



Province of Alberta

ASSURED INCOME FOR THE SEVERELY HANDICAPPED ACT

Statutes of Alberta, 2006
Chapter A-45.1

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Assured Income for the Severely Handicapped Act* that are filed as Alberta Regulations under the Regulations Act.

	Alta. Reg.	<i>Amendments</i>
Assured Income for the Severely Handicapped Act		
Applications and Appeals (Ministerial).....	89/2007	147/2013, 201/2016, 32/2017, 170/2018
Assured Income for the Severely Handicapped General	91/2007	180/2007, 41/2008, 131/2008, 148/2008, 203/2008, 132/2009, 162/2011, 68/2012, 143/2016, 91/2018, 222/2018

ASSURED INCOME FOR THE SEVERELY HANDICAPPED ACT

Chapter A-45.1

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Schedules

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

Definitions

1 In this Act,

- (a) “Alberta CPI” means the monthly All-items Consumer Price Index for Alberta, not seasonally adjusted, published by Statistics Canada;

- (a.1) “benefit” means a benefit referred to in section 3(1);
- (b) “client” means a recipient of a benefit who is eligible under section 3.2;
- (c) “cohabiting partner” means a cohabiting partner as defined in the regulations;
- (c.1) “CPI adjustment date” means the CPI adjustment date specified in the regulations;
- (c.2) “CPI adjustment year” means the period from the CPI adjustment date of the specified year to the last day of the 12th month after the CPI adjustment date;
- (d) “Department” means the Department administered by the Minister;
- (e) “dependent child” means a dependent child as defined in the regulations;
- (f) “director” means a person designated by the Minister as a director for the purposes of this Act;
- (g) “facility” means a facility as defined in the regulations;
- (h) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (i) “severe handicap” means an impairment of mental or physical functioning or both that, in a director’s opinion after considering any relevant medical or psychological reports, causes substantial limitation in the person’s ability to earn a livelihood and is likely to continue to affect that person permanently because no remedial therapy is available that would materially improve the person’s ability to earn a livelihood.

2006 cA-45.1 s1;2018 c17 s2

Delegation by director

2 A director may delegate any power, duty or function conferred or imposed on a director under this Act to any employee of the Department or of an Indian or Metis organization.

Benefits

3(1) A director may, subject to this Act and in accordance with the regulations, provide the following benefits:

- (a) a living allowance, a child benefit or a personal benefit to a person who is eligible under section 3.2;
 - (b) a health benefit to a person who is eligible under section 3.2 and any cohabiting partner or dependent children of that person.
- (2) A director may provide a modified amount of a living allowance in accordance with this Act and the regulations to a person who resides in a facility.

2006 cA-45.1 s3;2018 c17 s2

Benefit amounts and adjustment

3.1(1) This section applies to the following benefits or benefit components:

- (a) a living allowance;
 - (b) the part of a modified living allowance that is not based on the accommodation charge set out in section 3(1) of the *Nursing Homes Operation Regulation* (AR 258/85);
 - (c) a child benefit;
 - (d) subject to Schedule 1, a personal benefit.
- (2) The amount of a benefit or a benefit component referred to in subsection (1) is
- (a) effective January 1, 2019, the amount set out in Schedule 1 or determined in accordance with Schedule 1, and
 - (b) subject to Schedule 1, effective January 1, 2020, an amount adjusted annually on the CPI adjustment date in accordance with Schedule 1.
- (3) A new CPI adjustment date may be set under the regulations if the new date does not result in more than 12 months between adjustments of benefits or benefit components.
- (4) Despite subsection (2)(b), a benefit or a benefit component referred to in subsection (1) must not be adjusted under this section in a CPI adjustment year if the change in the Alberta CPI applicable to that year is a negative number.
- (5) Despite subsections (2) and (4), the amount of a benefit or a benefit component may be increased at any time in accordance with the regulations.

