

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

FINANCIAL ASSISTANCE (SHORT-TERM RELIEF BENEFIT) ACT 2024

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WHEREAS it is expedient establish a framework to provide financial assistance on a short-term basis for those experiencing sudden financial hardship;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

FINANCIAL ASSISTANCE (SHORT-TERM RELIEF BENEFIT) ACT 2024

Citation

1 This Act may be cited as the Financial Assistance (Short-Term Relief Benefit) Act 2024.

Interpretation

2 In this Act, unless the context otherwise requires—

“applicant” means a person who makes an application for the short-term relief benefit in accordance with the provisions of this Act;

“Board” means the Financial Assistance Review Board appointed under section 15 of the Financial Assistance Act 2001;

“dependent” means a person who is financially dependent on his guardian and who—

(a) is under the age of 18 years and not in full-time employment;

(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 a disabled person, as defined in section 2 of the Financial Assistance Act 2001, and is living in the household of his guardian;

“Director” means the person who is appointed as the Director of Financial Assistance pursuant to section 3 of the Financial Assistance Act 2001;

“financial year” means the period of twelve months extending from the first day of April in any year to the thirty-first day of March in the year next following;

“guardian” in relation to a person who is a dependent, means a person who has the charge of and who is otherwise responsible for the care and well-being of the dependent person;

“in writing” includes electronic communications;

“Minister” means the Minister charged with responsibility for financial assistance;

“month” means calendar month;

“recipient” means a person who is in receipt of short-term relief benefit payments after his application for the short-term relief benefit has been approved;

“short-term relief benefit” has the meaning given in section 3;

“sudden financial hardship” means financial difficulty as a result of any of the circumstances set out in section 9(2)(c).

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Short-term relief benefit

3 (1) The “short-term relief benefit” means the sum of money approved for payment in accordance with this Act to an applicant who is experiencing sudden financial hardship and whose application is approved by the Director.

(2) The short-term relief benefit is a temporary benefit paid to a recipient for a maximum period of three months during a financial year, and such maximum period may be—

- (a) continuous; or
- (b) an aggregate period made up of two or three awards during the financial year.

(3) The short-term relief benefit payment to a recipient shall be \$1,500 per month.

Functions of the Director

4 (1) The Director shall have the functions and shall exercise the powers conferred on him by or under this Act.

(2) The Director shall administer and control all moneys appropriated by the Legislature for the purpose of providing the short-term relief benefit to approved persons in need, and advise the Minister generally on the management and administration of such moneys.

(3) The Director shall, as soon as practicable after the end of the financial year, make a report to the Minister of his activities under this Act for that financial year and publish the same in such manner as he thinks appropriate.

Powers of the Director

5 (1) In the exercise of his functions under this Act, the Director may—

- (a) require an applicant or a recipient to provide him with such information and produce such documents as he may specify;
- (b) require an applicant or a recipient to attend at such time and place as the Director may require to be examined as to his means and circumstances.

(2) The Director may authorise an officer of his department to exercise his powers under this section and shall furnish such officer with a written authorisation signed by him.

(3) An officer exercising powers by virtue of an authority under this section shall, if so required, produce evidence of his authorisation.

Government departments to provide information to Director

6 Every Government department shall provide to the Director such information as he may reasonably require in the exercise of his functions under this Act.

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Persons qualified to apply for short-term relief benefit

7 (1) A person is qualified to apply for the short-term relief benefit if, on the date of the application, the person is 18 years of age or older and either—

- (a) possesses Bermudian status;
- (b) is the spouse of a person who possesses Bermudian status and has cohabited in Bermuda with that person for a period of not less than one year ending with the date of the application for the short-term relief benefit; or
- (c) is the guardian of a dependent that possesses Bermudian status.

(2) A person is not qualified for the short-term relief benefit provided by this Act if the person—

- (a) is a recipient of a financial assistance award or subsequent award as provided by the Financial Assistance Act 2001;
- (b) is serving a sentence of imprisonment.

Eligibility criteria

8 An individual is eligible for the short-term relief benefit if—

- (a) the individual has been living in Bermuda for at least one year;
- (b) the value of the individual's investments and assets (other than real property), does not exceed \$5,000.

