ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER S43

SOCIAL PROTECTION ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—
Act 2/2015, in force 20 August 2015
U.K. S.I. 2019 No. 852, in force 14 May 2019

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SOCIAL PROTECTION ACT

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SOCIAL PROTECTION ACT

PART 1
PRELIMINARY

Interpretation

1. In this Act—

"Anguillian" means a person who is regarded as an Anguillian under section 80(2) of the Constitution of Anguilla;

(U.K. S.I. 2019 No. 852, s. 13(c))

"applicant" means a person applying for a benefit personally or for a dependant;

"benefit" means any assistance granted under Part 3;

"Board" means the Social Protection Board established under section 2;

"child" means a person under the age of 18 years;

"child care" means any benefit granted to a qualified person for assistance with pre-school and day care expenses;

"contact information" includes an email address, mailing address and telephone number;

"Department" means the Department of Social Development;

"dependant" means a person who is financially dependent on a parent or guardian and who—

(a) is under the age of eighteen years;

(b) is under the age of twenty-five years and is either receiving full-time instruction at an educational establishment or is undergoing training for a trade, profession or vocation; or

(c) is over eighteen years and suffering from a disability which renders that person incapable of providing for themselves;

"disability allowance" means a benefit granted to a qualified person with a disability;

"educational assistance" means a benefit granted to a qualified person to assist with educational expenses;

"funeral grant" means a benefit granted to a qualified person to assist with burial or cremation expenses;

"housing or accommodation assistance" means a benefit granted to a qualified person to assist with housing or accommodation needs and includes repairs, furnishings, fittings, and erection of sanitation facilities;

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"medical assistance" means any benefit granted to a qualified person to assist with medical treatment whether that treatment is provided locally or overseas;

"medical exemption" means a benefit granted to a qualified person to exempt that person from payment for medical services provided by the Health Services Authority;

"Minister" means the Minister with responsibility for Social Development;

"overpayment" means a benefit received for which the recipient was not qualified or where the benefit received is above the amount for which the recipient qualifies;

"public assistance" means a monthly financial benefit granted to a qualified person or household;

"qualified person" means a person who meets the requirements set out in section 10;

"recipient" means a qualified person to whom a benefit is granted;

"utilities assistance" means a benefit granted to a qualified person to assist with expenses for the supply of electricity, water or cooking gas.

PART 2

BOARD

Establishment of the Board

2. There is hereby established a Board to be called the Social Protection Board.

Membership and constitution of the Board

3. (1) The Board shall consist of five members who shall be appointed by the Minister and one of whom shall be the Commissioner of Social Development.

(2) The members of the Board shall have qualifications or expertise in one or more of the following areas—

(a) social work;

(b) law;

(c) finance;

(d) health;

(e) labour;

(f) youth development;

and at least one member shall be a representative of a non-governmental organisation.

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(3) The Commissioner of Social Development shall be the Chairperson and preside at meetings of the Board.

(4) The members of the Board shall appoint a Deputy Chairperson who shall preside at meetings of the Board in the absence of the Chairperson.

(5) A member of the Board shall, unless he earlier dies or vacates office by resignation or removal, hold office for a period of three years and shall be eligible for re-appointment.

(6) A member of the Board, other than the Commissioner of Social Development, shall not serve for more than two consecutive terms.

(7) A person with administrative skills working in the Ministry of Social Development shall be the recording secretary to the Board and shall provide general secretarial assistance to the Chairperson and keep accurate and complete minutes of each meeting of the Board, including particulars of—

(a) the notice to members of each meeting;

(b) the members in attendance and the members not in attendance; and

(c) any decision or recommendation made and the members voting on it or abstaining from voting on it.

Resignation or removal of member of the Board

4. (1) Any member of the Board may resign his office by giving notice in writing addressed to the Minister and transmitted through the Chairperson, but the resignation shall not take effect until such notice has been received by the Minister.

(2) The Minister may, at any time, revoke the appointment of any member of the Board, other than the Chairman—

(a) who fails to attend 3 consecutive meetings without reasonable excuse;

(b) who is unable to serve due to illness or absence from the island; or

(c) if the Minister is satisfied that such revocation is in the public interest.