2018 c17 s2

Eligibility for benefits

3.2(1) Subject to subsection (2), a person is eligible to receive a benefit if the person satisfies a director that

- (a) the person is a Canadian citizen or permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada), is ordinarily resident in Alberta and is 18 years of age or older,
- (b) the person has a severe handicap,
- (c) the income of the person and the person's cohabiting partner as determined in accordance with Schedule 2 is less than the maximum amount of the living allowance plus, if applicable, the child benefit,
- (d) the value of all assets of the person and the person's cohabiting partners as determined in accordance with the regulations is
 - (i) \$100 000 or less, or
 - (ii) in the case of eligibility for a personal benefit, \$5000 or less,

and

- (e) the person meets any other conditions set out in the regulations.

(2) Where the Minister determines that a person is in circumstances of financial hardship, the Minister may exempt that person from the requirement of

- (a) subsection (1)(c), in the case of eligibility for a health benefit, and
- (b) subsection (1)(d)(ii).

2018 c17 s2

Exempt assets

3.3 For the purposes of section 3.2(1)(d), the value of all assets of a person and the person's cohabiting partner must not include

- (a) the value of any assets that are held in a trust in which the person or the person's cohabiting partner has a beneficial interest, or
- (b) money received where that money is

- (i) not income as determined in accordance with Schedule 2, and
- (ii) invested within 365 days from the date of receipt of the money in an asset designated in the regulations for the purposes of this section.

2018 c12 s1;2018 c17 s2

Application for benefit

4 An application for a benefit must be made to a director in accordance with the regulations.

Review of benefit eligibility

5(1) An applicant or client and his or her cohabiting partner must provide any information a director considers necessary as required by the director to determine if the applicant or client is eligible or continues to be eligible to receive a benefit.

(2) Without limiting the generality of subsection (1), an applicant or client must provide any information about his or her physical, mental or psychological condition and undergo any physical, mental or psychological examinations a director considers necessary to determine if the applicant or client is severely handicapped.

(3) An applicant or client must, subject to the regulations, notify a director of the following:

- (a) a change in his or her handicap;
- (b) a change in income;
- (c) an increase in assets;
- (d) any other matter specified in the regulations.

(4) A director may, in accordance with the regulations, refuse, suspend, vary or discontinue a benefit.

Third parties and financial administrators

6(1) A director may pay a third party for goods or services provided to a client from the client's benefit if the client consents.

(2) A director may appoint a financial administrator to manage all or part of a client's benefit if the client is unable to manage his or her own affairs and the client consents or the director is authorized by regulation.

(3) A financial administrator must administer a client's benefit in accordance with the regulations.

Requirement to repay

7(1) Subject to subsection (4) and the regulations, a client must repay the amount or value of a benefit received if, in a director's opinion,

- (a) a benefit has been used for a purpose other than that for which it was provided, or
- (b) the client received a benefit to which the client was not entitled.

(2) A financial administrator or third party may be required by a director to repay the amount or value of a benefit received on behalf of a client if, in the director's opinion,

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

(3) A director must provide written notice of the following to a person who is required to repay an amount or value under this section:

- (a) the amount or value to be repaid;
- (b) any amount or value the director is exempting the person from repaying under subsection (4);
- (c) the right to appeal under section 10.

(4) If a director determines there are appropriate circumstances, the director may exempt a person from the requirement to repay an amount or value unless

- (a) the amount or value is a debt due under section 9(1), or
- (b) in the director's opinion, the person received the benefit by wilful misrepresentation or fraud.

2006 cA-45.1 s7;2018 c17 s2

Underpayments

8 Where a director determines that there has been an underpayment of a benefit, the director may address the underpayment in accordance with the regulations.

Debt due

9(1) An amount repayable under section 7 is a debt due to the Government when

- (a) the client has agreed in writing to repay the value or amount of a benefit,
- (b) the appeal period under section 10 has expired, or
- (c) 30 days has elapsed after a client abandoned an appeal under section 10 or was notified in writing of the determination of the appeal.