Application for short-term relief benefit

9 (1) Every application for the short-term relief benefit shall be made in writing on an approved form, or in such other manner, being in writing, as the Director may accept as sufficient in the circumstances of any particular case and shall be delivered or sent to the office of the Director together with all of the information required by this Act or any Regulations made under it.

(2) An application submitted by an applicant for the short-term relief benefit shall consist of—

- (a) a completed application form, or an application in such other manner being in writing that is acceptable to the Director in accordance with subsection (1);
- (b) documentary proof that he is qualified to apply under section 7(1);
- (c) evidence of sudden financial hardship as a direct result of—
 - (i) a natural disaster;
 - (ii) a public health emergency declared by the Minister responsible for health under section 107A of the Public Health Act 1949;

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- (iii) the applicant's employment being terminated by his employer within the three months preceding submission of the application, as verified by the employer;
 - (iv) the death of a household member; or
 - (v) domestic violence;
- (d) any other documents required by the Director.

(3) For the purposes of subsection (2)(c)(iii), the applicant or his former employer shall provide any further information, verification or documentation, as the case may be, that is reasonably required by the Director to support the application.

(4) The Director shall supply application forms without charge.

(5) The Minister may by regulations amend the evidence of sudden financial hardship required by subsection (2)(c), and any such regulations shall be subject to the negative resolution procedure.

Grant or refusal of application

10 (1) After receiving an application for the short-term relief benefit which has been duly submitted in accordance with section 9 and receiving all information and documents as he may reasonably require with respect to that application, the Director may, subject to this section, grant approval of or refuse to grant approval of an application for the short-term relief benefit.

(2) The Director shall not approve an application for the short-term relief benefit unless he is satisfied that the applicant fulfills the qualifications and eligibility criteria provided in sections 7 and 8.

(3) The Director shall notify the applicant in writing of his decision and if the application is refused, give the reasons for the refusal and advise the applicant of his right to appeal.

(4) Where the Director approves an application for the short-term relief benefit, the Director shall inform the applicant in writing of—

- (a) the approval of the application;
- (b) the duration of the benefit;
- (c) any conditions attached to the benefit as provided in section 11; and
- (d) any other relevant matter.

Conditions applicable to short-term relief benefits

11 (1) Every short-term relief benefit approved under this Act shall be subject to the conditions specified in subsection (2) and any other conditions that may reasonably be imposed by the Director under this section.

(2) It shall be a condition of every short-term relief benefit granted under this Act that the recipient—

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- (a) immediately notify the Director in writing of any change in his circumstances which, had he not been in receipt of the short-term relief benefit, would disqualify him from applying for the short-term relief benefit;
- (b) notify the Director if his financial position changes while receiving the short-term relief benefit;
- (c) notify the Director if there is a change in their circumstances that would make him ineligible, under section 8, to receive the short-term relief benefit;
- (d) notify the Director if his address changes;
- (e) provide such information and produce such documents as the Director may reasonably require;
- (f) is not a recipient of a financial assistance award or subsequent award granted under the Financial Assistance Act 2001;
- (g) notify the Director of the recipient's intention to travel outside Bermuda.

(3) A recipient who, without reasonable cause, refuses or fails to comply with a condition under subsection (1) or (2), is in breach of the condition and may be subject to the provisions of section 14, 15, 16 or 17.

Payment of short-term relief benefit

12 Payment of the short-term relief benefit—

- (a) shall be made in such manner and shall commence at such dates as the Director in any particular case may determine;
- (b) if applicable, shall not commence until the end of the period determined by the Director to be a reasonable period for the recipient to meet all of his financial needs from a redundancy payment (referred to as severance allowance) paid in accordance with the provisions of the Employment Act 2000, if his application—
 - (i) is made due to him being made redundant, as verified by the employer in accordance with section 9(2)(c)(iii); and
 - (ii) provides that he has received such payment or is expected to receive such redundancy payment.

Short-term relief benefit inalienable

13 No money paid under the short-term relief benefit shall be subject to alienation or transfer by a recipient or to attachment or seizure in satisfaction of any claim against him.

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Review of short-term relief benefit

14 (1) The Director may, on new facts being brought to his attention, or if he is satisfied that the decision was given in ignorance of, or was based on a misrepresentation as to some material fact, review any decision given by him in relation to the short-term relief benefit and upon review may revoke or vary the short-term relief benefit.

(2) Before he makes a decision under subsection (1), the Director shall give the recipient an opportunity to make representations.

