

2007 Bill 12

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 12

INCOME AND EMPLOYMENT SUPPORTS AMENDMENT ACT, 2007

THE MINISTER OF EMPLOYMENT,
IMMIGRATION AND INDUSTRY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 12

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2007

INCOME AND EMPLOYMENT SUPPORTS AMENDMENT ACT, 2007

(Assented to _____, 2007)

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

Amends SA 2003 cl-0.5

**1 The *Income and Employment Supports Act* is amended by
this Act.**

**2 Section 16 is amended by repealing subsection (3) and
substituting the following:**

(3) An agreement under subsection (1) or a requirement under
subsection (2) may include an assignment, as prescribed.

(4) An amount agreed to be repaid under subsection (1) or
required to be repaid under subsection (2) is a debt due to the
Government.

3 Section 17(4)(b) is amended by striking out “or 36”.

Explanatory Notes

1 Amends chapter I-0.5 of the Statutes of Alberta, 2003.

2 Section 16 presently reads:

16(1) Any person who is receiving or has received assistance under Part 2 may voluntarily repay or agree to repay any assistance provided.

(2) The Director may, as a condition of eligibility for assistance under Part 2, require an applicant, a recipient or a member of a household unit to reimburse the Government in prescribed circumstances for the assistance provided.

(3) A requirement under subsection (1) or (2) may include an assignment, as prescribed.

3 Section 17(4) presently reads:

(4) The Director may revoke the appointment of the financial administrator

4 Section 28(a) is repealed and the following is substituted:

- (a) “assistance” means
 - (i) assistance under Part 2, Divisions 1 to 3,
 - (ii) a benefit under the *Assured Income for the Severely Handicapped Act*, or
 - (iii) assistance or a benefit provided under this Act or any other enactment as specified in the regulations;

5 Section 33(1)(b) is repealed and the following is substituted:

- (b) specifying assistance or benefits for the purpose of section 28(a)(iii);

- (a) *where, in the opinion of the Director, the financial administrator is not acting in the best interests of the recipient,*
- (b) *where the financial administrator fails to provide information that is required to be provided on behalf of the recipient or where information provided causes a repayment to be required under section 35 or 36, or*
- (c) *for any other reason referred to in the regulations.*

4 Section 28 presently reads:

28 In this Part,

- (a) *“assistance” means assistance under Part 2, Divisions 1, 2 and 3 and support, benefits and other assistance under the Assured Income for the Severely Handicapped Act and any other enactment specified in the regulations;*
- (b) *“support” means support, maintenance or alimony payable for a person or for the dependent child of the person, as the case may be;*
- (c) *“support agreement” means a written agreement or part of an agreement that requires the payment of support;*
- (d) *“support order” means*
 - (i) *a court order that has a provision that requires the payment of support, or*
 - (ii) *a support agreement*

that has been filed or may be filed under the Maintenance Enforcement Act.

5 Section 33(1) presently reads:

33(1) The Lieutenant Governor in Council may make regulations

- (a) *respecting the awarding of costs against the Crown in a proceeding under this Part;*
- (b) *specifying enactments for the purposes of section 28(a);*
- (c) *respecting circumstances under which a person may exercise his or her rights under section 29(6)(a);*
- (d) *respecting the eligibility of a person for the purpose of section 30(1) and the circumstances under which the Director can act under section 30(1);*

6 Section 34 is repealed and the following is substituted:

Definition

34 In this Part, “assistance” means

- (a) assistance under Part 2, or
- (b) assistance or a benefit provided under any other enactment as specified in the regulations.

7 Section 35 is amended

(a) by repealing subsection (1) and substituting the following:

Repayment

35(1) A recipient must repay the amount or value of assistance received if, in the Director’s opinion,

- (a) assistance that is specified in the regulations has been used for a purpose other than that for which it was provided, or
- (b) the recipient received assistance to which the recipient was not entitled.

(1.1) A financial administrator or third party may be required by the Director to repay the amount or value of assistance received on behalf of a recipient if, in the Director’s opinion,

- (a) the recipient received assistance to which the recipient was not entitled due to the non-disclosure of a material fact or provision of false information by the financial administrator or third party, or
- (b) assistance administered by the financial administrator or third party has been used for a purpose other than that for which it was provided.

(b) by repealing subsections (2) and (3);

(c) in subsection (5) by striking out “subsection (1) or (4)” and substituting “this section”.