(2) A director may take any of the following actions the director considers necessary to collect any debt due to the Government:

- (a) entering into a repayment agreement with the debtor;
- (b) deducting the amount owing from a future benefit payable to the client in an amount determined in accordance with the regulations until the amount owing has been paid;
- (c) filing with the clerk of the Court of Queen's Bench at any judicial centre a certificate of the Minister certifying the amount owing;
- (d) bringing an action in debt.

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

2006 cA-45.1 s9;2009 c53 s26

Appeals

10(1) The Minister may establish one or more appeal panels to hear appeals under this Act.

(1.1) In establishing an appeal panel, the Minister may

- (a) appoint or provide for the manner of the appointment of its members,
- (b) prescribe the term of office of any member,

- (c) designate a chair and one or more vice-chairs, and
- (d) authorize, fix or provide for the payment of remuneration and expenses to its members.

(1.2) The quorum to hear an appeal is 3 members, but an appeal may be heard by one member for procedural matters related to the appeal or in emergency circumstances provided for in the regulations.

(1.3) A member of an appeal panel may be reappointed.

(1.4) Notwithstanding subsection (1.1), where an appeal panel member's appointment expires, the member continues to hold office until

- (a) the member is reappointed,
- (b) a successor is appointed, or
- (c) a period of 3 months has elapsed,

whichever occurs first.

(2) A person affected by a decision of a director, or a person on his or her behalf, may appeal that decision if it is not exempt from appeal under the regulations and the appeal is made in writing to an appeal panel within 30 days from when the person was notified of the decision and the right to appeal it.

(3) An appeal panel may, subject to this Act and the regulations, confirm, reverse or vary the decision of a director appealed from, and the decision of the appeal panel is final.

(4) The Minister may extend the time for appeal under subsection (2) if the Minister is satisfied that there are apparent grounds of appeal and a reasonable explanation for the delay.

2006 cA-45.1 s10;2016 c19 s4

Offences

11(1) A person who is required to provide information under this Act and knowingly gives false information, conceals information or omits to provide information is guilty of an offence and liable to a fine of not more than \$1000 and, where ordered by a judge, repayment of the amount or value of the benefit received.

(2) A financial administrator or third party is guilty of an offence and liable to a fine of not more than \$5000 if he or she

- (a) benefits from a benefit knowing that the client was not entitled to receive it, or
- (b) wilfully misuses a benefit provided for a client.

Regulations

12(1) The Lieutenant Governor in Council may make regulations

- (a) respecting living allowances, child benefits, health benefits and personal benefits payable, including the retroactive provision of those benefits;
 - (a.1) respecting increases to the amounts of benefits or benefit components, except personal benefits, including regulations
 - (i) respecting the amounts of increases or the manner in which the amounts of increases are to be determined;
 - (ii) respecting the timing of increases;
 - (a.2) respecting increases to the value of assets for the purpose of section 3.2(1)(d)(i) and (ii);
 - (a.3) respecting CPI adjustment dates;
 - (a.4) respecting matters arising when a CPI adjustment date is changed, including the manner in which adjustments to benefits or benefit components are to be calculated;
- (b) respecting the circumstances in which a director may provide, refuse, suspend, vary or discontinue a benefit;
- (c) repealed 2018 c17 s2;
- (d) respecting the determination of the assets of an applicant or client and his or her cohabiting partner and the value of those assets;
 - (d.1) designating assets for the purposes of section 3.3(b)(ii);

(NOTE: Clause (d.1) applies on and after April 1, 2018. See SA 2018 c12 s4.)

- (e) respecting the notification requirements for changes in a handicap, income, assets and other matters specified in the regulations;
- (f) respecting the appointment and duties of a financial administrator;

- (g) respecting requirements to repay under section 7, including the circumstances in which a director does not have to or must not require repayment;
- (h) respecting underpayments;
- (i) respecting the collection of debts due under section 9(2)(b);
- (j) respecting the collection, use or disclosure of information for the purposes of administering this Act;
- (k) defining for the purposes of this Act “cohabiting partner”, “dependent child”, “facility” and any other word or phrase used in this Act but not defined in this Act;
- (l) respecting any other matter that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(2) The Minister may make regulations

- (a) respecting applications for benefits;
- (b) respecting appeals, the decisions of a director that are exempt from appeal and the emergency circumstances in which an appeal may be heard by one member of an appeal panel;
- (c) respecting the transition of any matter from the previous legislation.

