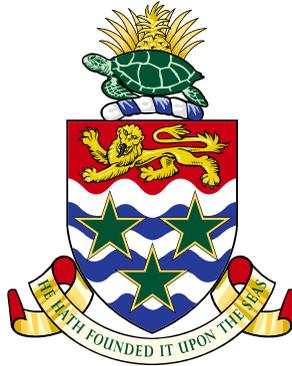


## CAYMAN ISLANDS



# FINANCIAL ASSISTANCE BILL, 2022

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**A BILL FOR AN ACT TO REPEAL THE POOR PERSONS (RELIEF) ACT (1997 REVISION); TO PROVIDE FOR THE CONTINUANCE OF THE NEEDS ASSESSMENT UNIT AS THE DEPARTMENT OF FINANCIAL ASSISTANCE; TO INTRODUCE A NEW PROCEDURE IN RESPECT OF APPLICATIONS FOR AND THE ISSUANCE OF FINANCIAL ASSISTANCE; TO PROVIDE FOR A FINANCIAL ASSISTANCE APPEALS TRIBUNAL; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

## PUBLISHING DETAILS

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**Sponsoring Ministry/Portfolio:** Ministry of Investment, Innovation and Social Development (IISD)



**Memorandum of**  
**OBJECTS AND REASONS**

This Bill seeks to repeal the Poor Persons (Relief) Act (1997 Revision), to provide for the continuance of the Needs Assessment Unit as the Department of Financial Assistance; to introduce a new procedure in respect of applications for and the issuance of financial assistance, to provide for the appointment of a Financial Assistance Appeals Tribunal and to provide for incidental and connected purposes.

**PART 1 - PRELIMINARY**

Part 1 provides the preliminary provisions. This Part contains clauses 1 and 2.

Clause 1 contains the short title and commencement provisions.

Clause 2 provides definitions for words used throughout the legislation.

**PART 2 - THE DEPARTMENT OF FINANCIAL ASSISTANCE**

Part 2 provides for the Department of Financial Assistance as well as the Director and other officers of the Department of Financial Assistance. This Part contains clauses 3 to 9.

Clause 3 provides that the department of Government known as the Needs Assessment Unit is continued under this legislation as the Department of Financial Assistance.

Clause 4 provides that the functions of the Department include managing and administering the funds appropriated by the Parliament for the purpose of providing financial assistance. This clause also provides that the Department shall work in co-operation with any entity as the Cabinet considers necessary for the Department to carry out its functions.

Clause 5 provides the powers that officers of the Department may exercise in the performance of the Department's functions. This includes the power to request the attendance of an applicant at a time and place determined by the Director and the power of entry into a premises occupied by an applicant or recipient, with the consent of the applicant or recipient, for the purposes of conducting investigations and making inquiries. An officer of the Department may also require an applicant or a recipient to provide the Department with information and produce such documents as specified by the Director.

Clause 6 provides for the continuance of the public offices of the Director and the other officers of the Department.

Clause 7 provides that the duties and responsibilities of the Director include the administration and implementation of the legislation, the management and supervision of the Department, and advising the Minister generally on the management and the administration of the funds appropriated by the Parliament for the purpose of providing financial assistance.



Clause 8 provides that the Minister, after consultation with the Cabinet, may give written general policy directions to the Director which the Director must follow in the performance of the Director's functions.

Clause 9 empowers the Director to request information of an entity or a financial institution which may be reasonably required in the exercise of the Director's duties, responsibilities and functions under the legislation.

### **PART 3 - FINANCIAL ASSISTANCE**

Part 3 provides for, among other things, the application process for financial assistance as well as the conditions attached to the receipt of financial assistance. This Part contains clauses 10 to 18.

Clause 10 provides for those persons who may apply for financial assistance. Among those persons who may apply are Caymanians, certain spouses or civil partners of Caymanians and guardians of Caymanian dependants.

Clause 11 provides for the evaluation and determination of an application for financial assistance by the Director.

Clause 12 provides that where the Director is satisfied that an applicant fulfils the prescribed criteria for eligibility for financial assistance, the Director shall grant the application.

Clause 13 provides that the Director shall refuse an application for financial assistance where the Director is not satisfied that the applicant fulfils the criteria for eligibility for financial assistance. Where the Director refuses an application, the Director shall inform the applicant in writing of the applicant's right to apply for a reconsideration of that decision.

Clause 14 provides for certain conditions which are attached to the receipt of financial assistance. The clause provides further that where the Director imposes a particular requirement, the Department shall monitor the recipient to ensure compliance with the requirement and submit reports to the Director in the form and manner, and with the requested frequency, as the Director may specify.

Clause 15 provides for the circumstances in which the Director may suspend payments of financial assistance, and further empowers the Director to suspend the financial assistance in whole or in part.

Clause 16 provides for the circumstances in which the Director shall revoke a decision to issue financial assistance and also provides for the circumstances in which the Director may exercise the Director's discretion in deciding whether a decision to issue financial assistance should be revoked.

Clause 17 provides that the Director may review a decision to issue financial assistance and vary the financial assistance where there are new facts brought to the notice of the Director or where the Director is satisfied that the decision was given in ignorance of a material fact.



Clause 18 provides that the Director may reconsider a decision made in respect of an applicant or a recipient where the applicant or the recipient who is aggrieved by the decision of the Director applies for a reconsideration of the decision in the prescribed manner.

#### **PART 4 - THE FINANCIAL ASSISTANCE APPEALS TRIBUNAL**

Part 4 provides for the establishment and appointment of the Financial Assistance Appeals Tribunal (“the Appeals Tribunal”), whose responsibility it is to hear and determine requests for reviews of the decisions of the Director in relation to financial assistance. This Part contains clauses 19 to 25.