- (e) *respecting steps that may be taken for the purposes of sections 29(3)(i) and 30(1)(e).*

6 Section 34 presently reads:

34 In this Part, “assistance” means assistance under Part 2 and assistance under the Assured Income for the Severely Handicapped Act and support, benefits and other assistance under any enactment specified in the regulations.

7 Section 35 presently reads:

35(1) A recipient who, in the opinion of the Director,

- (a) uses assistance specified in the regulations for a purpose other than that for which it has been provided,*
- (b) due to non-disclosure of a material fact, false representation, error or any other reason, receives assistance to which the person is not entitled, or*
- (c) receives assistance that the person has agreed to repay under an agreement under section 16,*

is required to repay the amount or value of that assistance.

(2) Where the Minister determines that there are exceptional circumstances, a repayment under subsection (1) is not required.

(3) An amount repayable under subsection (1) is a debt due to the Government.

(4) Where an amount is repayable under subsection (1) in respect of a household unit and the recipient and the recipient’s cohabiting partner at the time the debt was incurred are no longer in the same household unit, the Director shall, for the purposes of enforcing the payment of the debt, attribute the amount of the debt between the recipient and the recipient’s former cohabiting partner as the Director considers appropriate.

(5) Where a repayment is required from a person under subsection (1) or (4), the Director shall provide a notice to the person, in the form and manner provided by the regulations, indicating the amount owing and the right to appeal under section 43.

8 Section 36 is repealed.

9 The following is added before section 37:

Debt due

36.1 An amount repayable under section 35 is a debt due to the Government when

- (a) the appeal period under section 45(1) has expired, or
- (b) an appeal under section 45(1) has been determined.

10 Section 38 is amended

(a) by repealing subsections (2), (3) and (4) and substituting the following:

(2) The Director shall take any action the Director considers necessary to collect any debt due to the Government under this

8 Section 36 presently reads:

36(1) Where assistance is provided to a financial administrator or a third party for the benefit of or on behalf of a recipient and

- (a) the Director determines that the recipient was not entitled to the assistance, but it was provided because the financial administrator or third party wilfully failed to provide information or provided false information to the Director, or*
- (b) the Director determines that the financial administrator or third party used the assistance for a purpose for which it was not intended or failed to use the assistance for the purpose for which it was intended,*

the Director may require the financial administrator or third party to repay the assistance or value of the assistance.

(2) The amount repayable under subsection (1) is a debt due to the Government.

(3) Where a repayment is required from a financial administrator or third party under subsection (1), the Director shall provide a notice to the financial administrator or third party, in the form and manner provided by the regulations, indicating the amount owing and the right to appeal under section 43.

9 Debt due.

10 Section 38 presently reads:

38(1) In this section, “former Act” means

- (a) the Social Development Act, and*

Act, a former Act or the *Assured Income for the Severely Handicapped Act*, including any of the following:

- (a) entering into an agreement with the debtor;
- (b) bringing an action in debt;
- (c) deducting the amount owing from further assistance for which the person is eligible under this Act, or under any other enactment or program under the Minister's responsibility to which the person is otherwise entitled, in an amount determined in accordance with the regulations, until the amount owing has been paid;
- (d) filing with the clerk of the Court of Queen's Bench at any judicial district a certificate of the Minister certifying the amount owing.

(3) A certificate filed under subsection (2)(d) becomes an order of the Court of Queen's Bench and may be enforced as a judgment of that court.

(b) in subsection (5) by striking out "(2)(b)" and substituting "(2)(d)".

11 Section 41 is amended by adding the following after subsection (5):

(6) A prosecution for an offence under this Act may not be commenced more than 2 years after the later of

- (b) *the Widows' Pension Act after it is repealed under section 60(4).*
- (2) *The Director shall take any action the Director considers necessary to collect any debt due to the Government under this Act or a former Act, including entering into an agreement with the debtor, bringing an action in debt or*

 - (a) *with respect to an amount owing under a former Act, under section 35(1) of this Act or under the Assured Income for the Severely Handicapped Act, by deducting the amount owing from further assistance for which the person is eligible under this Act, the Assured Income for the Severely Handicapped Act or any other enactment or program under the Minister's responsibility to which the person is otherwise entitled, in an amount determined in accordance with the regulations until the amount owing has been paid, and*
 - (b) *subject to subsection (3), by filing with the clerk of the Court of Queen's Bench at any judicial district a certificate of the Minister certifying the amount owing.*
- (3) *A certificate may be filed pursuant to subsection (2)(b) where*