Investigation

15 The Director may—

- (a) investigate and verify any statements made in an application; or
- (b) investigate and examine the circumstances of an applicant or recipient in relation to his eligibility, or continued eligibility for the short-term relief benefit.

Suspension of short-term relief benefit

16 (1) Where it appears to the Director that a question has arisen in relation to a recipient's eligibility for the short-term relief benefit or as to whether a determination by the Director in granting the short-term relief benefit ought to be reviewed, the Director may suspend the short-term relief benefit in whole or in part until that question has been determined by him.

(2) If the Director suspends a short-term relief benefit, the Director shall give the recipient a notice of his intention to suspend the benefit in writing, which shall include—

- (a) the reasons for the decision;
- (b) a reasonable period (which may not be less than seven days) within which the recipient may make representations to the Director.

(3) Where representations are made under subsection (2)(b), the Director shall take them into account in deciding whether to suspend a recipient's short-term relief benefit.

(4) A decision of the Director under this section shall—

- (a) be in writing;
- (b) give reasons for the Director's decision to suspend the short-term relief benefit to which the notice relates;
- (c) inform the recipient of the right to appeal the decision as provided in section 21.

Revocation of short-term relief benefit

17 (1) The Director may revoke a short-term relief benefit being paid to a recipient under this Act—

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- (a) if he is satisfied that the recipient has breached any condition of the short-term relief benefit;
 - (b) if any circumstances arise such that, if that person were not a recipient, would disqualify him from applying for the short-term relief benefit under section 7;
 - (c) if the recipient has ceased to fulfill the criteria for eligibility for the short-term relief benefit;
 - (d) if the recipient in connection with an application for the short-term relief benefit has provided false, misleading or inaccurate information.
- (2) If the Director proposes to revoke a short-term relief benefit, the Director—
- (a) shall give the recipient notice in writing of his intention and his reasons for such decision;
 - (b) shall specify a reasonable period (which may not be less than seven days) within which the recipient may make representations to the Director;
 - (c) where representations are made under paragraph (b), shall take them into account in deciding whether to revoke a recipient's short-term relief benefit.
- (3) A decision of the Director under this section shall—
- (a) be in writing;
 - (b) give reasons for the Director's decision to revoke the short-term relief benefit to which the notice relates;
 - (c) inform the recipient of the right to appeal the decision as provided in section 21.
- (4) The Director shall revoke the short-term relief benefit upon the death of the recipient.

Application after revocation of short-term relief benefit

- 18 (1) A recipient whose short-term relief benefit has been revoked by the Director under section 17, may only submit a new application for the short-term relief benefit if—
- (a) in the case of the first revocation of the short-term relief benefit, not less than 3 months have elapsed from the date the short-term relief benefit was revoked; or
 - (b) in the case of the second revocation of the short-term relief benefit, not less than 6 months have elapsed from the date of the second revocation of the short-term relief benefit.
- (2) If an individual re-applies for the short-term relief benefit in accordance with subsection (1) and is successful, the total amount of payments of the short-term relief benefit paid to a recipient within the financial year can not exceed the maximum period specified in section 3(2).

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False information

19 (1) Any person who, for the purposes of this Act and any regulations made under it, knowingly makes any false statement or knowingly provides any false information commits an offence.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of \$1,500 or imprisonment for six months or to both.

Recovery of overpayment of funds improperly paid

20 (1) The Director may require a recipient to repay any sum of money improperly paid in connection with the short-term relief benefit ('overpayment') as a result of non-disclosure of facts, misrepresentation or for any other cause and may suspend further payments of the short-term relief benefit until such sum has been repaid.

(2) The Director may waive the overpayment or may require the recipient to pay a reduced amount if he is satisfied that a recipient has exercised due care and diligence to avoid the overpayment.

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

Rights of appeal

21 (1) A person aggrieved by a decision of the Director—

- (a) to refuse his application for the short-term relief benefit;
- (b) to suspend in whole or in part his short-term relief benefit;
- (c) to revoke his short-term relief benefit; or
- (d) to require him to repay any sum of money under section 20,

may appeal against the decision to the Board, within 21 days from the date on which notification of the Director's decision was received.

