

**A BILL**

**entitled**

**FINANCIAL ASSISTANCE AMENDMENT (NO. 2) ACT 2023**

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	Consequential amendments to the Financial Assistance Regulations 2004

WHEREAS it is expedient to amend the Financial Assistance Act 2001, to provide consequential amendments to the Financial Assistance Regulations 2004 and to make related amendments to the Financial Assistance Amendment Act 2021;

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:

**Citation**

1 This Act, which amends the Financial Assistance Act 2001 (the "principal Act") may be cited as the Financial Assistance Amendment (No. 2) Act 2023.

**Amends section 2**

2 Section 2 of the principal Act is amended by inserting in the appropriate alphabetical order the following—

“applicant” means—

- (a) an individual;
- (b) a spouse, in the case of a married couple; or
- (c) a partner, in the case of persons in a domestic partnership,

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that qualifies under section 6 to make an application under this Act and that has submitted an application for a financial assistance award under section 7(1) or a subsequent award under section 7(1A);

“household” means the household of an applicant for or a recipient of a financial assistance award or subsequent award and includes—

- (a) the applicant or recipient’s family member who resides with him in the same house;
- (b) any other person who is financially dependent on the applicant or recipient, whether or not such person resides in the same house as the applicant or recipient,

who has been declared as part of the household on the application submitted under this Act for a financial assistance award or subsequent award and who has been approved as a member of the household by the Director;

“third party” means the proprietor of a rest home or nursing home, a landlord, a day care provider or other similar vendor who has received funds on behalf of a recipient for the purposes of payment of a benefit that has been granted under an award or subsequent award.”.

### **Amends section 4**

3 Section 4 of the principal Act is amended as follows—

(a) in subsection (1) by inserting after paragraph (c)—

“(d) require a third party to attend at such specified time and place for the purpose of investigating matters relating to the funds paid to the third party on behalf of a recipient in accordance with an award or subsequent award. ”;

(b) by inserting after subsection (3) the following—

“(4) Any person who—

- (a) assaults or obstructs any officer as authorised by the Director in the performance of his functions under this section;
- (b) uses indecent, abusive or insulting language to the authorised officer in the performance of his functions under this section;
- (c) fails to comply with any requirement made by an authorised officer under this section,

commits an offence and is liable on summary conviction to a fine of \$1,500 or to imprisonment for six months.”.

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### **Amends section 13**

4 Section 13 of the principal Act is amended as follows—

- (a) in the heading by inserting after the word “overpayment” the words “or funds improperly paid”;
- (b) by inserting after subsection (3) the following—

“(3A) The Director may require a third party to repay any sum of money improperly paid to the third party under an award or subsequent award where there has been—

- (a) an administrative error;
- (b) a non-disclosure of facts by the recipient or the third party;
- (c) a misrepresentation by the recipient or the third party;
- (d) any other cause related to paragraphs (b) or (c).

(3B) Where a third party has been improperly paid as mentioned in subsection (3A), the Director may suspend further payments to such third party until the funds are repaid in full.”;

- (c) in subsection (4) by inserting after the words “subsection (1)” the words “, or by a third party under subsection (3A)”.

### **Amends section 14**

5 Section 14 of the principal Act is amended as follows—

- (a) by renumbering the current provision as subsection (1);
- (b) by inserting after subsection (1) the following—

“(2) A third party aggrieved by a decision of the Director—

- (a) to require them to repay any sum of money under section 13(3A);
- (b) to suspend further payments,

may appeal against the decision to the Board.”.

### **Consequential and related amendments**

6 (1) The Schedule to this Act has effect with respect to the consequential amendments to the Financial Assistance Regulations 2004.

(2) The Financial Assistance Amendment Act 2021 is amended as follows—

- (a) in section 2, by repealing paragraph (b);
- (b) in section 4, by repealing paragraphs (b), (c) and (d).

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**Commencement**

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

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**SCHEDULE**

(section 6)

**CONSEQUENTIAL AMENDMENTS TO THE FINANCIAL ASSISTANCE  
REGULATIONS 2004**

**Amends the Financial Assistance Regulations 2004**

(1) The Financial Assistance Regulations 2004 are amended in accordance with the provisions of this Schedule.

(2) Regulation 2(1) of the Financial Assistance Regulations 2004 is amended as follows—

- (a) in the definition of “excluded income” in paragraph (c) by inserting after the word “education,” the words “who do not exceed 25 years of age, their”;
- (b) in the definition of “excluded income” by inserting after paragraph (f) the following paragraphs—

- “(g) a donation or financial gift approved by the Director for other expenses which are not included for the purposes of an award or subsequent award;

- “(h) in relation to an order by the court for child support payments, 50% of the child support payment, not to exceed a maximum total of \$5,000 in any given period whilst receiving an award or subsequent award;

- “(i) in relation to a recipient, 50% of earnings not to exceed \$5,000 whilst receiving an award or subsequent award;”;

- (c) by revoking the definition of “household”.

(3) Regulation 3(1)(b) of the Financial Assistance Regulations 2004 is amended by deleting “does not exceed \$500” and substituting “does not exceed \$5,000”.

(4) Regulation 3A(2)(b) of the Financial Assistance Regulations 2004 is amended as follows—

- (a) by deleting “does not exceed—” and substituting “does not exceed \$5,000.”;

- (b) by deleting subparagraphs (i) and (ii).

(5) Regulation 4 of the Financial Assistance Regulations 2004 is amended by inserting after paragraph (3)—

“(3A) Where an applicant is a disabled person the application must include a medical opinion as provided in section 7A(1) of the Act.”.

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(6) Regulation 8 of the Financial Assistance Regulations 2004 is amended by inserting after paragraph (c)—

“(d) the recipient fails to comply with the conditions of the award or subsequent award.”.

## **FINANCIAL ASSISTANCE AMENDMENT (NO. 2) BILL 2023**

### **EXPLANATORY MEMORANDUM**

This Bill seeks to amend the Financial Assistance Act 2001 (the “principal Act”), to provide consequential amendments to the Financial Assistance Regulations 2004 and to make related amendments to the Financial Assistance Amendment Act 2021.

Clause 1 provides the citation of the Bill.

Clause 2 amends section 2 of the principal Act by inserting new definitions of “applicant”, “household” and “third party”.

Clause 3 amends section 4 of the principal Act to give the Director the power to require a third party to attend at such specified time and place to investigate matters relating to funds paid to a third party. Clause 3 makes it a summary offence if a person assaults or obstructs, or uses indecent, abusive or insulting language to any authorised officer in the performance of his functions under this clause. Clause 3 also makes it a summary offence if a person fails to comply with any requirement made by an authorised officer under this clause.

Clause 4 amends section 13 of the principal Act to provide the Director with the power to require a third party to repay any sum of money improperly paid by the Department of Financial Assistance on behalf of a recipient. Clause 4 also provides that the Director may suspend further payments to the third party until such funds have been repaid.

Clause 5 amends section 14 of the principal Act to provide a right of appeal for third-parties.

Clause 6 provides for consequential and related amendments to the Financial Assistance Regulations 2004 and the Financial Assistance Amendment Act 2021.

Clause 7 provides for commencement.