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FINANCIAL ASSISTANCE ACT 2001
2001 : 24
THE FINANCIAL ASSISTANCE REGULATIONS 2004

ARRANGEMENT OF REGULATIONS

1	Citation and commencement	11	Notice of appeal
2	Interpretation	12	Notification of appeal and written submissions
3	Criteria for eligibility for awards	13	Notice of hearing
4	Application for award	14	Conduct of hearing
5	Death of applicant	15	Decision of Board
6	Payment of award	16	Board's power to determine its own procedure
7	Person unable to act		Schedule
8	Cancellation or suspension of award		Table of Allowable Expenses
9	Investigation		
10	Time and manner of commencing appeal to Board		

In exercise of the powers conferred upon the Minister by section 21 of the Financial Assistance Act 2001, the following Regulations are hereby made:—

Citation and commencement

1. These Regulations may be cited as the Financial Assistance Regulations 2004 [and shall come into operation on the first day of July 2004].

Interpretation

2. (1) In these regulations —

"allowable expense" has the meaning given in paragraph (2);

"excluded income" means income from any of the following sources —

- (a) pension and other benefits payable under the Contributory Pensions Act 1970 and the Public Service Superannuation Act 1981 other than pensions and benefits payable to persons who are in residential care homes;
- (b) in relation to persons registered as foster parents under the Children Act 1998, fees payable in respect of the care and maintenance of foster children;
- (c) in relation to students in full-time education, holiday employment and part-time employment;
- (d) in relation to persons resident in a psychiatric facility, earnings to an amount not exceeding \$500 per calendar month;
- (e) in relation to persons resident in sheltered accommodation, earnings to an amount not exceeding \$500 per calendar month;

"household" means the head of the household and all members of his family and other persons who reside with him in his home;

"investments" includes money held on deposit, shares and stock in the share capital of a company, units in collective investment schemes and interest in real property;

"qualifying household income" means the aggregate income of the household from all sources (including profits from any business venture) other than excluded income;

(2) For the purposes of these Regulations, an expense is an allowable expense if it falls within the class of items of expenditure that is set out in column 1 of the table in the Schedule and is of such description, within such parameters, and at such rate, as are

respectively specified opposite an item of expenditure in columns 2, 3 and 4 therein.

Criteria for eligibility for awards

3. (1) A person is eligible for an award if in respect of any period for which he is claiming financial assistance—

- (a) the amount of allowable expenses of his household exceeds the amount of qualifying household income of the household for that period;
- (b) the value of investments (whether located in Bermuda or elsewhere) owned by the household does not exceed \$5,000; and
- (c) the household has an interest in real property in Bermuda with an annual rental value of less than \$9,900.

(2) The amount of the award for which a person is eligible under paragraph (1) (a) shall be determined in accordance with the following formula —

$$E - I = A$$

where —

E is the allowable expense;

I is the qualifying household income; and

A is the amount of the award.

(3) Where an applicant or a member of his household transfers real property with an annual rental value in excess of \$9,900 to a person who is not a member of the household within a period of five years ending with the date of application for an award, such transfer shall be treated as having been made for the purposes of eligibility if —

- (a) the transferor did not receive any consideration for the transfer; or
- (b) the Director considers that the consideration received for the transfer was inadequate because it did not represent the fair market value for the property;

and accordingly, the applicant shall not be treated as eligible for an award.

Application for award

4. (1) Every application shall be made in writing on a form approved by the Director, 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.

(2) An application shall be accompanied with an authorisation given to the Director by the applicant authorising the Director to approach the landlord, bank, employer or other person in order to verify any documents, statements or information.

(3) Where the applicant is a disabled person who is unable to make the application in person, the application may be made by a person authorised to act on his behalf.

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

Death of applicant

5. An application shall be treated as having lapsed if an applicant has died before any determination in respect of an award has been made.

Payment of award

6. (1) Payment of an award shall be made in such manner and shall commence at such dates as the Director in any particular case may determine.