Clause 19 provides for the appointment and constitution of the Appeals Tribunal.

Clause 20 provides for the appointment of a secretary to the Appeals Tribunal.

Clause 21 provides for the terms of appointment of the members of the Appeals Tribunal and provides that a member of the Appeals Tribunal shall hold office for a period not exceeding three years, as is specified in the member’s instrument of appointment. The clause also provides that a member may be re-appointed.

Clause 22 provides for the circumstances in which the Cabinet may terminate the appointment of a member of the Appeals Tribunal. This clause also provides that a member may resign the member’s office by notice in writing addressed to the Cabinet.

Clause 23 provides that where a member of the Appeals Tribunal has a possible, perceived, actual or potential personal or pecuniary interest, direct or indirect, in a matter which is to be determined by the Appeals Tribunal, the member shall disclose that member’s interest and shall not take part in the consideration or discussion of that matter or vote on a question with respect to that matter.

Clause 24 provides that the functions of the Appeals Tribunal are to hear and determine appeals against decisions of the Director, including decisions in respect of the refusal of an application for financial assistance and the suspension, revocation or variation of financial assistance.

Clause 25 provides for the powers which the Appeals Tribunal may exercise on hearing an appeal against a decision of the Director. The Appeals Tribunal is empowered to, among other things, confirm, vary, amend, reverse or set aside the decision of the Director or make a decision which the Appeals Tribunal thinks ought to have been made.

#### **PART 5 - OFFENCES AND PENALTIES**

Part 5 provides for the offences and penalties. This Part contains clauses 26 to 28.

Clause 26 provides that an officer or a person acting for or under the direction of the Director has a duty to keep information obtained or furnished for the purpose of the performance of the duties and functions under the legislation, confidential, unless a circumstance arises where the disclosure is allowed. This clause further provides that where

there is a contravention of this provision, the person commits an offence and is liable on summary conviction to a fine of ten thousand dollars or on conviction on indictment, to a fine of twenty thousand dollars.

Clause 27 provides that it is an offence for a member of, or the secretary to, the Appeals Tribunal to disclose facts or particulars of any matter falling for consideration by the Appeals Tribunal, otherwise than in the proper performance of duties under the legislation or in compliance with an order of a court or tribunal of competent jurisdiction. A person who contravenes this provision commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.

Clause 28 provides that a person who, on examination under the authority of the legislation, knowingly gives false evidence, subscribes a false declaration or provides false or misleading information, commits an offence and is liable on summary conviction to a fine of three thousand dollars or to imprisonment for a term of six months, or to both.

### **PART 6 - GENERAL**

Part 6 provides for the regulation making provisions, the repeal of the Poor Persons (Relief) Act (1997 Revision) and the savings and transitional provisions. This Part contains clauses 29 to 36.

Clause 29 provides for the ways in which the Director may recover money improperly paid, or an overpayment made, to a recipient. The Director may require a recipient to repay any sum of money improperly paid or overpaid under a payment of financial assistance and provides that the Director may suspend further payments until the sum of money improperly paid or overpaid is recovered. Further, this clause provides that where any sum is required to be repaid by a recipient, the Director may recover such sum as a debt owing to Government in a court of competent jurisdiction.

Clause 30 provides that no moneys payable by way of financial assistance shall be subject to alienation or transfer by a recipient or to attachment or seizure in satisfaction of any claim against the recipient.

Clause 31 provides that the Government is not liable for any payments in respect of goods or services supplied to a recipient.

Clause 32 provides that where a recipient dies, the Director may make a final payment of financial assistance for the month in which the recipient's death occurs to a member of the recipient's household who directly or indirectly benefits from the recipient's financial assistance.

Clause 33 provides that financial assistance granted to a recipient is not assignable or transferrable.

Clause 34 provides for the regulation making power of the Cabinet and provides that regulations may be made in respect of, among other things, the criteria for eligibility for financial assistance, the determination of the financial resources of a person and the investigation into applications and verification of information submitted by applicants for



financial assistance. This clause further provides that the regulations may prescribe that contravention of the regulations constitutes an offence and the person who commits the offence is liable on summary conviction to a fine of three thousand dollars or to imprisonment for a term of six months, or to both.

Clause 35 provides for the repeal of the Poor Persons (Relief) Act (1997 Revision).

Clause 36 provides the savings and transitional matters. This clause provides that a person who was in receipt of financial relief under the repealed Poor Persons (Relief) Act (1997 Revision) shall continue to be paid until the expiration of the period for which the relief was granted. Where the relief received under the repealed Act was permanent in nature, the person shall continue to receive the relief as if this legislation had not come into force.

This clause also provides that an application for relief made prior to the commencement of this legislation that has not been determined upon the commencement of this legislation shall be continued and dealt with as if it is an application made under this legislation, and this legislation is to apply accordingly.



## CAYMAN ISLANDS



# FINANCIAL ASSISTANCE BILL, 2022

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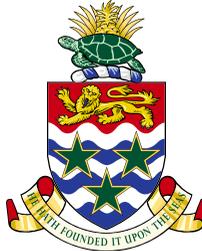
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**CAYMAN ISLANDS****FINANCIAL ASSISTANCE BILL, 2022**

**A BILL FOR AN ACT TO REPEAL THE POOR PERSONS (RELIEF) ACT (1997 REVISION); TO PROVIDE FOR THE CONTINUANCE OF THE NEEDS ASSESSMENT UNIT AS THE DEPARTMENT OF FINANCIAL ASSISTANCE; TO INTRODUCE A NEW PROCEDURE IN RESPECT OF APPLICATIONS FOR AND THE ISSUANCE OF FINANCIAL ASSISTANCE; TO PROVIDE FOR A FINANCIAL ASSISTANCE APPEALS TRIBUNAL; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**PART 1 - PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Financial Assistance Act, 2022.
- (2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Act and in relation to different matters.

