



**THE NEWFOUNDLAND
AND LABRADOR GAZETTE
EXTRAORDINARY**

Part II

PUBLISHED BY AUTHORITY

ST. JOHN'S, TUESDAY, NOVEMBER 30, 2004

**NEWFOUNDLAND AND LABRADOR
REGULATION**

143/04

144/04



**NEWFOUNDLAND AND LABRADOR
REGULATION 143/04**

Proclamation bringing
Act into force
under the
Income and Employment Support Act
(O.C. 2004-460)

(Filed November 26, 2004)

*ELIZABETH THE SECOND, by the Grace of God of the
United Kingdom, Canada and Her Other Realms and Territories
QUEEN, Head of the Commonwealth, Defender of the Faith.*

EDWARD ROBERTS
Lieutenant Governor

THOMAS W. MARSHALL, QC
Minister of Justice

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING;

A PROCLAMATION

WHEREAS in and by section 64 of *An Act Respecting the Provision of Income and Employment Support to the People of the Province*, S.N.L. 2002, c. I-0.1 (the "Act") it is provided that the Act shall come into force on a day to be fixed by Proclamation of Our Lieutenant Governor in Council.;

AND WHEREAS it is deemed it expedient that the Act shall now come into force.

NOW KNOW YE, that We, by and with the advice of Our Executive Council of Our Province of Newfoundland and Labrador, do by this our Proclamation declare and direct that *An Act Respecting the Provision of Income and Employment Support to the People of the Province*, S.N.L. 2002 c. I-0.1, shall come into force on November 30, 2004.

OF ALL WHICH OUR LOVING SUBJECTS AND ALL OTHERS whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Great Seal of Newfoundland and Labrador to be hereunto affixed.

WITNESS: Our trusty and well-beloved the
Honourable Edward Roberts, one of Her Majesty's
Counsel learned in the law, Lieutenant Governor in
and for Our Province of
Newfoundland and Labrador.

AT OUR GOVERNMENT HOUSE in Our City of St. John's
this 25th day of November, in the year of Our Lord two
thousand and four and in the fifty-
third year of Our Reign.

BY COMMAND,

JACK BRYNE
Registrar General



**NEWFOUNDLAND AND LABRADOR
REGULATION 144/04**

Income and Employment Support Regulations
under the
Income and Employment Support Act
(O.C. 2004-461)

(Filed November 26, 2004)

Under the authority of section 52 of the *Income and Employment Support Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, November 23, 2004.

Robert C. Thompson
Clerk of the Executive Council

REGULATIONS

Analysis

- | | |
|--|---|
| 1. Short title | 6. Criteria to assess information |
| 2. Definitions | 7. Responsibilities of applicant or recipient |
| PART I
INCOME SUPPORT | |
| 3. Application for income support | 8. Definitions |
| 4. Residency required | 9. Determining eligibility of an applicant |
| 5. Information which may be required to assess or review eligibility | 10. Effect of lump sum payment on continued eligibility |
| | 11. Deduction |
| | 12. Exemptions |

- | | |
|--|--|
| <ul style="list-style-type: none"> 13. Maintaining a residence 14. Maximum monthly income support- board and lodging 15. Income support for persons 30 years of age and younger 16. Rent or mortgage 17. Start up allowance 18. Determination of support 19. Other income support 20. Frequency and manner of payment 21. Special needs -furniture 22. Special needs -eye examinations 23. Special needs - eye glasses 24. Special needs- dentures 25. Support trust 26. Maximum permissible liquid assets 27. Where death is involved 28. Emergencies, disasters and other circumstances 29. Review of eligibility <p style="text-align: center;">PART II
EMPLOYMENT SUPPORT</p> <ul style="list-style-type: none"> 30. Employment support 31. Financial employment supports 32. Application for employment support 33. Residency required 34. Criteria to assess application 35. Information which may be required to assess or review eligibility 36. Responsibilities of an applicant or recipient 37. Wage subsidy programs 38. Employment development supports 39. Placement support allowance 40. Short term training | <ul style="list-style-type: none"> 41. Work supports 42. Assessment and counselling 43. Employment supports for people with disabilities <p style="text-align: center;">PART III
GENERAL</p> <ul style="list-style-type: none"> 44. Use of income support to provide employment support 45. Conjugal relationship 46. Investigations 47. Temporary or permanent incapacity 48. Other powers and duties of officers 49. Information exchange <p style="text-align: center;">PART IV
UNDERPAYMENT,
OVERPAYMENT AND
RECOVERY</p> <ul style="list-style-type: none"> 50. Rate of recovery 51. Apportionment 52. Certificate of judgment 53. Set off 54. Amount and rate of garnishment <p style="text-align: center;">PART V
APPEALS</p> <ul style="list-style-type: none"> 55. Request for internal review 56. Internal review 57. Appeal to the appeal board 58. Board practice and procedure 59. Remuneration and costs 60. Shorter time period by agreement <p style="text-align: center;">PART VI
COMMENCEMENT</p> <ul style="list-style-type: none"> 62. Commencement |
|--|--|

Schedule

Short title

1. These regulations may be cited as the *Income and Employment Support Regulations*.

Definitions

2. In these regulations,

(a) "Act" means the *Income and Employment Support Act*;

