within the previous 6 months,

and if circumstances change such that either individual meets neither clause (a) nor clause (b) while a member, that individual's membership terminates, subject only to the right to continue membership under subsection (5).

(4) Only individuals who

- (a) are Canadian citizens or have been lawfully admitted to Canada for permanent residence, and
- (b) are residents of Alberta,

are eligible to become and to remain members.

(5) Members hold office for the term, which is not to exceed 3 years, that is set by the Minister, except that they may continue their membership after the expiry of their terms of office until they are reappointed or their successors are appointed as members, which continuing period is not to be taken into account for any of the purposes of subsection (6).

(6) A member is eligible for only one reappointment as provided for by section 20(1)(c) of the *Interpretation Act* before vacating office, and is not eligible for a further term of office until 3 years after the end of the term under that reappointment.

(7) Where the Minister fills a vacancy in membership by appointing an individual to fill the unexpired term of office of a vacating member, the appointment is not to be considered as a term of office for the purposes of subsection (6).

(8) Where an individual resigns from membership, the appointment as member terminates on the effective date specified in the resignation or, if no such date is specified, on the date the Minister receives the resignation.

(9) The Minister shall ensure that members who are neither officers or employees of the Government, nor members, officers or employees of any Provincial agency within the meaning of the *Financial Administration Act*, are paid

- (a) remuneration for their services as members, including any services performed as members of committees established by the Board, and
- (b) their reasonable travelling and living expenses while away from their ordinary places of residence in the course of those services,

at the rates set by the Lieutenant Governor in Council.

(10) The Board may make rules governing its proceedings.

Chair and vice-chair

5 The Minister shall designate one of the members as the chair, and the members may elect from among the remaining members a vice-chair, of the Board.

Board committees

6(1) The Board may continue or establish committees, which may include individuals who are not members, to assist it with its functions.

(2) The Minister shall ensure that members of the Board's committees who are neither members, nor officers or employees of the Government, nor members, officers or employees of any Provincial agency within the meaning of the *Financial Administration Act*, are paid

- (a) remuneration for their services as committee members, and
- (b) their reasonable travelling and living expenses while away from their ordinary places of residence in the course of those services,

at the rates set by the Lieutenant Governor in Council.

Function and duties of the Board

7 The function of the Board is to advise the Minister on matters pertaining to financial assistance and the Board shall, on being requested to do so by the Minister, make inquiries or conduct research into, or collect information relating to, any matter specified by the Minister relating to financial assistance, and report the results to the Minister in the manner and at the time specified by the Minister.

Part 2 Provisions Applicable to Financial Assistance Generally

Agreements with public or private entities

8 Subject to the *Government Organization Act*, the Minister may enter into agreements with any department, branch or agency of the Government or any other public or private organization or agency,

including the government of Canada or of a province or any non-government financing institution, to establish, and to facilitate the administration, operation and enforcement of, financial assistance programs.

Agreements with other financing institutions

9 The Minister

- (a) may enter into an agreement with a non-government financing institution respecting the provision of financial assistance to eligible students, and
- (b) shall pay to that institution, in accordance with that agreement, any amount that is payable by the Government to the institution under the agreement.

Direct assistance from Government

10 The Minister may enter into agreements with eligible students under which the Government will provide financial assistance to them.

Agreements with service providers

11 The Minister may enter into an agreement with a corporation legally entitled to carry on business in Alberta respecting the administration and enforcement of any financial assistance and financial assistance programs.

Eligibility and terms and conditions for financial assistance

12(1) Financial assistance in any form may be provided only

- (a) to students who meet the eligibility criteria prescribed, and
- (b) on the terms and conditions prescribed,

for that form of financial assistance.

(2) Any agreement entered into with a view to providing financial assistance

- (a) must comply with the applicable criteria and terms and conditions referred to in subsection (1),

- (b) must contain any terms and conditions whose inclusion is prescribed as required, and
- (c) may contain any other terms and conditions considered appropriate.

(3) The Minister may in writing specify a maximum amount that any student may receive in any one academic year in the form of grants of the kind so specified.

Minority

13 Notwithstanding any other law, a minor is bound by the terms and conditions of financial assistance contracted by or on behalf of the minor, and this Act applies as if the minor were of full age at the time.

Limitation of actions

14 The *Limitations Act* applies to claims, within the meaning of that Act, arising under this Act except that, instead of the 2-year period referred to in sections 2(2)(b) and 3(1)(a) of the *Limitations Act*, a 6-year period applies for the purposes of this Act.

Fraud and failure to provide information

15(1) A person who, intentionally and for the purpose of obtaining financial assistance or a certificate,

- (a) makes a false statement or a misrepresentation, orally or in writing,
- (b) gives false or misleading information, or
- (c) fails to provide any information that this Act or any agreement requires to be provided within the period or before the time limit imposed by this Act or the agreement,

is guilty of an offence and liable to a fine not exceeding \$5000.

(2) A prosecution for an alleged offence against subsection (1) may not be instituted later than 3 years after the alleged commission of the offence.