**Interpretation**

2. (1) In this Act —
  - “**Appeals Tribunal**” means the Financial Assistance Appeals Tribunal established under section 19;
  - “**applicant**” means —
    - (a) a person under section 10 who applies for financial assistance; or

(b) a person who satisfies other prescribed eligibility criteria who applies for financial assistance;

“**application**” means an application for financial assistance under this Act;

“**Caymanian**” means a person who possesses Caymanian status under the repealed *Immigration Act (2015 Revision)* or any earlier law providing for the same or similar rights, and includes a person who acquired that status under Part 5 of the *Immigration (Transition) Act (2022 Revision)*;

“**civil partner**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020*;

“**civil partnership**” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020*;

“**counselor**” means a counselor referred to in Schedule 6 of the *Health Practice Act (2021 Revision)*;

“**Department**” means the Department of Financial Assistance referred to in section 3;

“**dependant**” means —

(a) a person who —

- (i) is under eighteen years of age;
- (ii) is not married or in a civil partnership; and
- (iii) does not earn an income;

(b) a person who —

- (i) is eighteen years of age or older but under twenty-three years of age;
- (ii) is not married or in a civil partnership; and
- (iii) is receiving full-time education at a university or other tertiary education institution; or

(c) a person with a disability;

“**Director**” means the Director of the Department, referred to in section 6(1);

“**entity**” means any body and includes —

(a) a ministry, portfolio, statutory authority, government company, the Office of the Ombudsman and the Audit Office;

(b) an approved insurer, as defined under the *Health Insurance Act (2021 Revision)*;

(c) an approved provider, as defined under the *National Pensions Act (2012 Revision)*;

(d) an educational institution, as defined under the *Education Act, 2016*;

(e) a church, a civic organisation, or a non-profit organisation as defined under the *Non-Profit Organisations Act (2020 Revision)*;



- (f) an employer, in relation to the applicant or recipient;
- (g) a person licensed under sectoral legislation to provide utility services;
- (h) a landlord, in relation to the applicant or recipient;
- (i) an owner or operator of tourist accommodation as defined under the *Tourism Act (1995 Revision)* and any category of tourist accommodation under that Act, or the owner or operator of any other accommodation;
- (j) a vendor of a service; and
- (k) a consulate;

“**financial assistance**” means a monetary benefit prescribed by the regulations;

“**financial institution**” means —

- (a) a bank, as defined under the *Banks and Trust Companies Act (2021 Revision)*;
- (b) a credit union, as defined under the *Cooperative Societies Act (2020 Revision)*;
- (c) a building society, as defined under the *Building Societies Act (2020 Revision)*; or
- (d) a money services business, as defined under the *Money Services Act (2020 Revision)*;

“**full-time education**” means a minimum of five hours of curriculum instruction per day, excluding lunch and break times, for a total of at least one hundred and eighty-five days per year, or the equivalent hours per year, or any other duration of greater length as may be specified in regulations under the *Education Act, 2016*;

“**government company**” means —

- (a) a company in which the Government has a controlling interest; and
- (b) in respect of each such company, includes all subsidiary entities of the company;

“**guardian**” means —

- (a) a person so appointed under the *Adoption of Children Act (2021 Revision)*, the *Children Act (2012 Revision)* or the Rules of Court; or
- (b) a person who has the charge of and who is responsible for the care and well-being of a dependant;

“**health and human services**” means services in the disciplines or fields of counselling, psychiatry, psychology, social work or therapy;

“**health care facility**” has the meaning assigned by section 2 of the *Health Practice Act (2021 Revision)*;

“**household**” means —

- (a) a person who lives alone at an address; or

(b) two or more persons, whether or not related, who live together at the same address and who —

- (i) benefit from one another's combined income; and
- (ii) share living accommodations;

**“medical doctor”** means a medical doctor registered under Schedule 4 of the *Health Practice Act (2021 Revision)*;

**“medical officer”** means —

- (a) a psychiatrist registered under Schedule 4 of the *Health Practice Act (2021 Revision)*; or
- (b) a clinical psychologist who is registered under Schedule 6 of the *Health Practice Act (2021 Revision)* and, in addition, has a doctoral qualification in that discipline from a country or institution referred to in regulation 6 of the *Health Practice Regulations (2021 Revision)*,

and is employed by, or is allowed to use the medical facilities of, the Government, a statutory body or government company;

**“Minister”** means the member of Cabinet charged with responsibility for social development;

**“Ministry”** means the Ministry with responsibility for social development;

**“officer”** means an officer of the Department referred to in section 6, and includes the Director;

**“person with a disability”** means a person who is certified by a medical doctor or medical officer, as applicable, as having a short-term or long-term physical, mental, intellectual or sensory impairment which significantly hinders, or which may hinder, that person's full and effective participation in society, on an equal basis with other persons;

**“personal data”** means data relating to a living individual who can be identified and includes data such as —

- (a) the living individual's location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the living individual;
- (b) an expression of opinion about the living individual; or
- (c) any indication of the intentions of the data controller or any other person in respect of the living individual;

**“Police Service”** means the Royal Cayman Islands Police Service referred to in section 3 of the *Police Act (2021 Revision)*;