- (b) "approved professional" means a member of a professional group approved by the minister for a particular purpose;
- (c) "child benefit adjustment" means an adjustment to income support as determined by an officer when applicants or recipients do not receive the maximum Canada Child Tax Benefit or the Newfoundland and Labrador Child Benefit;
- (d) "dependent student" means a person 18 years of age and older who lives with a relative and attends high school;
- (e) "housekeeping services" means those activities provided to a recipient which are necessary to maintain a household for a period of time determined by an officer and does not include supportive services;
- (f) "non-EI eligible" means a person is not receiving employment insurance benefits and has not received those benefits within the last 3 years, or has not received employment insurance maternity or parental benefits within the last 5 years;
- (g) "person requiring supportive services" means a person who, as certified by an approved professional, requires supportive services to assist with daily living;
- (h) "refundable tax credit" means a tax credit which is considered to be refundable which is not required to reduce an applicant's or recipient's tax liability and which is paid to the applicant or recipient monthly or quarterly but does not include an income tax refund;
- (i) "support trust" means a trust fund established for the use and benefit of a person requiring supportive services as defined in paragraph (g); and
- (j) "widow or widower", for the purpose of these regulations, applies to spouses and cohabiting partners.

**PART I
INCOME SUPPORT**

Application for
income support

3. (1) An application for income support may be made in person or
by

- (a) telephone application process;
- (b) mail; or
- (c) other means acceptable to the minister, including electronic means where available.

(2) An application for income support shall not be considered to be received by the minister and shall not be assessed unless it is in a form and made in a manner approved by the minister.

(3) An application for income support shall be completed within 30 days and where an application has not been completed within that time period, a new application shall be made.

Residency required

4. (1) An applicant or recipient shall live in the province to be eligible for income support and to continue receiving income support.

(2) Notwithstanding subsection (1), a recipient may be absent from the province

- (a) for a period of up to 60 days for a purpose approved by an officer; or
- (b) for a period of more than 60 days if the absence is due to medical reasons and is approved by an officer.

(3) Where a recipient leaves the province for any reason, including work, he or she shall be eligible for income support up to and including the end of the period during which he or she last received income support.

Information which may be required to assess or review eligibility

5. (1) An applicant or recipient shall, where required for an assessment of his or her eligibility for income support, provide the following:

- (a) proof of his or her personal information which may be required by an officer;
- (b) information regarding his or her citizenship or residency status, including whether an applicant or recipient is a landed immigrant or a refugee claimant;

- (c) his or her consent for the release of, obtaining or verifying personal information about him or her;
- (d) proof of the identity of all adults, children and dependent students residing in the home and their relationship to the applicant or recipient;
- (e) verification of whether he or she is renting, boarding or has responsibility for a mortgage and the length of time for which he or she has been boarding or renting; and
- (f) other information that may be required to assess eligibility as determined by an officer

and the information required under this section shall be used for the purpose for which it was obtained and for no other purpose.

(2) Notwithstanding subsection (1), an officer may require, in writing, that the recipient provide additional information to assess his or her eligibility and the recipient shall comply in a manner acceptable to the minister within 30 days of the request being made by the officer.

(3) An officer may, in his or her discretion, make exceptions to the time period referred to in subsection (2).

(4) Where information is required under this section, a photocopy is considered acceptable.

(5) Where a recipient fails to comply with a request under subsection (2) in the time period prescribed in that subsection, the officer may deny, vary, suspend or cancel that recipient's income support.

Criteria to assess information

6. (1) An application for income support shall be assessed by an examination of the following criteria:

- (a) the applicant's income and liquid assets;
- (b) any monies held on the applicant's behalf by a person other than the applicant, his or her spouse or cohabiting partner;
- (c) the applicant's age;

- (d) the applicant's residency status, including whether an applicant is a landed immigrant or refugee claimant;
 - (e) a determination of whether the applicant is married or is a cohabiting partner;
 - (f) a determination of whether the applicant is boarding or sharing shelter and utility expenses with another person; and
 - (g) those other criteria that the minister may determine.
- (2) An officer, in assessing an application for income support, shall:
- (a) request any additional information required to assess the application;
 - (b) verify any information required to assess an application;
 - (c) assess the amount and source of income which the applicant has received in the 60 days prior to the date of application;
 - (d) assess the applicant's income, liquid assets and any assets held on the applicant's behalf;
 - (e) record the transfer or sale of the applicant's real property or assets;
 - (f) assess the financial contribution of other adults in the home; and
 - (g) determine the eligibility of the applicant.
- (3) Where an officer has assessed an application under subsection (2) and has determined that the applicant is
- (a) eligible for income support, issue income support to him or her according to the Act, these regulations, and any policies, procedures and service standards established by the minister, or
 - (b) not eligible for income support, inform the applicant of the date upon which he or she may become eligible, as deter-

mined by an officer and of his or her right to request an internal review of the determination of ineligibility and pending the outcome of the internal review, of his or her right to appeal under the authority of the Act and these regulations.

Responsibilities of applicant or recipient

7. (1) An applicant or recipient shall immediately report to an officer any circumstances which may affect the applicant's or recipient's eligibility for income support, including:

- (a) change of address;
- (b) change in living arrangements;
- (c) change in marital or cohabitation status;
- (d) change in the circumstances of any dependent children;
- (e) change in income, liquid assets, real property or assets;
- (f) absence from the province of the applicant, recipient or his or her child or dependent student;
- (g) change in the reason for the application for income support;
- (h) receipt of a liquid asset;
- (i) sale or transfer of assets, including any real property;
- (j) change in expenses incurred in earning income;
- (k) any other circumstances that the minister may determine.

(2) An officer may deny, vary, suspend or cancel income support where a circumstance referred to in subsection (1) has been confirmed and shall notify an applicant or recipient in writing of that action and shall inform the applicant or recipient of his or her right to request an internal review of that action and pending the outcome of the internal review, of his or her right to appeal under the authority of the Act and these regulations.