(2) Where a recipient ceases to be eligible for an award or where the right to an award is extinguished, and a new application is made by another person residing at the premises who is eligible for an award, the award to that person commences from the first day following the day in which the recipient ceases to be eligible or as the case may be, the right to an award is extinguished.

Person unable to act

7. (1) Where an applicant or a recipient is or becomes unable for the time being to act the Director may, upon written application being made by the applicant or recipient, accept any responsible person appointed by the applicant or the recipient to act on his behalf.

(2) An applicant or a recipient may at any time revoke any appointment made under paragraph (1) and the person appointed under paragraph (1) may, on giving the applicant or the recipient notice in writing of his intention so to do, terminate his appointment.

Cancellation or suspension of award

8. The Director may cancel or suspend an award where —
- (a) the recipient ceases to be eligible for an award under the Act or these Regulations;
 - (b) the recipient fails to provide the Director with the information required to enable him to determine his eligibility for an award or the amount of an award;
 - (c) in respect of housing assistance —
 - (i) the recipient ceases to reside at the premises; or
 - (ii) the premises that are the subject of a separate letting are in the opinion of the Director not fit for human habitation.

Investigation

9. The Director shall —
- (a) investigate and verify any statements made in an application; or
 - (b) investigate and examine the circumstances of an applicant or a recipient in relation to his eligibility for an award or for the amount of an award.

Time and manner of commencing appeal to Board

10. (1) For the purpose of section 14 of the Act, the time for appealing a decision of the Director is 30 days from the day on which the Director's decision is notified to the appellant.

(2) A request to the Board for a hearing shall be made by filing with the Board a notice of appeal.

Notice of appeal

11. (1) The notice of appeal shall be signed by or on behalf of the appellant and shall contain the following particulars —
- (a) the appellant's name;
 - (b) his address;
 - (c) the address, if different from that referred to in paragraph (b), to which applications, notices and other documents in connection with the appeal should be sent to the appellant;

(d) a statement of the decision or finding of the Director against which the appeal is made; and

(e) the grounds of appeal, which shall contain sufficient particulars to show why the appellant considers the decision appealed against was unlawful or was not justified by the evidence on which it was based.

(2) The appellant shall send a copy of the notice of appeal to the Director.

Notification of appeal and written submissions

12. (1) If the Director intends to file a written submission on the appeal, he shall file it with the Board within 21 days after receiving a copy of the notice of appeal.

(2) Where the Director files a written submission, he shall send a copy of it to the appellant.

Notice of hearing

13. (1) The Board shall send a notice of hearing to all parties within 30 days after the filing of the notice of appeal under regulation 10 (2) or the filing of a submission under regulation 12 (1), as the case may be.

(2) The notice of hearing shall set out the place, date and time of the hearing.

(3) The Board shall give the parties at least 10 days notice of the hearing.

Conduct of hearing

14. (1) The hearing of an appeal before the Board shall not be open to the public.

(2) The appellant shall present his case first on a hearing of an appeal.

(3) Unless the parties agree otherwise, a party who intends to produce written or documentary evidence or written submissions at a hearing shall provide copies of that evidence or those submissions to the other party and the Board at least 10 days before the hearing.

(4) The Board may, on the application of a party to the appeal or on its own motion, by direction given at the hearing or by notice in writing require the appellant, the Director or any other person, at a time and place stated in the notice, to attend and give evidence or produce

any document in that person's custody or under his control which relates to any matter in question at the hearing.

(5) The Board may require any witness to give evidence on oath or affirmation which may be administered for that purpose by the Board.

(6) Evidence may be admitted by the Board whether or not it is admissible in a court of law.

(7) The Board shall ensure that the evidence at a hearing of an appeal is recorded by notes taken by a member of the Board participating in the hearing or by a method from which an accurate transcript can be produced.

Decision of Board

15. (1) The Board shall deliver a written decision to the parties to an appeal within 15 days after it last receives evidence or submissions on the appeal.

(2) The Board's decision shall include the principal findings of fact and its conclusions based on those findings.