(2) Sections 16 and 17 of the Financial Assistance Act 2001 and regulations 10 to 16 of the Financial Assistance Regulations 2004, apply in respect of appeals to the Board under this Act, as they apply in respect of appeals to the Board under the Financial Assistance Act 2001 Act with the necessary modifications.

Director to keep records

22 For the purposes of this Act, the Director shall keep a copy of each application submitted, with the following information relating to it—

- (a) the documentation submitted in support of each application;
- (b) whether it was approved or refused;
- (c) the amount (if any) permitted to be given to the applicant;
- (d) payment records; and

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- (e) the reasons given if the application was refused.

Regulations by Minister

23 (1) The Minister may make regulations for carrying out the purposes of this Act, and, without limiting the generality of the foregoing, may make regulations providing—

- (a) the procedure for application for the short-term relief benefit;
- (b) the procedure for payment of the short-term relief benefit;
- (c) for the determination of the financial resources of any person;
- (d) that the income or capital of any person is to be taken as exceeding or not exceeding, a prescribed amount;
- (e) for the recovery of overpayments under section 20;
- (f) for the investigation of matters pertaining to eligibility for the short-term relief benefit and matters pertaining to the granting, review or payment of the short-term relief benefit;
- (g) for the information to be supplied by or in respect of applicants or recipients;
- (h) for the verification of information that is submitted to the Director;
- (i) for any matter which is authorised or required by this Act to be prescribed by regulations.

(2) Regulations made under this section shall be subject to the negative resolution procedure.

Commencement

24 This Act shall come into operation on such day as the Minister may appoint by notice published in the Gazette.

FINANCIAL ASSISTANCE (SHORT-TERM RELIEF BENEFIT) BILL 2024

EXPLANATORY MEMORANDUM

This Bill seeks to establish a framework to provide financial assistance on a short-term basis for those experiencing sudden financial hardship.

Clause 1 provides the citation for the Bill.

Clause 2 provides for the interpretation of terms used in the Bill.

Clause 3 provides a description of the short-term relief benefit, its temporary nature, the maximum period for which it can be paid and the amount of the short-term relief benefit.

Clause 4 provides the functions of the Director.

Clause 5 provides the powers of the Director.

Clause 6 provides that Government Departments are to provide such information to the Director as he may reasonably require in the exercise of his functions under this Act.

Clause 7 provides who is qualified to apply for the short-term relief benefit.

Clause 8 provides who is eligible for the short-term relief benefit.

Clause 9 provides the application process for the short-term relief benefit and the requirements of any application to be submitted for the short-term relief benefit.

Clause 10 provides that the Director may grant approval of or refuse to grant approval of an application for the short-term relief benefit, and that such decision shall be in writing.

Clause 11 provides the conditions applicable to an approved short-term relief benefit to be paid.

Clause 12 provides for payment of the short-term relief benefit.

Clause 13 provides that the short-term relief benefit is inalienable.

Clause 14 provides the Director with the power to review a short-term relief benefit on new facts being brought to his attention or if he is satisfied that the decision was given in ignorance of, or was based on a misrepresentation as to some material fact.

Clause 15 provides the Director with investigative powers.

Clause 16 provides for the suspension of the short-term relief benefit where a question has arisen in relation to a recipient's eligibility or where a determination by the Director ought to be reviewed.

Clause 17 provides the Director with the power to revoke the payment of the short-term relief benefit if there has been a breach of any condition of the short-term relief benefit, if any circumstances arise such that, if that person were not a recipient, would

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disqualify him from applying for the short-term relief benefit, if the recipient has ceased to fulfill the criteria for eligibility for the short-term relief benefit, or if the recipient in connection with an application for the short-term relief benefit has provided false, misleading or inaccurate information.

Clause 18 provides that persons whose short-term relief benefit has been revoked may re-apply for the short-term relief benefit.

Clause 19 provides for the offence of knowingly making any false statement or knowingly providing any false information.

Clause 20 provides that the Director can recover from a recipient any sum of money improperly paid in connection with the short-term relief benefit ('overpayment') as a result of nondisclosure of facts, misrepresentation or for any other cause and may suspend further payments of the short-term relief benefit until such sum has been repaid.

Clause 21 provides that a person aggrieved by a decision of the Director may appeal to the Financial Assistance Review Board.

Clause 22 requires the Director to keep records of each application submitted.

Clause 23 provides that the Minister may make regulations.

Clause 24 provides for commencement.