Definitions

8. In this Part

- (a) "exempt income" means income received by an applicant or recipient which is not considered in determining eligibility for income support, provided that the income is obtained by means of
 - (i) a federal compensation payment where an applicant or recipient or his or her dependent child or dependent student has contracted AIDS through a blood transfusion,
 - (ii) income from interest from cash in a bank, stocks, bonds, or dividends from a corporation or from a support trust referred to in subsection 25(3),
 - (iii) a payment under the 1986-1990 Hepatitis C Settlement Agreements, unless the payment is compensation for loss of income or loss of support under section 4.02 or 6.01 of the Transfused HCV or Hemophiliac HCV Plans,
 - (iv) federal and provincial refundable tax credits received by an applicant or recipient,
 - (v) one or more of the following sources:
 - (A) payments for children in care,
 - (B) special child welfare allowances,
 - (C) child welfare allowances,
 - (D) payments for alternate family care,
 - (E) payments for youth under a Youth Services Agreement,
 - (F) government funded disability related supports,
 - (G) payments received from the Voluntary Student Work and Services Program, or
 - (H) earnings of dependent students;
- (b) "liquid assets" means

- (i) cash on hand or in the bank, and
 - (ii) readily marketable securities and investments
- but does not include
- (iii) funds held in trust for a prepaid funeral by a funeral home at the time of an application for income support except where the person is requesting support with funeral expenses,
 - (iv) a Registered Education Savings Plan,
 - (v) funds from a severance package for the period described in subsection 26(2),
 - (vi) a Registered Retirement Savings Plan for the value and period described in subsection 26(3),
 - (vii) funds considered exempt income under paragraph (a), or
 - (viii) funds held in a support trust which do not exceed a total of \$100,000;
- (c) "non-exempt income" means income received by an applicant or recipient for which no exemption applies and which is used in determining eligibility but does not include partially exempt income, and which may be obtained by means of
- (i) payments under the Canada Pension Plan, Old Age Security benefits, Veterans' Allowance, compensation under the *Workplace Health, Safety and Compensation Act*, employment insurance benefits, and pensions to the applicant or recipient or to his or her dependent child or dependent student from other sources,
 - (ii) income received from a support trust by a person requiring supportive services according to section 25,
 - (iii) income received from federal training allowances,

- (iv) an assessment based on 50% of the receipts from rental of rooms on property which is used by the applicant or recipient as a residence,
 - (v) an assessment of rental income based on 50 % of that income after the deduction of municipal property taxes for rented real property in which the applicant or recipient does not reside,
 - (vi) payments which are monetary in nature or which are quantifiable in monetary terms including payments which are by way of arrears and which are received as child or spousal maintenance or support by the applicant or recipient under a private agreement, a domestic contract or a court order,
 - (vii) payments received by the applicant or recipient under the Canada-Newfoundland and Labrador Student Loan Program or successor program and designated for shelter and living expenses,
 - (viii) net income received from a severance package which an applicant or recipient receives upon permanently severing from his or her employer for the period of time that the severance package is payable,
 - (ix) income resulting from the sale of property or the sale of a fishing licence,
 - (x) payments received as a result of an inheritance or from an estate, and
 - (xi) income from an insurance claim whether it is paid in monthly instalments or by a lump sum payment;
- in the month that the payment, income, or inheritance is received; and
- (d) "partially exempt income" means income to which an exemption under section 12 applies and includes
 - (i) salary and wages of the applicant or recipient, including income obtained from self-employment,

- (ii) winnings from games of chance or a lottery,
- (iii) board and lodging income assessed based on 20% of the receipts of board and lodging income from a boarder who is not a relative and that receipt shall not be less than an amount contemplated by subsection 14(1), or paragraph 15(2)(b),
- (iv) income tax refunds,
- (v) scholarships or bursaries, and
- (vi) incentive allowances as approved by the minister

in the month that the income, or payment is received.

Determining eligibility of an applicant

9. (1) A person shall, in accordance with section 13 of the Act, pursue all other financial resources available to him or her or his or her spouse or cohabiting partner as a condition of eligibility for income support.

(2) An applicant's eligibility for income support shall be determined based on an examination of his or her liquid assets and if those assets exceed the limits referred to in sections 25 and 26, the applicant shall not be eligible for income support.

(3) Where an applicant's liquid assets do not exceed the limits referred to in sections 25 and 26, an applicant's eligibility for income support shall be determined by evaluating his or her financial situation for the 60 days preceding his or her application according to the following formula:

Basic Requirements + 40% + CBA is greater than or equal to Income - Deductions

Where:

Basic Requirements = the amount for maintaining a residence referred to in subsection 13(1), plus the amount for shelter referred to in paragraph 16(1) (a) or (b) if applicable, for the 60 day period before the date of application, or the amount referred to in subsection 14(1) or (2) for the 60 day period before the date of application

CBA = a child benefit adjustment referred to in paragraph 19(1)(g) if the applicant is entitled to it

Income = the applicant's total net income calculated according to paragraphs 8(c) and 8(d) minus the deduction for expenses incurred in earning that income referred to in section 11

Deduction = the deduction referred to in section 11

(4) An applicant who is not entitled to income support according to subsection (3) may be reconsidered on the date on which his or her income during the past 60 days has decreased to the level set out in subsection (3).

(5) Notwithstanding another provision of this section, where an applicant is applying for income support due to job action at the workplace, he or she shall not be eligible for income support.