**“public general holiday”** has the meaning assigned by the *Public Holidays Act (2007 Revision)*;

**“public office”** has the meaning assigned by section 124 of the *Cayman Islands Constitution Order 2009*;



- “**recipient**” means a person who is in receipt of financial assistance;
- “**repealed Act**” means the *Poor Persons (Relief) Act (1997 Revision)*;
- “**Rules of Court**” means the Rules of Court made under section 19 of the *Grand Court Act (2015 Revision)*;
- “**spouse**” means the male or female party to a marriage;
- “**statutory authority**” means an entity established by a law to carry out functions which are capable under that law, of being funded, partly or entirely, by money provided by the Cabinet, and for which the Governor or the Cabinet has the power to appoint or dismiss the majority of the board or other governing body;
- “**therapist**” means a therapist referred to in Schedule 6 of the *Health Practice Act (2021 Revision)*;
- “**Workforce, Opportunities and Residency Cayman Office**” means the department referred to in section 3 of the *Immigration (Transition) Act (2022 Revision)*; and
- “**working day**” means a day of the week, excluding Saturdays, Sundays and public general holidays.
- (2) For the purposes of paragraph (g) of the definition of the word “**entity**” —
- “**sectoral legislation**” has the meaning assigned by the *Utility Regulation and Competition Act (2021 Revision)*; and
- “**utility services**” has the meaning assigned by the *Utility Regulation and Competition Act (2021 Revision)*.

## PART 2 - THE DEPARTMENT OF FINANCIAL ASSISTANCE

### The Department of Financial Assistance

3. The department of Government known as the Needs Assessment Unit is continued under this Act as the Department of Financial Assistance.

### Functions of the Department

4. (1) The functions of the Department include —
- (a) managing and administering the funds appropriated by the Parliament for the purpose of providing financial assistance;
  - (b) conducting assessments and making inquiries to ascertain the circumstances of an applicant or recipient, or where applicable, a member of an applicant’s or recipient’s household, to determine whether the applicant or recipient satisfies or continues to satisfy the prescribed eligibility criteria; and

- (c) carrying out such other functions as the Cabinet may assign.
- (2) The Department shall work in co-operation with any entity as the Cabinet considers necessary for the Department to carry out its functions.
- (3) Subject to subsection (4), the Director and the officers shall not be liable in damages for anything done or omitted in the discharge of the duties or functions of the Director or officers unless it is shown that the act or omission was negligent or in bad faith.
- (4) Notwithstanding subsection (3), where the duty or function exercised is, where applicable, regulatory, monetary, co-operative or advisory, the provision relating to negligence shall not apply.

### **Powers of the Department**

5. (1) In the exercise of the Department's functions under section 4, an officer of the Department may —
- (a) require an applicant or a recipient to provide the Department with information and produce documents as the Director may specify;
  - (b) require an applicant or a recipient to attend at a time and place as the Director may require; and
  - (c) after receiving the consent of an applicant or a recipient, given at or immediately before the time of entry, enter premises occupied by the applicant or the recipient between 8.00 a.m. and 7.00 p.m. on any day, to make an examination or inquiry as the Director may consider to be necessary for verifying the particulars of an application and for investigating the circumstances and means of the applicant or recipient or other member of the applicant's or recipient's household.
- (2) Where an officer, in the exercise of the officer's functions or in carrying out the officer's duties becomes aware of the alleged commission of an offence, the officer shall report this to the Director, who shall as soon as reasonably practicable, report the matter to the Police Service.
- (3) The Department has power to do anything which is reasonably required to discharge its functions under this Act or any other law.

### **Director and other officers of the Department**

6. (1) The Director of the Needs Assessment Unit shall continue as the Director of the Department of Financial Assistance, whose office is a public office and who is appointed by the chief officer, in accordance with the *Public Service Management Act (2018 Revision)*.
- (2) The officers of the Needs Assessment Unit shall continue as the officers of the Department of Financial Assistance, whose offices are public offices and who are appointed by the chief officer, in accordance with the *Public Service*



*Management Act (2018 Revision)*, to assist the Director in the discharge of the Director's duties.

- (3) The chief officer, in accordance with the *Public Service Management Act (2018 Revision)* may, in the chief officer's discretion, appoint such persons to be officers of the Department.

### **Duties and responsibilities of the Director**

7. The Director shall —

- (a) be responsible for the administration and implementation of this Act;
- (b) be responsible for the management and supervision of the Department;
- (c) advise the Minister generally on the management and administration of the funds appropriated by the Parliament for the purpose of providing financial assistance; and
- (d) inquire generally into the condition of persons in need of financial assistance and advise the Minister on evidence-based best practice, policies and strategies relating to financial assistance in the Islands.

### **Minister may give written policy directions**

8. The Minister, after consultation with the Cabinet, may give such general directions in writing as to the policy to be followed by the Director in the performance of the Director's functions as appear to the Minister to be necessary in the public interest, and the Director shall give effect to any such directions.

### **Entity or financial institution to provide information to Director**

9. The Director, with the written consent of an applicant or a recipient, may request information of an entity or a financial institution which may be reasonably required in the exercise of the Director's duties, responsibilities and functions under this Act, and the entity or financial institution shall provide the requested information to the Director.