2006 cA-45.1 s12;2016 c19 s4;2018 c12 s1;2018 c17 s2

Transitional

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

- (a) was subject to deductions from assistance under section 38 of the *Income and Employment Supports Act*,
- (b) was issued a repayment notice under Part 6 of the *Income and Employment Supports Act*, or
- (c) entered into an agreement to repay under the *Social Development Act*, the *Income Support Recovery Act*, the *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45, or the *Income and Employment Supports Act*,

and, in addition, the Director under the *Income and Employment Supports Act* may, in respect of the matters referred to in clause (a),

(b) or (c), deduct an amount owing from a benefit for which the person is eligible under this Act.

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

2006 cA-45.1 s13;2007 c20 s18

14 *(This section amends other Acts; the amendments have been incorporated into those Acts.)*

Repeal

15 The *Assured Income for the Severely Handicapped Act*, RSA 2000 cA-45, is repealed.

Coming into force

16 This Act comes into force on Proclamation.

(NOTE: Proclaimed in force May 1, 2007.)

Schedule 1

Calculation of adjusted amounts

1 Subject to the regulations, a benefit or a benefit component that is to be adjusted under section 3.1(2)(b) of this Act must be adjusted by an amount equal to

(a) the amount of the benefit or the benefit component for the previous CPI adjustment year, including any increase to that amount made under the regulations,

multiplied by

(b) the change in the Alberta CPI determined in accordance with section 2.

Change in Alberta CPI

2(1) The change in the Alberta CPI is the amount determined by the formula

$$X = \frac{A}{B} - 1$$

where

- X is the change in the Alberta CPI, rounded to 3 decimal places;
- A is the sum of the 12 individual Alberta CPI indexes for each month in the 12-month period ending on September 30 of the calendar year that ended before the commencement of the CPI adjustment year;
- B is the sum of the 12 individual Alberta CPI indexes for each month in the 12-month period immediately preceding the 12-month period referred to in A.

(2) The Minister, in consultation with the Minister responsible for the *Financial Administration Act*, shall determine the amount by which benefits and benefit components must be adjusted under section 1 if the Alberta CPI is not available for part or all of the CPI adjustment year for which the change in the Alberta CPI is being calculated.

Modified living allowance

3(1) A modified monthly living allowance may be paid to an applicant or a client who resides in a facility.

(2) Subject to section 6, the amount of the monthly modified living allowance is the sum of

- (a) for the 2019 CPI adjustment year,
 - (i) \$322, and
 - (ii) in accordance with subsection (3), the accommodation charge set in section 3(1) of the *Nursing Homes Operation Regulation* (AR 258/85),

and

- (b) for the 2020 CPI adjustment year and subsequent CPI adjustment years,
 - (i) an amount adjusted in accordance with section 1, and
 - (ii) in accordance with subsection (3), the accommodation charge set in section 3(1) of the *Nursing Homes Operation Regulation* (AR 258/85).

(3) The applicable accommodation charge is

- (a) the private room rate, or
- (b) if the facility is funded under the Lodge Assistance program, the standard room rate.

Living allowance

4(1) A monthly living allowance may be paid to an applicant or a client who does not reside in a facility.

(2) Subject to section 6, the amount of the monthly living allowance is

- (a) for the 2019 CPI adjustment year, \$1685, and
- (b) for the 2020 CPI adjustment year and subsequent CPI adjustment years, an amount adjusted in accordance with section 1.

Child benefit

5(1) A monthly child benefit may be paid to one applicant or client per household per dependent child.