Powers and duties of the Board

5. (1) The Board shall have the following powers and duties—

(a) to receive applications for a benefit under this Act;

(b) to authorise special inquiries to be made in connection with applications for a benefit;

(c) to grant a benefit to a qualifying person under this Act;

(d) to impose, in relation to a benefit granted, any conditions;

(e) to revoke, re-assess or review a benefit granted;

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(f) to recover any overpayment; and

(g) to keep a record of all benefits granted under this Act.

(2) The Board shall, pursuant to subsection (1), grant benefits referred to therein from sums which may be provided by the Legislature from time to time for the purposes of this Act.

Annual reports to the Minister

6. (1) The Board shall, within 3 months after the end of each calendar year, forward to the Minister an annual report of the operation of the Board during that calendar year.

(2) The annual report shall include the following—

(a) the number of applications received by the Board;

(b) the status of applications received by the Board;

(c) the number of applications approved by the Board;

(d) the types of benefits granted;

(e) the value of the benefits granted;

(f) the particulars of the recipients of a benefit; and

(g) any other information that the Board considers necessary.

(3) The Minister shall, as soon as possible after receiving the annual report, cause copies of the annual report to be laid before the House of Assembly.

Quorum, meetings of the Board, etc.

7. (1) At any meeting of the Board, two members and the Chairperson or Deputy Chairperson shall form a quorum competent to transact business.

(2) The Board shall meet not less than once every month and at such other times as meetings of the Board are convened by the Chairperson.

(3) All decisions made by the Board shall be by a majority vote and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote.

(4) The Board may make rules in respect of its meetings and the procedures to be followed at such meetings.

Remuneration of members of the Board

8. Members of the Board may be remunerated in such manner and at such rates as the Governor in Council may determine.

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PART 3

BENEFITS

Benefits that may be granted

9. (1) The Board may grant to a qualified person one or more of the benefits set out in subsection (2) for such period and in such amounts as may be determined by the Board.

(2) The Board may grant the following benefits—

(a) medical exemption;

(b) funeral grant;

(c) disability assistance;

(d) public assistance;

(e) child care assistance;

(f) utilities assistance;

(g) housing or accommodation assistance;

(h) educational assistance; and

(i) such other assistance as may be prescribed.

(3) For the purposes of this section "other assistance" includes—

(a) food vouchers;

(b) foster care assistance, where a child is placed in care through the Department for a temporary period;

(c) emergency relocation assistance where a qualified person has to be relocated to another country; or

(d) medical assistance.

Qualified persons

10. A person is qualified to make an application for a benefit under this Act if, on the date of the application, that person—

(a) is one of the following—

(i) an Anguillian,

(ii) the spouse of an Anguillian who has lived in the household of the Anguillian for a period of not less than 3 years before the date of the application for the benefit and continues to live there, or

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(iii) the guardian of a dependant who is an Anguillian;

(b) is resident in Anguilla for no less than 10 months in any calendar year; and

(c) is not serving a sentence of imprisonment.

(U.K. S.I. 2019 No. 852, s. 13(c))

Application for benefit

11. (1) An application for a benefit shall be made in writing on the prescribed application form.

(2) A completed application form and such relevant supporting documentation as specified in subsection (3), shall be submitted to the Department.

(3) An application shall be accompanied by any of the following relevant supporting documentation, as the case requires—

(a) birth certificate;

(b) proof of citizenship;

(c) bank statements;

(d) proof of household expenses including utility bills;

(e) land ownership documents;

(f) proof of all pension and remittances;

(g) company share information;

(h) proof of all social security benefits;

(i) social worker's report;

(j) any other documents considered to be relevant.

(4) The Department shall submit the application together with any supporting documentation received, as well as its Evaluation Report pursuant to section 12, to the Board.

(5) An application for a benefit may be withdrawn by notice in writing to the Chairperson at any time before the Board has made its decision.

Investigation and Evaluation Report

12. (1) The Department may, upon receipt of an application—

(a) investigate and verify any statements made in the application and such investigation or verification may be by way of an interview conducted with the applicant; or

(b) investigate and examine the circumstances of the applicant in relation to his qualifications or eligibility for a benefit or the value of a benefit.