## **PART 3 - FINANCIAL ASSISTANCE**

### **Persons who may make an application**

10. (1) A person may apply to the Director for financial assistance in the form approved by the Director and in the manner prescribed, where the person —
- (a) is a Caymanian;
  - (b) is the spouse or civil partner of a Caymanian and —
    - (i) as at the date of the application, the person is living with the Caymanian; and

- (ii) the person has lived with the Caymanian for a period of not less than five years immediately preceding the date of the application; or
  - (c) is a guardian of a dependant who is Caymanian.
- (2) Where a person under subsection (1) is serving a sentence of imprisonment, the person may, within the period of three months before the end of that person's term of imprisonment, apply to the Director for financial assistance in the form approved by the Director and in the manner prescribed.
- (3) A person under subsection (1) shall be resident in the Islands —
  - (a) at the time that the person makes an application; and
  - (b) for a period of at least eight months out of the twelve-month period preceding the date on which the application is made.
- (4) The Director may waive any requirement under subsection (3) where the applicant was absent from the Islands due to medical reasons or where there are exceptional circumstances which justify the waiver.
- (5) Subject to subsection (6), a recipient whose financial assistance is revoked by the Director pursuant to section 16(1)(b) shall not make another application where —
  - (a) in the case of the first revocation, not less than one year has elapsed from the date of the revocation; and
  - (b) in the case of the second or subsequent revocation, not less than two years have elapsed from the date of the most recent revocation.
- (6) The Director may permit a recipient referred to in subsection (5) to apply prior to the expiration of the periods referred to in that subsection where the person falls within a category of persons exempted under the regulations from certain prescribed eligibility criteria.
- (7) An applicant may withdraw an application by notice, in writing, to the Director, at any time before the Director has determined the application.

### **Evaluation and determination of application**

- 11.** (1) The Director shall, within such time as prescribed after receiving a complete application, evaluate the application and determine whether the application should be granted or refused.
- (2) Upon receiving an application, the Director may —
- (a) request further information and documents as the Director may reasonably require to make a determination in respect of the application; and
  - (b) require the applicant to take further action or steps as the Director may require, including requiring the applicant to seek alternative sources of funding, before the Director makes a determination in respect of the



application or before the Director commences payment of the financial assistance.

- (3) Where the Director requires an applicant to take further steps as the Director may require, the applicant shall, where applicable, submit to the Director supporting documents which prove the applicant took the relevant action or steps.

### **Grant of application**

12. (1) Where the Director is satisfied that an applicant fulfils the prescribed criteria for eligibility for financial assistance, the Director shall grant the application.
- (2) Where the Director grants the application, the Director shall inform the applicant in writing of —
  - (a) the amount of the financial assistance;
  - (b) the duration of the financial assistance;
  - (c) the conditions attached to the financial assistance;
  - (d) the procedure relating to payments in respect of the financial assistance; and
  - (e) the applicant's right to apply for a reconsideration of a decision in relation to the issuance of the financial assistance.
- (3) Notwithstanding section 11(1), where the Director considers it necessary to issue financial assistance without delay, the Director may issue the financial assistance for a period not exceeding two months pending the determination of an application.

### **Refusal of application**

13. (1) Where the Director is not satisfied that an applicant fulfils the prescribed criteria for eligibility for financial assistance, the Director shall refuse the application.
- (2) Where the Director refuses an application, the Director shall inform the applicant in writing of the applicant's right to apply to the Director for a reconsideration of the decision to refuse the application in accordance with section 18.

### **Conditions attached to the receipt of financial assistance**

14. (1) A recipient shall —
  - (a) within ten working days, notify the Director in writing —
    - (i) after a change in the recipient's address or the address of a member of the recipient's household who is directly or indirectly benefitting from the financial assistance granted to the recipient;

- (ii) after a change in the circumstances of a member of the recipient's household who is directly or indirectly benefitting from the financial assistance granted to the recipient; and
  - (iii) after any change in the circumstances of the recipient or a member of the recipient's household who is directly or indirectly benefitting from the financial assistance granted to the recipient which would otherwise disqualify the recipient from receiving financial assistance or from applying for financial assistance if the person were not a recipient;
  - (b) notify the Director in writing of the intention of the recipient or a member of the recipient's household who is benefitting, whether directly or indirectly, from financial assistance, to travel outside the Islands, at least ten working days before travel;
  - (c) provide information and produce documents as the Director may reasonably require; and
  - (d) attend at a time and place as the Director may require for the recipient to be examined as to the recipient's means and circumstances.
- (2) In addition to the conditions under subsection (1), the Director may require the recipient or a member of the recipient's household who is directly or indirectly benefitting from the financial assistance granted to the recipient —
- (a) to register with the Workforce Opportunities and Residency Cayman Office and attend programmes, as may be specified by the Director;
  - (b) to attend educational courses or courses of training, which may be specified by the Director;
  - (c) to take up employment, an internship or an apprenticeship, which may be specified by the Director;
  - (d) where such person is not employed, to complete such hours of work per week with a charitable or volunteer organisation, as the Director may determine;
  - (e) based on a referral of the Department —
    - (i) to attend a centre for assessment for substance use or abuse and, where a medical officer, medical doctor, counselor or therapist at, or affiliated with, the centre so determines, receive treatment for the substance use or abuse;
    - (ii) to attend parenting programmes as may be specified; or
    - (iii) to submit to a medical or psychiatric examination or other assessment, and where the medical officer or medical doctor, as appropriate, who conducted the examination or other assessment so determines, receive treatment in accordance with the *Mental Health Act (2022 Revision)* or any other relevant law; or



- (f) to apply payments of financial assistance received to specified purposes.
- (3) Where the Director imposes a requirement under subsection (2), the Department shall monitor the recipient or the relevant member of the recipient's household to ensure compliance with the requirement and submit reports to the Director in the form and manner, and with the requested frequency, as the Director may specify.
- (4) Notwithstanding subsection (3), where the Director imposes a requirement under subsection (2)(e), the Department —
  - (a) shall only monitor the recipient or the relevant member of the recipient's household to ensure that the recipient or the relevant member of the recipient's household complies with the requirement to attend a centre for an assessment, to submit to a medical or psychiatric examination or to receive treatment; and
  - (b) shall not be entitled to receive any other details or information relating to the assessment, examination or treatment of the recipient or the relevant member of the recipient's household, without the written consent of the recipient or the relevant member of the recipient's household, as applicable, to the disclosure of such information.