Effect of lump sum payment on continued eligibility

10. (1) A recipient is ineligible for income support in the month where a lump sum payment of

- (a) partially exempt income less the exemptions described in section 12; or
- (b) non-exempt income

exceeds the recipient's monthly entitlement.

(2) A recipient considered to be ineligible for income support under subsection (1) may be reconsidered on the date when the amount by which his or her lump sum payment, less the maximum permissible limit of liquid assets described in sections 25 and 26, less an amount determined by the minister which may be subtracted from a lump sum payment for a health or disability related expense, less the monthly entitlement is reduced to zero by the calculated daily amount described in subsection (3).

(3) The calculated daily amount is the amount of income support described in subsection 13(1) less the amount in subsection 13(2) if applicable or subsection 14(1) or 14(2) or section 15 plus the amount in section 16 if applicable, plus 40%, less the income described in paragraph 8(c) or 8(d), divided by 30.

Deduction **11.** An officer may authorize a deduction from partially exempt income described in subparagraph 8(d)(i) in a case where, in order to earn that income, expenditure was incurred.

Exemptions **12.** The following exemptions shall be applied to partially exempt income in the month it is received:

- (a) for the sum of income described in subparagraphs 8(d)(i), (ii) and (iii),
 - (i) for a single adult, up to \$75 a month,
 - (ii) for 2 or more persons, up to \$150 a month,
 - (iii) for a person requiring supportive services, up to \$95 a month,
 - (iv) for 2 or more people where at least one person is a person requiring supportive services, up to \$190 a month;
- (b) for income described in subparagraph 8(d)(iv), for a recipient, up to \$500 a year;
- (c) for income described in subparagraph 8(d)(v), for a recipient, up to \$5,000 a year; and
- (d) for income described in subparagraph 8(d)(vi), in the case of applicant or recipient, up to \$175 a month.

Maintaining a residence **13.** (1) The monthly amount of income support for an applicant or recipient who is renting or owns a residence is up to

1 adult	without dependent children	\$421
1 adult	with dependent children	556
1 adult	with one dependent student	596
1 adult	with 2 dependent students	692 plus 96 for each additional dependent student
2 adults	without dependent children	596
2 adults	with dependent children	596
2 adults	with one dependent student	692

2 adults with 2 dependent students 788 plus 96 for each additional dependent student

(2) The amounts under this section are reduced by the following amounts

(a) where the applicant or recipient resides in an apartment or a house

(i) where heat and electricity are included, \$76 a month,

(ii) where heat only is included, \$49 a month, or

(iii) where electricity only is included, \$27 a month; or

(b) where the applicant or recipient resides in a bed sitting room

(i) where heat and electricity are included, \$61 a month,

(ii) where heat only is included, \$49 a month, or

(iii) where electricity only is included, \$12 a month.

Maximum monthly income support-board and lodging

14. (1) The monthly amount of income support for an applicant or recipient who is boarding with a non-relative is:

1 adult	without dependent children	\$421
1 adult	with dependent children	556
1 adult	with one dependent student	596
1 adult	with 2 dependent students	692 plus 96 for each additional dependent student
2 adults	without dependent children	596
2 adults	with dependent children	596
2 adults	with one dependent student	692
2 adults	with 2 dependent students	788
2 adults	with more than 2 dependent students	788 plus 96 for each additional dependent student

(2) The monthly amount of income support for board and lodging for an applicant or recipient who is boarding with a relative is:

1 adult	without dependent children	\$254
1 adult	with dependent children	458
1 adult	with one dependent student	505
1 adult	with 2 dependent students	692 plus 96 for each additional dependent student
2 adults	without dependent children	505
2 adults	with dependent children	596
2 adults	with one dependent student	692
2 adults	with 2 dependent students	788 plus 96 for each additional dependent student

Income support for persons 30 years of age and younger

15. (1) Notwithstanding section 13, the monthly amount of income support for a single person under the age of 30 years who is renting or owns a residence and who has no barriers or impairments which would limit that person's pursuit of employment or training as determined by an officer is \$203.

(2) Notwithstanding section 14 and subsections (1) and (3), the monthly amount of income support for board and lodging of a single person under the age of 30 years who, as determined by an officer, has no barriers or impairments which would limit that person's pursuit of employment or training

(a) who is boarding with a relative is \$96; or

(b) who is boarding with a non-relative is \$140.

(3) Notwithstanding subsection 14(1) and subsections (1) and (2), the monthly amount of income support for a single person under age 30 who, as determined by an officer has barriers or impairments which limit that person's pursuit of employment or training is \$399.

Rent or mortgage

16. (1) The maximum monthly income support

(a) for rent is

- (i) for an adult living alone in a rented room or apartment, an amount up to \$149, except where renting from a relative, in which case an amount up to \$100, or
- (ii) for 2 or more people in a rented room or apartment, an amount up to \$372 except where renting from a relative, in which case an amount up to \$225; and

(b) for mortgage is

- (i) for an adult, for the principal and interest on a mortgage for the purchase of a principal residence or for financing the repair of a principal residence, an amount up to \$149, or
- (ii) for 2 or more people, for the principal and interest on a mortgage for the purchase of a principal residence or for financing the repair of a principal residence, an amount up to \$372.

(2) Where an applicant's or recipient's income support has been reduced under subsection 13(2), the amounts under subsection (1) are increased by the amount of the deductions referred to in subsection 13(2) but in no case shall the total amount exceed the actual amount required by the applicant or recipient for shelter.