Part 3

Provisions Applicable Only to Loans

Application of Part and form of loans

16(1) This Part applies only where financial assistance is in the form of a loan.

(2) A loan may be in the form of

- (a) a loan from the Government,
- (b) a loan made by a non-government financing institution for which the Government pays a risk premium for making the loan,
- (c) a loan made by a non-government financing institution all or part of which is guaranteed by the Government, or
- (d) a loan in any other form that is prescribed.

(3) When a non-government financing institution makes a loan referred to in subsection (2)(c), the Minister may give the guarantee referred to in that clause.

Loan limits

17(1) The Minister may in writing establish

- (a) the maximum amount that any student may receive in any one academic year in the form of loans, and
- (b) the borrowing limit for the purposes of subsection (2) for each category of student.

(2) A student is not eligible for a loan if that loan would cause the outstanding principal amount of loans owed by the student to exceed the amount established under subsection (1)(b) for the category in which that student falls.

Agreements with students

18 A financing institution shall not make a loan except pursuant to an agreement entered into between it and the eligible student.

Certificates of eligibility

19(1) Subject to this section, the Minister authorizes the making of a loan by issuing a certificate of eligibility or by any other prescribed means.

(2) The Minister may issue a certificate only in accordance with any terms and conditions that are prescribed and only to an eligible student.

(3) A certificate must meet the prescribed requirements as to form and substance.

(4) The issuing of a certificate authorizes the financing institution lender to make the loan to the eligible student identified in the certificate in accordance with the certificate, this Act and the applicable agreement referred to in section 18.

Payment, reduction and write-off

20 The Minister may, on the basis and in the manner prescribed, pay, reduce or write off all or part of any outstanding loans made under this Act, the *Canada Student Loans Act* (Canada) or the *Canada Student Financial Assistance Act* (Canada).

Subrogation

21 Where a borrower fails to make a required payment on a loan and the Government makes the payment to the lender, the Government has the same rights to collect the amount paid from the borrower as the lender would have had if the Government had not made the payment.

Part 4 Miscellaneous Provisions

Regulations

22(1) The Lieutenant Governor in Council may make regulations

- (a) empowering the Minister to set up processes for the hearing of appeals against, or the review or reconsideration of, decisions under this Act;
- (b) notwithstanding anything in this statute, imposing duties or restrictions on the Minister with respect to financial

assistance programs, including restrictions on the Minister's authority to enter into agreements;

- (c) establishing different forms of financial assistance and categories of students, borrowers and other matters for all or some of the purposes of this Act;
- (d) respecting the form of any documents, records or other information provided for with respect to financial assistance programs, including matters relating to electronic signatures;
- (e) respecting the liability of the Government in the event of prescribed occurrences;
- (f) respecting guarantees on, and risk premiums to be paid for, loans by non-government financing institutions;
- (g) respecting the consolidation of loans, including loans made under the repealed legislation, into new loans under new agreements and requiring applicants for new loans to enter into agreements to effect such consolidation;
- (h) respecting loan repayments by borrowers and interest on loans;
- (i) respecting the payment of legal and other fees, costs, expenses and disbursements incurred by financing institutions in endeavouring to recover loans;
- (j) respecting the acquisition by other persons and entities of loans previously made by financing institutions;
- (k) prescribing or otherwise respecting any matter or thing that by this statute may or is to be prescribed;
- (l) providing for any aspect relating to the transition from the repealed legislation to this Act.

(2) Regulations under subsection (1) may vary according to the different matters established under subsection (1)(c).

Transitional and savings provisions

23(1) Notwithstanding section 25, the whole of the repealed legislation, as it existed immediately before the commencement of section 25 but as amended, if applicable, under subsection (2),

continues to apply with respect to student financial assistance within the meaning of, and provided before that time under, the repealed legislation as if the repealed legislation had not been repealed.

(2) The Lieutenant Governor in Council may make regulations amending the repealed legislation to the extent that it is saved by, and continues to apply as a result of, subsection (1).

(3) Notwithstanding section 1(1)(a), an agreement entered into under the repealed legislation continues to apply with respect to financial assistance under, and other monetary assistance referred to in, this Act until replaced by a corresponding agreement entered into under this Act.

Consequential amendments

24(1) The *Alberta Heritage Scholarship Act* is amended by adding the following after section 4:

Students Finance Board

4.1 The Students Finance Board, continued by the *Student Financial Assistance Act*, shall comply with section 7 of that Act with respect to scholarships as if they were financial assistance within the meaning of that Act.

(2) The *Conflicts of Interest Act* is amended in section 16(4)(i) by adding “or financial assistance under and within the meaning of the *Student Financial Assistance Act*” after “Act”.

(3) The *Health Professions Act* is amended by repealing section 147(1).