### **Suspension of financial assistance**

- 15.** The Director may suspend payments of financial assistance, in whole or in part where —
- (a) it appears to the Director that a question has arisen in relation to a recipient's eligibility for financial assistance;
  - (b) a recipient fails to notify the Director in accordance with section 14(1)(a) or (b);
  - (c) a recipient has notified the Director in accordance with section 14(1)(b) and a person referred to in that paragraph is absent from the Islands for a period of more than six weeks;
  - (d) a recipient becomes a patient of a health care facility, including a patient under the *Mental Health Act (2022 Revision)*, or a patient of an institution of the Government where board and lodging are provided at no cost to the person;
  - (e) a recipient becomes a person who resides at a residential home care facility or any other facility where board and lodging are provided at no cost to the person; or
  - (f) it appears to the Director that a decision to issue financial assistance should be reviewed.

### **Revocation of financial assistance**

- 16.** (1) The Director shall revoke a decision to issue financial assistance where —
- (a) a recipient no longer fulfils the criteria for financial assistance; or
  - (b) a recipient has provided false, misleading or inaccurate information in relation to a material particular to the Director or a person authorized by the Director.
- (2) The Director may revoke a decision to issue financial assistance where the Director is satisfied that a recipient or a member of the recipient's household who is directly or indirectly benefitting from the financial assistance granted to the recipient has breached a condition or requirement under section 14.

### **Variation of financial assistance**

- 17.** On new facts brought to the notice of the Director or where the Director is satisfied that a decision in relation to the issuance of financial assistance was given in ignorance of a material particular, the Director may review the decision and upon review, vary the financial assistance.

### **Reconsideration of decision**

- 18.** (1) The Director, when notifying an applicant or a recipient of a decision made in relation to the applicant or recipient under this Act, shall, in such notice, advise the applicant or the recipient of the right to apply for a reconsideration of the decision in relation to —
- (a) the amount of financial assistance, except where the amount of the financial assistance is a fixed prescribed amount, in which case a reconsideration may only be requested in relation to those matters in paragraphs (b) to (h);
  - (b) the duration of the financial assistance;
  - (c) the conditions attached to the financial assistance;
  - (d) the refusal of an application for financial assistance;
  - (e) the suspension of the financial assistance;
  - (f) the revocation of the financial assistance;
  - (g) the variation of the financial assistance; or
  - (h) the recovery of money overpaid or improperly paid under a payment of financial assistance.
- (2) An applicant or a recipient who is aggrieved by a decision of the Director under subsection (1) may apply in the prescribed manner to the Director for a reconsideration of the decision.
- (3) An applicant or a recipient who is aggrieved by a decision of the Director shall, subject to subsection (4), make an application under subsection (2) within



twenty-one working days after the date on which notice of the relevant decision is given to the applicant or the recipient.

- (4) The Director may accept a late application for a reconsideration of a decision no later than three months after the date on which notice of the relevant decision was given to the applicant or the recipient, where the Director is satisfied that exceptional circumstances prevented the application for a reconsideration of a decision from being made within the period referred to in subsection (3).
- (5) A failure by the Director to advise an applicant or a recipient of the right to seek reconsideration of a decision does not of itself establish exceptional circumstances for the purposes of subsection (4).
- (6) The Director may refuse to reconsider a decision where the Director has already reconsidered that decision or a decision relating to substantially the same issue.
- (7) The Director, within twenty-one working days of receiving an application for a reconsideration of a decision, shall provide to the aggrieved applicant or recipient —
  - (a) the Director’s decision, in writing, based on the reconsideration; or
  - (b) a notice, in writing, of the Director’s refusal to reconsider.
- (8) An applicant or a recipient shall not appeal to the Appeals Tribunal against a decision of the Director unless the applicant or the recipient has first sought a reconsideration of that decision under this section and —
  - (a) obtained, in writing, a decision based on the reconsideration of that decision; or
  - (b) has been notified, in writing, by the Director of the Director’s refusal to reconsider that decision.

## **PART 4 - THE FINANCIAL ASSISTANCE APPEALS TRIBUNAL**

### **Appointment and constitution of the Financial Assistance Appeals Tribunal**

- 19.** (1) The Cabinet shall appoint a Financial Assistance Appeals Tribunal, which shall consist of —
- (a) a chairperson, who shall be an attorney-at-law of at least five years’ experience;
  - (b) a deputy chairperson, who shall be a person with at least five years’ experience in health and human services;
  - (c) a person with at least three years’ experience in finance; and
  - (d) two other persons,
- and notice of each appointment shall be published in the *Gazette*.

- (2) The chairperson, or in the chairperson's absence the deputy chairperson, shall preside over meetings of the Appeals Tribunal.
- (3) In the absence of both the chairperson and the deputy chairperson, the members present and forming a quorum shall elect one of their numbers to preside as chairperson over that meeting.
- (4) The quorum for meetings of the Appeals Tribunal is three persons.
- (5) The decisions of the Appeals Tribunal shall be by a majority of votes of members present and voting, but the chairperson or the person presiding as such shall not have an original vote, and shall only exercise a casting vote in any case in which the votes are equally divided.
- (6) For the purposes of subsection (1), a person who is employed with the Ministry shall not be eligible to be appointed as a member of the Appeals Tribunal.