(3) Notwithstanding subsection (1),

- (a) for a widow or widower with no children or dependent students who is an applicant or recipient, a maximum monthly amount for rent or mortgage up to \$372;
- (b) for a recipient who was receiving income support under subparagraph (1)(a)(ii) or (1)(b)(ii) but who becomes alone because
 - (i) that recipient has separated from his or her spouse or cohabiting partner, or
 - (ii) that recipient has experienced the departure from the residence of all dependent children and dependent students

a maximum monthly amount up to \$372 if that recipient had, prior to becoming alone, been receiving income support for a period of 6 consecutive months; or

(c) where a recipient cannot, due to a mental, physical or social impairment as certified by an approved professional, reside with any other person, a maximum monthly amount up to \$372.

(4) In addition to the income support referred to in this section, an officer may grant additional income support up to but not exceeding \$61 a month but in no case shall the amount of support under this section exceed the actual amount required by the applicant or recipient for shelter.

Start up allowance

17. Where an applicant or recipient who was a victim of violence leaves an abusive relationship, he or she may, as determined by an officer, be eligible for the following income support as a contribution to the costs of making the transition from that relationship to a new residence:

Number of adults	Number of dependent children	Island Start-Up Allowance	Coast of Labrador Start-Up Allowance
one	no dependent children	\$500	\$600
one	one dependent child	600	750
one	2 dependent children	700	900
one	3 dependent children	900	1,150
one	4 dependent children	1,000	1,300
one	5 dependent children	1,200	1,550
one	6 dependent children	1,130	1,700
one	7 dependent children	1,500	1,950

Determination of support

18. (1) When determining the amount of income support to be granted under these regulations, an officer shall deduct from the total income support to which the applicant or recipient is entitled under section 13, 14 or 15 and section 16 if applicable,

- (a) all non-exempt income; and
- (b) all partially exempt income minus
 - (i) the deduction described in section 11, and
 - (ii) the exemptions described in section 12.

(2) Notwithstanding subsection (1), where a person under the age of 21 years is applying for income support while boarding with a relative and that person, as determined by an officer, has no barriers or impairments which would limit that person's pursuit of employment or training, the financial resources of that person's parents or legal guardians shall be considered in determining the amount of income support to be granted.

(3) An officer may only grant income support to an employable person between the ages of 18 and 21 years who is living with a relative if

- (a) that employable person's parents or legal guardians are receiving income support; or
- (b) the combined income of that employable person's parents is below the maximum income threshold for the Newfoundland and Labrador child benefit as determined by the *Newfoundland and Labrador Child Benefit Regulations, 2004* under the *Income Tax Act, 2000*.

(4) Subsections (2) and (3) shall not apply where the person under the age of 21 years referred to in those subsections has, in the opinion of an approved professional, a barrier or impairment which would limit his or her pursuit of employment or training.

Other income support

19. (1) Other monthly income support for which an applicant or recipient may be eligible is:

- (a) a fuel supplement for an applicant or recipient maintaining a residence in Labrador, up to a maximum of \$45;
- (b) a fuel supplement for an applicant or recipient maintaining a residence on the island portion of the province, up to a maximum of \$25;
- (c) for housekeeping services where the person providing the service is a relative, up to a maximum of \$239;
- (d) for housekeeping services where the person providing the service is not a relative, up to a maximum of \$298;
- (e) where licensed child care is unavailable or does not meet the needs of the particular child as determined by an officer, up to \$325 for the first child and up to \$125 for each additional child for private unlicensed child care;
- (f) for an applicant or recipient who is receiving the guaranteed income supplement, an amount of \$105, but where an applicant and his or her spouse or cohabiting partner are both receiving the guaranteed income supplement, an amount of \$55;
- (g) a child benefit adjustment in an amount approved by the minister;
- (h) for a recipient with a dependent child or a dependent student maintaining a residence in a coastal Labrador community, an amount of \$150;
- (i) an amount of \$89 for each recipient, dependent child or dependent student receiving income support who is legally blind as certified by the Canadian National Institute for the Blind or an approved professional;
- (j) an amount of \$45 for each recipient, dependent child or dependent student with diabetes receiving income support where that person's diabetes has been certified by an approved professional;
- (k) for an applicant or recipient boarding with non-relatives who requires additional support due to a persistent and permanent

social impairment as certified by an approved professional, an additional amount up to \$362; and

(1) for items of special need, an amount determined by the minister.

(2) Where an applicant or recipient who has no spouse, cohabiting partner or dependent students is hospitalized or in an emergency shelter approved by the minister

(a) the applicant may receive an amount of income support up to \$125 a month; and

(b) the recipient may continue to receive income support under subsection (1) or sections 13 and 16 if applicable, or section 14 or 15 for 90 days from the date of admission, and after that time period, he or she may, on the approval of an officer continue to receive income support for an additional 90 days under paragraph 16(b) if applicable, and an amount of income support up to \$125 a month; or

(3) Where an applicant or recipient with dependants is hospitalized or admitted to an emergency shelter approved by the minister, that applicant or recipient may receive or continue to receive income support under subsection (1) or sections 13 and 16 if applicable, or section 14 or 15, and effective the month following the month of admission, the applicant or recipient may receive an additional amount of income support up to \$125 a month.

(4) Notwithstanding paragraph (2)(b), the minister may, in certain circumstances, extend the time period for which the recipient referred to in that subsection may receive income support under subsection (1) or section 13 or 16 if applicable, or section 14 or 15.

(5) Other income support for which an applicant or recipient may be eligible is:

(a) for transportation, an amount determined by the prevailing commercial rates;

(b) for board and lodging for temporary periods only, a daily amount that the minister may approve;

- (c) for a recipient who has been receiving income support continuously for at least 90 days, the arrears of outstanding municipal taxes and fees levied by a municipality or local service district retroactive to the date the recipient began receiving income support; and
- (d) a contribution towards a security deposit, \$100.