(3) If an appellant withdraws a notice of appeal —

(a) the Board is not required to deliver a decision; and

(b) the withdrawal shall be deemed to be a final order.

Board's power to determine its own procedure

16. Subject to the provisions of the Act and of these Regulations, the Board shall have power to determine its own procedure.

THE SCHEDULE (Regulation 2(2))

TABLE OF ALLOWABLE EXPENSES

ITEM OF EXPENDITURE	DESCRIPTION	PARAMETERS	Maximum Rates \$
Adult clothing		Cost per month	\$ 500.00
Adult day care arrears		Cost not exceeding two months arrears	

Adult day care		Cost per month	\$ 760.00
Aged dependents allowance		Cost per month	\$1,500.00
Aged dependents allowance arrears		Cost not exceeding two months arrears	
Belco	1 - 2 persons	Cost per month	\$ 85.00
Belco	3 - 4 persons	Cost per month	\$ 160.00
Belco	5 or more persons	Cost per month	\$ 205.00
Belco arrears	Utility arrears payment	Cost not exceeding two months arrears	
Child day care		At cost	
Child day care arrears		Cost not exceeding two months arrears	
Comfort allowance		Cost per month	\$ 80.00
Disability allowance	Mental/physical	Cost	\$ 540.00
Disability arrears		Cost not exceeding two months arrears	
Disability equipment/services		Cost	\$1,000.00
Eye care	Eye care - exam	Cost	\$ 75.00
Eye care	Eye care - frames	Cost	\$ 200.00
Food	Diabetic allowance	Cost per month	\$ 135.00
Food		Cost at Gov. nutritionist rates	
Food	Special diet	Cost per month	\$ 50.00
Fuel	Cooking gas	Cost not exceeding the rate for one cylinder	

Fuel arrears	Cooking gas arrears	Cost not exceeding two months arrears	
Funeral expenses		Cost per month	\$2,500.00
Groceries arrears		Cost per month	\$2,000.00
Group home arrears		Cost not exceeding two months arrears	
Group home rates		At cost	
HIP		At cost	
HIP medical arrears		Cost not exceeding two months arrears	
Home furnishings	Essentials (Special needs)	Cost	\$ 500.00
Home repairs		Cost	\$2,000.00
Insurance (medical insurance)		Cost not exceeding HIP rates	
Laundry		Cost per person per month	\$ 20.00
Medical supplies		Cost per month	\$ 500.00
Medical equipment		Cost per month	\$1,000.00
Medical (airfare per person) overseas travel		At cost	
Medical insurance arrears		Cost not exceeding two months arrears at HIP rates	
Medication		At cost	
Medication arrears		At cost	
Mortgage interest		At rates not exceeding rates for rented premises	

Mortgage interest arrear		At rates not exceeding rates for rented premises not exceeding two months arrear	
Nursing home		Cost per month	\$3,500.00
Personal/household		Cost per month	\$ 55.00
Property insurance		Cost per month	\$ 500.00
Public transportation	Adults	Cost per month	\$ 55.00
Public transportation	students	Cost per month	\$ 15.00
Rent	Studio	Cost per month	\$ 900.00
Rent	1 bedroom	Cost per month	\$1,100.00
Rent	2 bedroom	Cost	\$1,600.00
Rent	3 bedroom	Cost	\$2,000.00
Rent arrear		Costs per month	\$1,000.00
Rest home arrear		Cost not exceeding two months arrear	
Rest home rates		Cost not exceeding two months arrear	
Room & board		Cost per month	\$ 700.00
Room and board arrear		Cost not exceeding two months arrear	
Room		Cost per month	\$ 600.00
Room arrear		Cost not exceeding two months arrear	
School supplies		Cost per academic year	\$ 100.00

School clothing		Cost per academic year	\$2,000.00
Telephone		Cost per month	\$ 26.00
Telephone arrears	Local calls	Cost not exceeding two months arrears	
Water		At cost	
Water arrears		Cost not exceeding two loads	

Made this day of , 2004

Minister of Health and Family Services