(4) The *Student Loan Act* is amended

(a) in section 1(d)

(i) by striking out “course of studies” and substituting “program of study”;

(ii) by striking out “the course” and substituting “the program”;

(b) in section 5(1) by striking out “, other than pursuant to an agreement entered into under section 9,” and substituting “in accordance with a certificate”;

(c) in section 6

- (i) in subsection (1) by adding “the time and” before “the rate”;**
- (ii) in subsections (1) and (2) by striking out “Provincial Treasurer” and substituting “Minister of Finance”;**

(d) in section 11(1)

- (i) by striking out “, including a student,”;**
- (ii) by striking out “\$1000” and substituting “\$5000”.**

(5) The *Students Finance Act* is amended

(a) by renumbering section 1 as section 1(1);

(b) in section 1(1)

(i) by adding the following after clause (b):

(b.1) “program of study” means any combination of courses or other requirements that is

- (i) considered by the educational institution in question to be necessary to obtain a degree, certificate or diploma, and
- (ii) recognized by the Minister;

(ii) by repealing clause (d) and substituting the following:

(d) “student financial assistance” means financial assistance provided under this Act or the *Student Loan Act*.

(c) in section 1 by adding the following after subsection (1):

(2) For the purposes of this Act, a person is a member of a student body if the person

- (a) is a student,

- (b) has been a student within the previous 6 months, or
- (c) meets any other criteria for such membership notified by the Minister to the Board in writing.
- (d) in section 2(4) by striking out “by the Minister” and substituting “by the Lieutenant Governor in Council”;**
- (e) in section 7 by adding “, adjust, reduce or write off” after “pay”;**
- (f) in section 8(1)(g) by striking out “in Alberta that is certified by the Minister as being” and substituting “that is approved by the Minister as”;**
- (g) by adding the following after section 8:**

Form of financial assistance

8.1 Financial assistance may be provided under this Act in any form, including a loan, grant, bursary, prize, scholarship, allowance or loan reduction or relief, to or in favour of any person who is eligible for it.

Purchase of existing creditor rights

8.2 The Minister may purchase and take an assignment of creditors’ rights under student financial assistance provided by credit institutions.

Repeals

25 The *Students Finance Act* and the *Student Loan Act* are repealed.

Coming into force

26 This statute, except section 24(4) and (5), comes into force on Proclamation.

Explanatory Notes

24(1) Amends chapter A-24 of the Revised Statutes of Alberta 2000. Provides for functions and duties of the Students Finance Board with respect to “scholarships”.

(2) Amends chapter C-23 of the Revised Statutes of Alberta 2000. Section 16(4)(i) presently reads:

(4) A report prepared under subsection (1) shall not include

(i) payments made by way of student financial assistance under the Students Finance Act,

(3) Amends chapter H-7 of the Revised Statutes of Alberta 2000. Section 147(1) presently reads:

147(1) The Students Finance Act is amended in section 8(1)(e) by striking out “Nursing Profession Act” and substituting “Health Professions Act”.

(4) Amends chapter S-21 of the Revised Statutes of Alberta 2000. Sections 1(d), 5(1), 6 and 11(1) presently read:

1 In this Act,

(d) “student” means a person enrolled in a course of studies at an educational institution, both the course and the institution having been approved by the Minister.

5(1) A person who has been given a loan, other than pursuant to an agreement entered into under section 9, shall

(a) at the request of the credit institution to which repayment is guaranteed,

(b) at the request of the Minister, or

(c) *pursuant to the terms or conditions contained in the certificate or other means of loan authorization referred to in section 3,*

enter into an agreement with the credit institution in the form determined by the Minister providing for the repayment of the principal amount borrowed and interest on it.

6(1) The Provincial Treasurer shall pay to a credit institution in respect of each loan contracted by a student and guaranteed by the Government under section 4, interest on that loan on the terms, in the manner and at the rate prescribed in the regulations.

(2) The Provincial Treasurer shall pay to a credit institution in respect of each loan given pursuant to an agreement entered into under section 9 interest on that loan in accordance with the agreement.

11(1) A person, including a student, who orally or in writing intentionally makes a false statement or misrepresentation or gives false or misleading information for the purpose of obtaining a certificate or loan is guilty of an offence and liable to a fine not exceeding \$1000.

(5) Amends chapter S-23 of the Revised Statutes of Alberta 2000. Sections 1(d), 2(4), 7 and 8(1)(g) presently read:

1 In this Act,

(d) “student financial assistance” means financial assistance provided in the form of a loan, grant, bursary, prize, scholarship, allowance or remission to or in favour of any person who is eligible.

2(4) The Minister shall pay members of committees established under subsection (3) who are neither members of the Board nor officers or employees of the Government nor members, officers or employees of any agency of the Government

(a) remuneration for their services as committee members, and

(b) their reasonable travelling and living expenses while away from their ordinary places of residence in the course of those services,

at the rates set by the Minister.

7 Subject to this Act and the regulations, the Minister may from funds voted for the purpose by the Legislature, pay all or part of the outstanding loans

made to a student under the Student Loan Act or loans made to a student under the Canada Student Loans Act (Canada) or the Canada Student Financial Assistance Act (Canada).

8(1) The Minister may award student financial assistance to students enrolled in programs of study that meet the requirements of the regulations

- (g) at any other educational institution in Alberta that is certified by the Minister as being a satisfactory provider of educational programs,*