Frequency and
manner of payment

20. (1) Income support may be paid

- (a) daily;
- (b) semi-monthly;
- (c) monthly; or
- (d) at an interval determined by the minister.

(2) Notwithstanding another provision of this Part, a recipient's income support may be used to provide his or her employment support in the manner referred to in section 44.

Special needs -
furniture

21. (1) An applicant or recipient may, at the discretion of an officer, be eligible for special needs assistance for the following items of furniture:

- (a) for electric stoves, up to \$300;
- (b) for refrigerators for applicants or recipients with children, up to \$400;
- (c) for washers, for applicants or recipients with children, up to \$350;
- (d) for beds, for the children of applicants or recipients only
 - (i) up to \$125 towards the cost of the mattress,
 - (ii) up to \$75 towards the cost of a box spring, or
 - (iii) up to \$200 for a bed;
- (e) for a crib or for a crib mattress or for both, up to \$100.

(2) All amounts referred to in this section include HST.

Special needs -eye
examinations

22. (1) Vision care in the form of an eye examination may be provided to

(a) a recipient who has been receiving income support for a period of at least 3 months; or

(b) an applicant who was receiving a level of income equal to the level of income support for which he or she may have been eligible for the 3 months preceding the request for vision care, plus the cost of vision care.

(2) Special needs assistance for vision care for an eligible applicant or recipient covers no more than one eye examination every 36 months except where there is a medically verified eye disease or condition, then more frequently than every 36 months.

(3) Special needs assistance for vision care covers one eye examination every 12 months for children.

(4) The amount for eye examinations is \$32.

Special needs - eye
glasses

23. (1) Vision care in the form of eye glasses may be provided to

(a) a recipient who has been receiving income support for a period of at least 3 months; or

(b) an applicant who was receiving a level of income equal to the level of income support for which he or she may have been eligible for the 3 months preceding the request for vision care, plus the cost of the vision care.

(2) Special needs assistance for eye glasses may be provided to an eligible applicant or recipient every 36 months except where there is a medically verified eye disease or condition which would warrant more frequent changes, then more often as medically indicated.

(3) Children under the age of 18 years may be covered for eye glasses once every 12 months if there is a verified change in the child's prescription.

(4) Repairs to eyeglasses may be considered at the discretion of an officer and frames shall be reused where possible.

(5) Notwithstanding subsection (4), the cost for repair of eye glasses shall not exceed one half the amount special needs assistance for eyeglasses.

(6) Special needs assistance for eye glasses shall be

(a) for single vision eye glasses, up to \$84; or

(b) for bifocal eye glasses, up to \$102.

Special needs-
dentures

24. An applicant or recipient who has been receiving income support for a 6 month period prior to having a special needs assistance requirement for dentures may receive the following:

(a) the maximum amounts where denture service is provided by a dentist are, for

(i) an upper set including laboratory fees, up to \$598,

(ii) a lower set including laboratory fees, up to \$598,

(iii) a complete set, including upper, lower and laboratory fees, up to \$932,

(iv) partial dentures including laboratory fees, up to \$300,

(v) an immediate post extraction insertion, up to \$443,

(vi) a reline including laboratory fees, up to \$176, and

(vii) repairs, amount of \$35 per 15 minute to a maximum of \$100; or

(b) the maximum amounts where denture service is provided by a denturist are, for

(i) an upper set, up to \$483,

(ii) a lower set, up to \$483,

- (iii) a complete set, including upper and lower set, up to \$776,
- (iv) a re-line, up to \$106,
- (v) repairs at a amount of \$28 per 15 minute maximum, up to \$75, and
- (vi) partial dentures, including laboratory fees, up to \$250.

Support trust

25. (1) An officer may grant income support to a person over the age of 18 years who requires supportive services and for whose use and benefit there is a support trust provided that

- (a) the support trust does not exceed a total of \$100,000; and
- (b) the person requiring supportive services annually uses the total interest income from the support trust, plus at least 2% of the capital of the support trust; and
- (c) the support trust is established and maintained in a manner and under terms and conditions that the minister may establish or approve.

(2) Where the income described in the support trust is used in the manner referred to above, it shall be considered exempt income and does not affect an applicant or recipient's eligibility for income support.

(3) Where the income described in the support trust has not been used in the manner prescribed in subsection (1), it shall be considered non-exempt income and deducted from the income support for which a recipient is considered eligible in a manner determined by an officer.

(4) Notwithstanding subsection (3), the minister may make exceptions to the requirements of that subsection in extenuating circumstances.

Maximum permissible liquid assets

26. (1) An officer may grant income support to an applicant or recipient if his or her liquid assets do not exceed the maximum permissible limit of

- (a) for one person, \$500;

- (b) for 2 or more people, combined liquid assets of \$1,500;
- (c) for a person requiring supportive services or a person over 65 years of age \$3,000;
- (d) for a person requiring supportive services or a person over 65 years of age with one or more dependants, including that person's spouse or cohabiting partner, \$5,500; and
- (e) for a person with a dependent child where that child requires supportive services, \$5,500.

(2) Notwithstanding subsection (1), a severance package

- (a) is exempt from the provisions of this section for the covering period of the severance package; and
- (b) after the period referred to in paragraph (a) has expired, shall be considered a liquid asset.