### **Appointment of secretary**

- 20.** The Cabinet shall appoint a secretary to the Appeals Tribunal, who shall record and keep minutes of the meetings, proceedings and decisions of the Appeals Tribunal, but who shall have no right to vote.

### **Tenure of the Appeals Tribunal**

- 21.** Subject to section 22, a member of the Appeals Tribunal —
- (a) shall hold office for a period not exceeding three years, as is specified in the member's instrument of appointment; and
  - (b) may be re-appointed.

### **Vacation of office**

- 22.** (1) The Cabinet may terminate the appointment of a member of the Appeals Tribunal where the member —
- (a) becomes of unsound mind or incapable of carrying out that member's duties;
  - (b) becomes bankrupt, suspends payment to or compounds with that member's creditors;
  - (c) is convicted in the Islands or in any other jurisdiction of an indictable offence or an offence involving dishonesty or fraud;
  - (d) commits serious misconduct in relation to that member's duties;
  - (e) is absent —
    - (i) in the case of the deputy chairperson or other member, without leave of the chairperson; or
    - (ii) in the case of the chairperson, without leave of the Ministry, from three consecutive meetings of the Appeals Tribunal;



- (f) fails, without reasonable excuse, to carry out that member's duties in a reasonable or timely manner;
  - (g) fails to make a disclosure in accordance with section 23; or
  - (h) behaves in a manner likely to bring the Appeals Tribunal into disrepute.
- (2) A member of the Appeals Tribunal may resign the office by instrument in writing addressed to the Cabinet and such resignation shall take effect as from the date of receipt of such instrument by the Ministry.

### **Disclosure of interest**

- 23.** (1) Where a member of the Appeals Tribunal has a possible, perceived, actual or potential personal or pecuniary interest, direct or indirect, in a matter which is to be determined by the Appeals Tribunal, the member shall disclose the nature of that person's interest at a meeting of the Appeals Tribunal as soon as possible after the relevant circumstances have come to that member's knowledge.
- (2) Where a member discloses an interest in a matter in accordance with subsection (1), the member —
- (a) shall leave the place in which the deliberations are taking place as soon as the matter comes up for hearing;
  - (b) shall not participate, directly or indirectly, in the deliberations, consideration or discussion of the matter;
  - (c) shall not vote on a question with respect to the matter; and
  - (d) shall not return while the matter is under discussion until a decision has been taken by the Appeals Tribunal.

### **Functions of the Appeals Tribunal**

- 24.** The Appeals Tribunal shall hear and determine appeals against —
- (a) the Director's refusal to reconsider a decision in relation to the matters set out in paragraph (b); and
  - (b) the Director's decision, based on a reconsideration of the decision of the Director in relation to —
    - (i) the amount of financial assistance, except where the amount of the financial assistance is a fixed prescribed amount, in which case a reconsideration may only be requested in relation to those matters in subparagraphs (ii) to (viii);
    - (ii) the duration of the financial assistance;
    - (iii) the conditions attached to the financial assistance;
    - (iv) the refusal of an application for financial assistance;
    - (v) the suspension of the financial assistance;
    - (vi) the revocation of the financial assistance;

- (vii) the variation of the financial assistance; and
- (viii) the recovery of money overpaid or improperly paid under a payment of financial assistance;

in accordance with the procedure set out in the regulations.

### **Powers of the Appeals Tribunal**

- 25.** (1) Pursuant to a hearing under section 24, the Appeals Tribunal may —
- (a) confirm, vary, amend, reverse or set aside the decision of the Director;
  - (b) make a decision which the Appeals Tribunal thinks ought to have been made; or
  - (c) make a further or other decision, in accordance with this Act, as the nature of the case requires.
- (2) The Appeals Tribunal, for the purposes of hearings under this Act, shall have the power to administer oaths to witnesses.
- (3) Subject to this Act, the Appeals Tribunal may determine its procedure.

## **PART 5 - OFFENCES AND PENALTIES**

### **Confidentiality of information by officers**

- 26.** (1) An officer or a person acting for or under the direction of the Director shall not disclose personal data or information which —
- (a) was obtained by, or furnished to, the officer or the person acting for or under the direction of the Director, for the purposes of the performance of their duties and functions under this Act, or in the exercise of their powers under this Act;
  - (b) relates to an identified or identifiable person; or
  - (c) is not at the time of the disclosure available to the public from other sources,
- unless the disclosure is made with lawful authority.
- (2) For the purposes of subsection (1), a disclosure of personal data or information is made with lawful authority where —
- (a) the disclosure is made with the consent of the person to whom the data or information relates;
  - (b) the disclosure is authorized by law;
  - (c) the disclosure is —
    - (i) made by the Director or a person authorized in writing by the Director to issue external communications on behalf of the Department; and



- (ii) limited to the information necessary to correct false information publicly issued by a person, in relation to —
  - (A) the manner in which that person’s application is being, or has been, dealt with; or
  - (B) the conduct of the Department or an officer of the Department in the officer’s official capacity; or
- (d) having regard to the rights and freedoms or legitimate interests of a person, the disclosure is necessary in the public interest.
- (3) Where an officer or a person acting for or under the direction of the Director knowingly or recklessly discloses personal data or information in contravention of subsection (1), that person commits an offence and is liable —
  - (a) on summary conviction, to a fine of ten thousand dollars; or
  - (b) on conviction on indictment, to a fine of twenty thousand dollars.