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(2) Any information obtained in the course of an investigation or evaluation carried out by the Department shall be contained in an Evaluation Report which shall be furnished to the Board.

Criteria for eligibility for benefits

13. (1) An applicant is eligible for a benefit if, in respect of any period for which he is applying for a benefit—

(a) the amount of approved household expenses exceeds the qualifying household income (for that period); and

(b) the value of investments whether located in Anguilla or elsewhere owned by the household does not exceed $60,000.

(2) Investments for the purpose of this Act includes any interest in real property.

(3) The amount of the benefit for which a person is eligible under subsection (1) shall be determined in accordance with the following formula—

$$E - I = B$$

where

E is the approved household expenses;

I is the qualifying household income; and

B is the value of the benefit.

(4) Any significant change in the financial situation of the recipient may result in an adjustment or revocation of the benefit.

(5) For the purposes of this section—

(a) "approved household expenses" means the average reasonable expenditure of the family per month;

(b) "qualifying household income" means the average income of the family per month.

Determination of application for benefit

14. (1) The Board may, on receipt of an application form and supporting documentation, request by notice in writing that the applicant produce, within 14 days, such additional documentation as considered necessary to assist with the determination of the application.

(2) Where the applicant fails to comply with a notice issued pursuant to subsection (1) within 14 days, the Board shall make its determination after considering the documents if any, which have been produced by the applicant.

(3) Where it is considered necessary, the Board may conduct an interview with the applicant in person, and where such an interview is required, shall request the applicant to appear by notice in writing.

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(4) In determining an application for a benefit, the Board shall consider whether the applicant is qualified pursuant to section 10 and eligible pursuant to section 13.

(5) The Board shall make its decision on an application for a benefit within 30 days of receiving the application and all supporting documentation or, in the case of an application in relation to which a notice is issued under subsection (2) or (3), within 44 days of receiving the application.

(6) The Board shall notify an applicant in writing of its decision within 14 working days of the decision being made.

(7) Where the Board approves an application, it shall further notify the applicant of—

(a) the value of the benefit;

(b) the duration of the benefit;

(c) any conditions, pursuant to section 15, attached to the grant of the benefit; and

(d) the manner and procedure relating to the grant of the benefit.

Conditions applicable to benefits

15. (1) It shall be a condition of every benefit granted that the recipient shall notify the Chairperson in writing forthwith—

(a) of any change in the recipient's circumstances which, had the recipient not been in receipt of a benefit, would disqualify the recipient from applying for a benefit under section 10;

(b) of any change in the recipient's circumstances which would make the recipient ineligible to receive a benefit under section 13;

(c) of any change in the recipient's address and any other contact details;

(d) of any change in the circumstances of a member of the recipient's household who is directly or indirectly benefiting from the benefit; or

(e) of the recipient's intention, or that of any member of the recipient's household who is so benefiting, to travel outside of Anguilla.

(2) Without prejudice to the conditions specified in subsection (1), in granting a benefit the Board may impose one or more of the following conditions—

(a) that the recipient take up employment or employment specified by the Board;

(b) that the recipient attend a course of vocational training specified by the Board;

(c) that the recipient apply payments received under the benefit to a purpose specified by the Board; or

(d) that the benefit may be disbursed in such manner as specified by the Board, pursuant to section 16.

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(3) Where the recipient fails to comply with a condition imposed under subsection (2), the Board may revoke or re-assess the benefit.

Distribution of benefit granted

16. (1) A benefit granted shall be made to the recipient at such place or places and on such days as the Board determines.

(2) A benefit granted shall in all cases, when practicable, be made to the recipient personally.

(3) Where it is not practicable for the benefit granted to be made to the recipient, it shall be made to someone authorised in writing to receive the benefit, but the Board shall direct that the Department monitor, pursuant to section 18, whether the benefit is duly received by the recipient.

Review of benefit

17. (1) The Board may review any decision made in relation to a benefit granted in the following circumstances—

(a) where new facts are brought to the Board's notice; or

(b) if the Board is satisfied that the decision was given in ignorance of some material fact, or was based on a misapprehension as to such fact.

(2) The Board, having reviewed any decision in relation to a benefit, may revoke or vary that benefit.