 - (a) *30 days has elapsed after the person to be named in the certificate has been given notice of his or her right to appeal and no appeal has been commenced, or*
 - (b) *30 days has elapsed after the determination of an appeal.*
- (4) *The filing of a certificate pursuant to subsection (2)(b) has the same effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount specified in the certificate.*
- (5) *After the filing of a certificate pursuant to subsection (2)(b) the person named in the certificate shall be served with a notice setting out*

 - (a) *the amount owing,*
 - (b) *the judicial district at which the certificate was filed, and*
 - (c) *the date on which the certificate was filed.*
- (6) *A notice required by subsection (5) must be served in the manner determined by the regulations.*

11 Section 41 presently reads:

- 41(1) A person who under this Act is required to provide information who*

 - (a) *knowingly gives false information,*

- (a) the date on which the offence was committed, and
- (b) the date on which evidence of the offence first came to the attention of the Director.

12 Section 42 is amended

- (a) by repealing subsection (1)(b) and substituting the following:**
 - (b) respecting the form and manner of providing notice for the purposes of sections 35(5) and 37(2);
- (b) by repealing subsection (2)(a) and substituting the following:**
 - (a) specifying assistance or benefits for the purpose of section 34(b);
- (c) in subsection (2)(c) by striking out “38(2)(a)” and substituting “38(2)(c)”.**

13 Section 43(1)(b) is repealed and the following is substituted:

- (b) relating to an amount repayable under section 35, or

(b) knowingly conceals information, or

(c) knowingly omits to provide or disclose information,

is guilty of an offence and is liable to a fine of not more than \$2000.

(2) A person who, knowing he or she is not entitled to it, obtains or receives assistance to which he or she is not entitled under this Act and the regulations is guilty of an offence and is liable to a fine of not more than \$2000.

(3) In addition to imposing a fine under subsection (1) or (2), the judge may order the repayment of an amount equal to the value of any assistance received as a result of the commission of the offence.

(4) A financial administrator or third party who benefits from assistance knowing that the recipient was not entitled to receive it is guilty of an offence and is liable to a fine of not more than \$5000.

(5) A financial administrator or third party who wilfully misuses assistance provided for a recipient is guilty of an offence and is liable to a fine of not more than \$5000.

12 Section 42 presently reads:

42(1) The Lieutenant Governor in Council may make regulations

(a) respecting an appeal relating to an amount payable under section 37(1);

(b) respecting the forms and contents of notices under sections 35(5), 36(3) and 37(2) and the manner in which the notices are to be provided;

(c) respecting the manner of serving a notice under section 38(5).

(2) The Minister may make regulations

(a) specifying other enactments for the purpose of section 34;

(b) specifying the assistance for the purpose of section 35(1)(a);

(c) respecting the amount that may be deducted for the purpose of section 38(2)(a).

13 Section 43(1) presently reads:

43(1) Any decision of the Director

(a) relating to eligibility or continuing eligibility for, or the amount or value of, assistance under Part 2,

14 Section 45 is amended by adding the following after subsection (2):

(3) For the purpose of subsection (1), a person is deemed to have received notice of the Director's decision and of the person's right to appeal,

- (a) if it was sent by registered mail or courier, on the day it was delivered to that person's last address known to the Director,
- (b) if it was sent by ordinary mail, on the 7th day after it was mailed to that person's last address known to the Director, or
- (c) if it was sent by fax or other electronic means, on the day it was transmitted to the person's last electronic address known to the Director,

unless the person satisfies the appeal panel that the person did not receive the notice or that the person received the notice later than when it is deemed to have been received.

15 Section 46(3) is repealed and the following is substituted:

(3) If an appeal is determined to be abandoned, the appeal panel shall confirm the decision appealed from.

(4) Despite subsection (1) and subject to the regulations, in an appeal under section 43(1)(b) an appeal panel may waive repayment, in whole or in part, of an amount that it determines would otherwise be required to be repaid under section 35.

(5) A decision of an appeal panel in respect of an appeal under section 43 or an application under section 17(2) is final.

16 Section 48 is amended by adding the following after clause (c):

- (d) respecting the circumstances in which an appeal panel may waive repayment of an amount that would otherwise be required to be repaid under section 35;

(b) relating to an amount owing under section 35 or 36, or

(c) relating to any other matter provided for in the regulations,

other than a decision referred to in section 44, may be appealed to an appeal panel.

14 Section 45 presently reads:

45(1) A person directly affected may appeal a decision of the Director referred to in section 43(1) by filing a notice of appeal, which must include reasons for requesting the appeal, within 30 days from when the person received notice of the decision and of the person's right to appeal.