### **Duty of confidentiality by the Appeals Tribunal**

- 27.** (1) The facts and particulars of, or relating to, any matter falling for consideration by the Appeals Tribunal or any decision of the Appeals Tribunal shall be treated as confidential by each member of, and the secretary to, the Appeals Tribunal and any such facts or particulars shall not be disclosed otherwise than in the proper performance of duties under this Act or in compliance with an order of a court or tribunal of competent jurisdiction.
- (2) The failure of a member of, or the secretary to, the Appeals Tribunal to comply with subsection (1) is an offence and constitutes sufficient ground for the termination of the appointment of the member or the secretary.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.
- (4) An allegation of a breach of subsection (1) shall be fully investigated by a constable of the rank of Inspector or above.

### **Providing false or misleading information**

- 28.** A person who, on examination under the authority of this Act, knowingly gives false evidence, makes a false declaration or provides false or misleading information where required to do so under this Act, commits an offence and is liable on summary conviction to a fine of three thousand dollars or to imprisonment for a term of six months, or to both.

## **PART 6 - GENERAL**

### **Recovery of money improperly paid or overpaid**

- 29.** (1) The Director may require a recipient to repay a sum of money improperly paid or overpaid under a payment of financial assistance and may suspend further such payments until the sum of money improperly paid or overpaid is recovered.
- (2) The Director may waive the repayment of an overpayment or the repayment of a sum of money improperly paid, or may require the recipient to pay a reduced amount where —
- (a) the Director is satisfied that a recipient has exercised due care and diligence to avoid the overpayment or the sum of money improperly paid; or
- (b) the Director determines that the recovery of an overpayment or the recovery of a sum of money improperly paid from a recipient or, in the event of the recipient's death, from the recipient's estate, would cause undue hardship to the recipient or to a member of the recipient's household benefitting directly or indirectly from the financial assistance.
- (3) Where a sum is required to be repaid by a recipient under subsection (1), the Director may recover the sum as a debt owing to Government in a court of competent jurisdiction.

### **Financial assistance inalienable**

- 30.** No moneys payable by way of financial assistance shall be subject to alienation or transfer by a recipient or to attachment or seizure in satisfaction of any claim against the recipient.

### **Government not liable to supplier of goods and services**

- 31.** The Government is not liable for any payments in respect of goods or services supplied to a recipient.

### **Death of recipient**

- 32.** Where a recipient dies, the Director may make a final payment of financial assistance for the month in which the recipient's death occurs to a member of the recipient's household who directly or indirectly benefits from the recipient's financial assistance.

### **Non-transferability of financial assistance**

- 33.** Financial assistance granted to a recipient is not assignable or transferable.



## Regulations

- 34.** (1) The Cabinet may make regulations prescribing matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act and, in particular, providing —
- (a) for additional criteria for eligibility for financial assistance;
  - (b) for whether a person satisfies certain criteria for eligibility for a particular category of financial assistance;
  - (c) for the determination of the financial resources of a person;
  - (d) that the income or capital of a person is to be taken as exceeding or not exceeding a prescribed amount;
  - (e) for the application process;
  - (f) for the investigation into applications and verification of information submitted in respect of applications;
  - (g) for the categories of financial assistance;
  - (h) for the time at which the payment of financial assistance shall commence, and the manner, method and procedure for payment of the financial assistance to a recipient;
  - (i) for the procedure where an applicant or a recipient is unable to act;
  - (j) for the maintenance of adequate records of applications, related reports and decisions, and amounts of financial assistance paid;
  - (k) for the exemption of certain persons or categories of persons from any prescribed eligibility criteria;
  - (l) different provisions in relation to different cases or classes of case;
  - (m) for the procedure to be adopted with respect to the reconsideration of a decision by the Director;
  - (n) for the procedure to be adopted with respect to appeals, including the procedure for —
    - (i) requiring an appellant or the Director to disclose or allow the inspection of documents in the appellant's or the Director's custody or control;
    - (ii) requiring a person, on tender of the necessary expenses of the person's attendance, to attend and give evidence or produce documents in the person's custody or under the person's control and for authorizing the administration of oaths to witnesses; and
    - (iii) enabling an appellant to withdraw an appeal or the Director to withdraw the Director's opposition to an appeal and for the consequences of withdrawal.

- (2) Regulations made under this section may prescribe that contravention of the regulations constitutes an offence and the person who commits the offence is liable on summary conviction to a fine of three thousand dollars or to imprisonment for a term of six months, or to both.

### **Repeal of Poor Persons (Relief) Act (1997 Revision)**

**35.** The *Poor Persons (Relief) Act (1997 Revision)* is repealed.

### **Savings and transitional provisions**

- 36.** (1) Subject to subsection (2), upon commencement of this Act, a person who was in receipt of relief under the repealed Act shall continue to receive that relief until the expiration of the period for which the relief was granted.
- (2) Where the relief received by a person referred to in subsection (1) is permanent in nature, upon commencement of this Act, the person shall continue to receive the relief as if this Act had not come into force.
- (3) An application for relief that is determined prior to the commencement of this Act shall be continued and dealt with as if this Act had not come into force.
- (4) Where an application for relief referred to in subsection (3) is granted, the application shall be granted on the same terms and conditions that would have applied if this Act had not come into force.
- (5) An application for relief made prior to the commencement of this Act that has not been determined upon the commencement of this Act shall be continued and dealt with as if it is an application made under this Act, and this Act is to apply accordingly.

**Passed by the Parliament the        day of        , 2022.**

*Speaker*

*Clerk of the Parliament*