Monitoring and evaluation

18. The Department may, upon the grant of a benefit or where it is directed by the Board to so do, monitor and evaluate the extent to which the benefit granted is meeting the needs of the recipient.

Revocation of benefit

19. (1) The Board may revoke a benefit granted under this Act—

(a) if the Board is satisfied that the recipient has breached any of the conditions of the benefit specified under section 15;

(b) if any circumstances arise such that, if that person were not a recipient, would cause him to be disqualified from applying for a benefit under section 10;

(c) if the recipient has ceased to fulfil the criteria for eligibility for a benefit under section 13; or

(d) if the recipient has provided false, misleading or inaccurate information in relation to his application for a benefit.

(2) The Board shall revoke a benefit upon the death of the recipient or a dependant.

Emergency application

20. (1) Where an emergency application is made, an interim benefit may be granted to an applicant by the Department.

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(2) Where an interim benefit is granted pursuant to subsection (1), that application shall be sent forthwith to the Board for consideration and a determination.

(3) Where the Board is in receipt of an emergency application that has been granted an interim benefit pursuant to subsection (1), the Board may determine that application pursuant to section 14 and where it is satisfied that a grant of a benefit should be made, grant such additional benefit.

(4) For the purpose of this section an "emergency application" means an application in relation to—

(a) a medical emergency;

(b) lack of food or access to food; or

(c) lack of housing or utilities.

Temporary relief

21. (1) The Board may, under exceptional circumstances, grant a temporary relief benefit to a person who is not a qualified person.

(2) For the purpose of this section "temporary relief" means assistance given for a period not exceeding 3 months.

PART 4

RECOVERY

Recovery of overpayment

22. (1) The Board may require a recipient to repay any benefit, or part thereof, paid as a result of false, misleading or inaccurate information and may suspend further payments under the benefit until such sum has been repaid.

(2) Where the Board determines that recovery for overpayment from a recipient would cause undue hardship, the Board may waive the overpayment, or may require the recipient to repay a reduced amount.

(3) Where any sum is required to be repaid by a recipient under subsection (1), the Board may recover such sum as a debt owing to the Government in any court of competent jurisdiction.

Reimbursement

23. (1) Where a benefit is granted under this Act and the recipient is in receipt of a donation, gift or other benefits from funding given for the same purpose for which that benefit was granted, the Board may require the recipient to repay any sum of money paid as a benefit under this Act.

(2) Where any sum is required to be repaid by the recipient under subsection (1), the Board may recover such sum as a debt owing to the Government in any court of competent jurisdiction.

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Recovery of funeral expenses

24. (1) In any case where it appears expedient to do so, the Board may pay the cost of and expenses incidental to, the funeral of any qualified person.

(2) The Board may recover the amount paid under subsection (1) from any person, who is in receipt of any other death or funeral grant benefit and was liable for the maintenance of the deceased person when he or she was alive, or from any person who is in control of, or who has possession of, any property of the deceased person.

(3) Where any sum is required to be repaid by a person under subsection (2), the Board may recover such sum as a debt owing to the Government in any court of competent jurisdiction.

Duty to maintain qualified persons

25. (1) Notwithstanding Parts 5 and 6 of the Magistrate's Code of Procedure Act and the Maintenance of Children Act—

(a) a person is liable to maintain that person's spouse;

(b) a person is liable to maintain that person's child under the age of 18, whether legitimate, illegitimate or adopted; or

(c) a person, who marries another person who has a child at the time of the marriage, is liable to maintain that child as part of that person's family until that child attains the age of 18 years.

(2) Where a person who is liable to maintain a spouse or child under subsection (1), refuses or neglects to do so, it shall be lawful for a Magistrate to order such person to maintain that child or spouse.

(3) Where a person is liable to maintain a spouse or child under subsection (1), and by virtue of that person's failure or neglect to maintain that spouse or child, the spouse or child is a recipient of a benefit under this Act, it shall be lawful for a Magistrate to order that person to repay to the Board any amount granted as a benefit to the recipient spouse or child.

(4) A Magistrate shall satisfy himself, prior to making an order pursuant to subsection (2) or (3), that the person is able to maintain that spouse or child and to repay the Board.