(3) Notwithstanding subsection (1), a Registered Retirement Savings Plan owned by an applicant or recipient which is valued at less than \$10,000

- (a) is exempt from the other provisions of this section for the first 90 days in which an recipient receives income support; and
- (b) after the period referred to in paragraph (a) has expired, shall, where the Registered Retirement Savings Plan may be liquefied, shall be considered a liquid asset.

Where death is involved

27. (1) An officer may grant to the relative of a deceased person or the representative of a deceased person an amount for the burial of the deceased not exceeding

- (a) for an adult or a child 12 years of age or older, a amount of \$1,938;
- (b) for a child under 12 years of age, an amount of \$1,132;
- (c) for a still-born child, an amount of \$647; or

(d) where individuals choose cremation as an alternative to an earth burial, an amount of \$647.

(2) Notwithstanding subsection (1), an officer may also grant to a person referred to in subsection (1)

(a) an amount not exceeding \$184 with respect to clothing for the burial of a deceased person where no appropriate clothing is available;

(b) a distance charge of \$0.82 a kilometre, where the body of a deceased person is being transported, for each kilometre in excess of 8 kilometres;

(c) the amount of cemetery charges incurred in burial of a deceased person;

(d) the cost of a plastic pouch for the transportation of a deceased person; and

(e) an additional sum that an officer considers reasonable for extraordinary and out-of-pocket expenses due to special circumstances.

(3) An officer, when determining the amount for funeral expenses, shall deduct

(a) any income to which the deceased person was entitled in the month of his or her death;

(b) any monies held in trust for the deceased person's funeral expenses;

(c) any money held in a bank, credit union or other financial institution by the deceased at the time of his or her death; and

(d) a death benefit from any source to which the estate of the deceased person is entitled.

(4) In determining an amount under subsection (3), an officer shall consider the income and assets of the deceased person's spouse or cohabiting partner.

Emergencies,
disasters and other
circumstances

28. (1) Where income support is required as a result of circumstances that, in the opinion of an officer, create an emergency situation, the officer may grant the income support that is necessary to meet the emergency needs of the applicant or recipient.

(2) Where income support is required because of a disaster in the community as determined by the minister, the officer may grant the income support that is necessary to meet the needs of the person related to the disaster.

(3) Where income support is required for a person who has been a victim of violence, an officer may grant the income support necessary to ensure the safety of those individuals and their children and dependent students.

Review of eligibil-
ity

29. The amount of income support payable to a recipient shall be reviewed by an officer periodically in order to determine the continued eligibility of the recipient and may also be reviewed at the request of the recipient.

PART II EMPLOYMENT SUPPORT

Employment
support

30. An applicant or recipient may be considered for employment supports and services contingent upon

- (a) that person's eligibility for particular employment supports and services; and
- (b) the availability of resources to provide those employment supports and services.

Financial employ-
ment supports

31. (1) Financial employment supports may be offered through

- (a) wage subsidies;
- (b) linkages with community based employment agencies;
- (c) employment development supports;
- (d) employment supports for persons with disabilities; and

(e) any other employment supports and services that may assist applicants or recipients prepare for, access and keep work.

(2) Employment supports may vary for applicants and recipients in order to address their different circumstances and needs, and the eligibility of those applicants or recipients may depend on the type of employment support for which he or she has applied.

Application for
employment sup-
port

32. (1) An application for employment support may be made in person or by

(a) telephone application process;

(b) mail; or

(c) by other means acceptable to the minister, including electronic means where available,

and an applicant shall provide the information that an officer may require to assess the application.

(2) An application for employment support shall not be considered to be received by the minister and shall not be assessed unless it is in a form or made in a manner approved by the minister.

(3) An application for employment support shall be completed within 30 days and where an application has not been completed within that time period, a new application shall be made.

Residency required

33. (1) An applicant and recipient shall live in the province to be eligible for employment support.

(2) Notwithstanding subsection (1), a recipient may be temporarily absent from the province for the purpose of training, education or employment supported by an individual's employment plan and that absence shall, before the recipient leaves the province, be approved by an officer.

Criteria to assess
application

34. (1) An applicant for employment support shall participate in an assessment and planning process which is satisfactory to the minister.

(2) An application for employment support shall be assessed on criteria which may include

- (a) whether an applicant has participated in the assessment and planning process referred to in subsection (1);
- (b) the individual's interests, motivation, preferences, aptitude and goals with regard to self-sufficiency and support needed to prepare for, access and keep employment;
- (c) barriers preventing participation in training, employment supports and employment and services required to address those barriers;
- (d) the applicant's qualifications and employment background, including his or her education, training, the location and circumstances of his or her last work experience and any transferable skills he or she may have;
- (e) the applicant's previous experiences in employment support and the outcomes of other interventions, including details of his or her attendance at those interventions;
- (f) whether the intervention for which the applicant has applied builds on, but does not duplicate, previous interventions to help the applicant progress with his or her employment plan;
- (g) links with other supports as required;
- (h) labour market opportunities; and
- (i) those other criteria which may be specific to the particular program of employment support for which the applicant wishes to be considered.

Information which may be required to assess or review eligibility

35. (1) The information which may be required in an application for employment support includes an applicant's

- (a) personal information;
- (b) citizenship or residency status, including whether an applicant or recipient is a landed immigrant or refugee claimant;
- (c) consent for release, obtaining or verifying information about him or her;

- (d) financial information that may be required by the minister;
and
- (e) other information that may be required to assess eligibility as determined by an officer.

(2) For the purpose of determining eligibility for employment support, an officer may assess whether an applicant is eligible for or receives income support or receives employment insurance or other benefits or supports under Part II of the *Employment Insurance Act* (Canada).