(2) The Minister may extend the time for appealing a decision, whether the request for extension is made before or after the time has expired, if the Minister is satisfied that there are apparent grounds for an appeal and that there are reasonable grounds for granting the extension.

15 Section 46 presently reads:

46(1) The appeal panel shall not make a decision in an appeal under this Part that the Director would not have authority to make under the Act and regulations.

(2) An appeal panel may confirm, reverse or vary the decision appealed from and must give reasons for its decision.

(3) The decision of the appeal panel referred to in subsection (2) or a decision of the appeal panel in respect of an application under section 17(2) is final.

16 Section 48(c) presently reads:

48 The Lieutenant Governor in Council may make regulations

(c) exempting from appeal any matter.

- (e) respecting the determination of the abandonment of an appeal referred to in section 46(3).

17 Section 51 is amended

(a) by adding the following after subsection (5):

(6) Any amount collected under section 38(2)(a) as it read before the coming into force of this subsection is deemed to have been validly collected notwithstanding that section 38(2)(b) as it read before the coming into force of this subsection was not complied with.

(b) by adding the following after subsection (6):

(7) If the *Assured Income for the Severely Handicapped Act*, SA 2006 cA-45.1, comes into force after this subsection comes into force, then, until that Act comes into force,

- (a) a benefit under the *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45, is deemed to be assistance under Part 6 of this Act, and
- (b) in addition, the Director may, under section 38(2)(c), deduct an amount owing from further assistance for which the person is eligible under the *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45.

18(1) The *Assured Income for the Severely Handicapped Act*, SA 2006 cA-45.1, is amended by this section.

(2) Section 13(1) is repealed and the following is substituted:

Transitional

13(1) Part 6 of the *Income and Employment Supports Act* applies, in respect of matters referred to in clause (a), (b) or (c), to a person who, before the coming into force of this Act,

- (a) was subject to deductions from assistance under section 38 of the *Income and Employment Supports Act*,
- (b) was issued a repayment notice under Part 6 of the *Income and Employment Supports Act*, or

17 New transitional provisions.

18 Amends chapter A-45.1 of the Statutes of Alberta, 2006.
Sections 13 and 14 presently read:

13(1) A person who, before the coming into force of this Act,

- (a) was subject to deductions from assistance for an amount owing under section 38(2)(a) of the Income and Employment Supports Act,*
- (b) was issued a repayment notice under section 35(5), 36(3) or 37(2) of the Income and Employment Supports Act, or*
- (c) entered into a repayment agreement under the Social Development Act, the Income Supports Recovery Act, the Assured Income for the Severely Handicapped Act, RSA 2000 cA-45, or the Income and Employment Supports Act*

(c) entered into an agreement to repay under the *Social Development Act*, the *Income Support Recovery Act*, the *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45, or the *Income and Employment Supports Act*,

and, in addition, the Director under the *Income and Employment Supports Act* may, in respect of the matters referred to in clause (a), (b) or (c), deduct an amount owing from a benefit for which the person is eligible under this Act.

(3) If subsection (2) comes into force before section 14(2)(a) and (b) of the *Assured Income for the Severely Handicapped Act*, SA 2006 cA-45.1, come into force, then section 14(2)(a) and (b) of that Act are repealed.

19 This Act comes into force on Proclamation.

is, in respect of the matters referred to in clause (a), (b) or (c), subject to Part 6 of the Income and Employment Supports Act as it read before section 14(2) of this Act came into force.

(2) Where a director has paid all or part of a client's benefit to a financial administrator or a third party prior to the coming into force of this provision, the director may continue to do so notwithstanding section 6.

14(1) The Conflicts of Interest Act is amended in section 16(4)(e) by striking out "handicap".

(2) The Income and Employment Supports Act is amended

(a) in section 34 by striking out "and assistance under the Assured Income for the Severely Handicapped Act";

(b) in section 38(2)(a)

(i) by striking out " , under section 35(1) of this Act or under the Assured Income for the Severely Handicapped Act" and substituting "or under section 35(1) of this Act";

(ii) by striking out " , the Assured Income for the Severely Handicapped Act or any" and substituting "or any";

(c) in section 51(4) by adding " , RSA 2000 cA-45," after "Assured Income for the Severely Handicapped Act".

(3) The Widows' Pension Act is amended in sections 3(3) and 6(2)(c) by striking out "handicap".

19 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To