(2) Subject to section 6, the amount of the monthly child benefit is

- (a) for the 2019 CPI adjustment year, \$200 for the first child and \$100 for each additional child, and
- (b) for the 2020 CPI adjustment year and subsequent CPI adjustment years, amounts adjusted in accordance with section 1.

Deductions

6 The following must be deducted from a benefit paid under section 3, 4 or 5:

- (a) if the client resides in a group home owned and operated by the Government of Alberta that is designated by the Minister, the amount payable by the person for residence in that group home;
- (b) the client's income as determined in accordance with Schedule 2;
- (c) if the client's cohabiting partner is not a client, the cohabiting partner's income as determined in accordance with Schedule 2.

Personal benefit

7(1) The Minister may determine the amount of a personal benefit and the frequency with which a personal benefit may be provided.

(2) The amount of a personal benefit is

- (a) for the 2019 CPI adjustment year, the amount determined by the Minister, and

(b) for the 2020 CPI adjustment year and subsequent CPI adjustment years, an amount adjusted in accordance with section 1, subject to subsection (3) of this section.

(3) Section 3.1(2)(b) of this Act does not apply to a personal benefit amount that is

- (a) a reimbursement of an actual cost,
- (b) an amount established in an agreement entered into by the Minister, or
- (c) based on an amount that is determined under another enactment or under a Government program.

2018 c17 s2

Schedule 2

Determination of Income

Total income

1(1) The following constitute income that is included in a determination of income:

- (a) income reportable under the *Income Tax Act* (Canada) that is not exempted under Table 1;
- (b) tax-exempt employment, self-employment or pension income of a treaty Indian;
- (c) the value of support, as determined by a director, received by a sponsored immigrant under an agreement under the *Immigration and Refugee Protection Act* (Canada);
- (d) trust income, as deemed by a director, payable to a beneficiary under a trust.

(2) The following are deducted from the related income under subsection (1) in a determination of income:

- (a) if the income is employment income,
 - (i) the deductions allowable under the *Income Tax Act* (Canada) for
 - (A) income tax,
 - (B) *Canada Pension Plan* (Canada) premiums,
 - (C) employment insurance premiums,

- (D) union, professional and like dues, and
 - (E) other employment expenses,
- and
- (ii) any deductions required by an employer as a condition of the employment;
- (b) if the income is self-employment income, limited or non-active partnership income or rental income, the deductions allowable under the *Income Tax Act* (Canada) for
 - (i) determining net income,
 - (ii) *Canada Pension Plan* (Canada) contributions, and
 - (iii) union, professional and like dues;
 - (c) if the income is employment insurance income, income tax;
 - (d) if the income is tax-exempt employment income of a treaty Indian,
 - (i) the deductions that would have been allowable under clause (a)(i), had the income been taxable, and
 - (ii) any deductions allowable under clause (a)(ii);
 - (e) if the income is tax-exempt self-employment income of a treaty Indian, the deductions that would have been allowable under clause (b), had the income been taxable.
- (3)** Despite subsection (2), a director is not required to deduct the following under that subsection:
- (a) any amount referred to in subsection (2)(a)(i), (b), (c), (d)(i) or (e) that, in the director's opinion, would not be allowed under the *Income Tax Act* (Canada) or that artificially reduces net income;
 - (b) any amount referred to in subsection (2)(a)(ii) or (d)(ii) that the director is not satisfied is being deducted as a condition of the employment.
- (4)** After the items in subsection (2) have been deducted, the following are deducted from income, subject to subsection (5):
- (a) if the applicant or client does not have a cohabiting partner or a dependent child,