(5) If it is determined that within the preceding 7 years of the granting of a benefit, a person benefited from the property or assets of a recipient, it shall be lawful for the Magistrate to order the beneficiary of that property to maintain the recipient or applicant.

(6) A Magistrate shall satisfy himself, prior to making an order pursuant to subsection (5), that the beneficiary is able to maintain the recipient, having regard to the value of the property or assets that he benefited from.

(7) If a beneficiary who is made liable under subsection (5) to maintain a recipient, refuses or neglects to do so, the Board may bring a claim against the beneficiary for the recovery of the value of the property.

(8) Where any claim is made pursuant to subsection (7), the Board may recover such sum as a debt owing to the Government in any court of competent jurisdiction.

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Action permitted by the Board in certain cases

26. (1) Where any qualified person who is deserted by a spouse and who as a result of this desertion is the recipient of a benefit under this Act, the Board may cause, with or without the consent of the recipient, an application to be made to the Magistrate for an order for the payment by the spouse of such sums as may have been granted to the recipient.

(2) The Board may—

(a) where any qualified person, being the parent of a child born out of wedlock, or being a child born out of wedlock, is the recipient of a benefit;

(b) where any dependant of a recipient of a benefit is a child born out of wedlock;

with or without the consent of the recipient, cause an application to be made to the Magistrate for an order for the payment by the absent parent of such sums as may have been granted to the recipient.

(3) The Board may, where a recipient is a single mother, with or without the recipient's consent, cause an application to be made to the Magistrate for an order adjudging the alleged father of the recipient's child to be the putative father.

(4) Subsections (1) to (3) apply notwithstanding Part 5 and 6 of the Magistrate's Code of Procedure Act.

PART 5

MISCELLANEOUS

Benefits record

27. The Board shall keep a record showing in detail—

(a) the name and particulars of the recipient of a benefit;

(b) the type of benefit;

(c) the benefit commencement date;

(d) the benefit termination date;

(e) the name of the person to whom each payment is made;

(f) the conditions, under which the benefit was granted; and

(g) the total amount of monthly payments made to each recipient.

Register

28. (1) The Department shall keep a register of recipients of a benefit and their dependants where applicable.

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(2) The register shall contain the following information—

(a) name of recipient;

(b) contact information for recipient;

(c) date of birth of recipient;

(d) gender of recipient; and

(e) names, age and number of dependants where applicable.

Change of address outside Anguilla

29. (1) Where a recipient of a benefit intends to leave and remain outside Anguilla for a period of more than 3 months, the recipient shall give the Board one month's notice in advance of date on which the recipient intends to leave Anguilla.

(2) Where a recipient fails to give the Board notice under subsection (1), the Board may suspend the benefit.

Appeals

30. (1) A person aggrieved by a decision of the Board—

(a) refusing that person's application for a benefit;

(b) imposing special conditions on that person's benefit;

(c) suspending in whole or in part that person's benefit;

(d) varying that person's benefit;

(e) revoking that person's benefit; or

(f) requiring that person to repay any sum of money under this Act;

may appeal against that decision to the Permanent Secretary in the Ministry.

(2) An appeal under subsection (1) shall be made in writing within 30 days of the applicant receiving the decision of the Board.

(3) The Permanent Secretary shall, after hearing an appeal—

(a) affirm the decision appealed against;

(b) vary the decision appealed against; or

(c) set aside the decision appealed against and remit the matter for reconsideration by the Board, in accordance with such direction as the Permanent Secretary may consider fit.

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(4) The Permanent Secretary shall forward a notice of his decision together with a statement of reasons to the appellant and to the Chairperson of the Board.

Offences

31. (1) Any person who knowingly gives false information, for the purpose of obtaining a benefit under this Act, commits an offence and is liable on summary conviction to imprisonment for a term of 5 years or a fine of $10,000 or to both.

(2) Any person who knowingly gives false information for the purpose of assisting another in obtaining a benefit for which that person is not qualified or eligible, commits an offence and is liable on summary conviction to imprisonment for a term of 5 years or a fine of $10,000 or to both.

Regulations

32. The Governor in Council may make regulations prescribing all 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.

Citation

34. This Act may be cited as the Social Protection Act, Revised Statutes of Anguilla, Chapter S43.

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