- (i) in respect of income that is listed in Table 2, the sum of
 - (A) 100% of the income up to \$300, plus
 - (B) 25% of the remainder,and
 - (ii) in respect of self-employment and employment income, the sum of
 - (A) 100% of the income up to \$1072, plus
 - (B) 50% of the income in excess of \$1072 up to \$2009;
 - (b) if the applicant or client has a cohabiting partner or a dependent child,
 - (i) in respect of income that is listed in Table 2 and income of the cohabiting partner that is listed in Table 3, the sum of
 - (A) 100% of the income up to \$875, plus
 - (B) 25% of the remainder,and
 - (ii) in respect of self-employment and employment income, the sum of
 - (A) 100% of the income up to \$2612, plus
 - (B) 50% of the income in excess of \$2612 up to \$3349.
- (5)** For the purposes of subsection (4), cohabiting partners who are both applicants or clients are treated as if
- (a) they did not have a cohabiting partner, and
 - (b) only one has, if any, a dependent child.
- (6)** The remainder of the income is then prorated or applied to a specific month in accordance with section 2 of this Schedule to determine income for the purposes of sections 3.2(1)(c) and 3.3(b)(i) of this Act and section 6(b) and (c) of Schedule 1.
- (7)** If the hourly minimum wage established under the *Employment Standards Code* is increased, the maximum amounts referred to in subsection (4)(a)(ii) and (b)(ii) must be increased by a percentage,

rounded to 3 decimal places, equal to the percentage increase in the minimum wage and rounded up to the nearest dollar.

Monthly income

2(1) Self-employment income is determined by taking the previous year's income and prorating it over 12 months.

(2) Income, excluding self-employment income, is determined, in the sole discretion of a director, by one of the following methods:

- (a) if income is reported monthly, based on the prior month's actual income;
- (b) if income is reported other than monthly,
 - (i) based on actual monthly income of the prior reporting period,
 - (ii) based on the prior reporting period's actual income prorated over the number of months in that period, or
 - (iii) a combination of (i) and (ii).

(3) Despite subsection (1), if, in a director's opinion, there is a significant change in the present year's self-employment income, the director may prorate the previous year's self-employment income over a different period.

(4) Despite subsections (1) and (3), if, in a director's opinion, income is reported that relates to a different or longer period, the director may apply or prorate the income to that period.

Amending this Schedule

3 The Lieutenant Governor in Council may by regulation amend this Schedule as follows:

- (a) by adding additional types of deductions from income under section 1(2);
- (b) by adding additional amounts not required to be deducted from income under section 1(3);
- (c) by increasing the amounts referred to in section 1(4);
- (d) by adding additional sources of income to be exempted under Table 1, 2 or 3.

Table 1
100% Income Exemptions

1 The following income reportable under the *Income Tax Act* (Canada) is exempted from the determination of income:

- (a) honoraria;
- (b) death benefits;
- (c) income for the benefit of a dependent child under the following:
 - (i) a child support agreement;
 - (ii) the *Child, Youth and Family Enhancement Act*;
- (d) a benefit under this Act;
- (e) a benefit under the *Seniors Benefit Act* if it is received by a cohabiting partner;
- (f) RRSP withdrawals;
- (f.1) a payment under a registered disability savings plan under section 146.4 of the *Income Tax Act* (Canada);
- (g) an award or prize given in recognition of outstanding academic or community achievement;
- (h) a scholarship, bursary or other form of contribution used for educational purposes at a school or educational establishment recognized under the *Income Tax Act* (Canada);
- (i) an education or training grant, an artist grant or a grant to start a business;
- (j) money received for home repairs or renovations from the Government of Canada or Alberta or from a community service organization;
- (k) income exempted by the Minister where
 - (i) an applicant or client or his or her cohabiting partner is residing in a facility, and
 - (ii) the Minister determines that the inclusion of the income would create a financial hardship;

- (l) a payment received from the Government of Canada or Alberta or the government of another province or territory exempted by the Minister for the purpose of this clause.

Table 2
Partial Income Exemptions

- (a) limited or non-active partnership income;
- (b) rental income;
- (c) trust income;
- (d) non-pension annuity income;
- (e) investment income.

Table 3
**Special Income Exemptions for
Cohabiting Partners**

- (a) pension income;
- (b) income under the *Workers' Compensation Act*;
- (c) income under the *Employment Insurance Act (Canada)*;
- (d) income, other than a death benefit, under the *Canada Pension Plan (Canada)*.

2018 c17 s2



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