(3) In order to assess an application for employment support material proof of the following may be required:

- (a) certification of the disability by an approved professional where an applicant is a person with a disability as defined in subsection 43(1);
- (b) an applicant's required personal information;
- (c) a written employment offer to the applicant; and
- (d) other information that may be required by the minister.

(4) Where information is required under this section, a photocopy is considered acceptable.

(5) An applicant or recipient shall, within 30 days from the original date of the application for employment support, comply fully with an officer's request for documentation to determine the applicant or recipient's eligibility for employment support.

(6) An officer may, in certain circumstances, make exceptions to the time period referred to in subsection (5).

(7) Where an applicant or recipient fails to comply with the requirements of subsection (5), and no exception has been made under subsection (6), an officer may deny, vary, suspend or cancel an applicant's or recipient's employment support.

Responsibilities of
an applicant or
recipient

36. (1) An applicant or recipient shall immediately report to an officer any circumstances which may affect the applicant or recipient's eligibility for employment support, including

- (a) change in transportation expenses;
- (b) change in intervention participation;
- (c) change in employment status;
- (d) change in income;
- (e) the absence of the applicant or recipient from the province;
and
- (f) any other circumstances that the minister may determine.

(2) An officer may deny, vary, suspend or cancel employment support where a circumstance referred to in subsection (1) has been confirmed and shall notify the applicant or recipient in writing of that action and of his or her right to request an internal review of the decision of the officer and pending the outcome of the internal review, of his or her right to appeal under the authority of the Act and these regulations.

Wage subsidy
programs

37. (1) Under the authority of section 8 of the Act, the minister may enter into contracts and agreements with for profit and not-for-profit employers under wage subsidy programs.

(2) Employment support under this section shall be determined by negotiation between the employer and the minister.

(3) Employers shall pay local prevailing wage rates.

(4) In order to be eligible under this section, an applicant or recipient

- (a) shall be legally entitled to work in Canada;
- (b) shall not be an immediate family member of the employer, owner or operator;

- (c) shall not be part of the regular staff, including seasonal staff, of the employer, owner or operator;
- (d) shall be unemployed or underemployed and actively seeking work;
- (e) shall meet any other specific eligibility criteria established by the minister for particular wage subsidy programs, which may include a requirement that
 - (i) the applicant or recipient be receiving income support referred to in subparagraph 2(k)(i) of the Act,
 - (ii) the applicant or recipient shall not be currently employed, receiving a federal or provincial pension, workplace health, safety and compensation benefits, employment insurance benefits or another benefit prescribed by the minister,
 - (iii) the applicant or recipient be non-EI eligible, and
 - (iv) the applicant or recipient have an employment plan; and
- (f) shall meet any other eligibility requirements prescribed by the Act or these regulations.

(5) The employer in a wage subsidy program solely determines whether an eligible applicant or recipient may be employed by him or her.

(6) In extenuating circumstances, the minister may approve exceptions

- (a) to the terms and conditions of a wage subsidy agreement; or
- (b) to the prohibition contained in subparagraph (4)(e)(ii).

Employment
development
supports

38. (1) An applicant or recipient may be eligible for employment development supports in order to further their employment plan.

(2) In order to be eligible under this section, an applicant or recipient shall

- (a) be receiving income support under subparagraph 2(k)(i) of the Act;
- (b) reside in the province;
- (c) have an approved employment plan;
- (d) be non-EI eligible; and
- (e) meet any other applicable eligibility criteria prescribed by the Act or these regulations.

(3) Notwithstanding paragraph (2)(d), the minister may make exceptions to the requirements of that paragraph in extenuating circumstances.

(4) An eligible applicant or recipient may receive an amount of employment development support as approved by the minister which may include:

- (a) a placement support allowance;
- (b) short term training;
- (c) work supports; and
- (d) financial supports for assessment, counselling and testing services.

Placement support allowance

39. (1) A placement support allowance may be available to an eligible applicant or recipient for the purpose of

- (a) literacy skills development;
- (b) adult basic education;
- (c) training;
- (d) employment training.

(2) In order to qualify for participation in a placement support program, an applicant or recipient shall participate in a pre-employment or training program in excess of 8 weeks.

(3) Eligible applicants or recipients may receive the following employment support under this section

- (a) an annual start up allowance;
- (b) a monthly stipend; and
- (c) transportation costs by the most economical and appropriate means.

Short term training

40. (1) Where an applicant or recipient applies to participate in a course that is less than 12 weeks in duration and that program is ineligible for student assistance or Labour Market Development Agreement skills development funds, the applicant or recipient may be eligible for employment support for the costs of that training.

(2) An applicant or recipient personally ineligible for student aid assistance wishing to enter a training program which is eligible for student aid assistance shall not be assisted.

(3) Notwithstanding subsection (2), the minister may, in extenuating circumstances, make an exception to the prohibition contained in that subsection.

(4) The training referred to in subsection (2) shall be directly related to the employment needs of the applicant or recipient and that person's employment opportunity, and the applicant or recipient shall provide a written confirmation of that employment opportunity.

(5) Training under this section shall be provided by a registered provider.

Work supports

41. (1) An applicant or recipient may be eligible for work supports directly associated with his or her work placement.

(2) Work supports under this section may include:

- (a) work clothing and other work related essentials;
- (b) occupation specific tools;

- (c) the cost of transportation for an applicant or recipient only, by the most economical and appropriate means, to relocate to a place of work; and
- (d) fees, dues or certificates that may be required.

Assessment and counselling

42. An applicant or recipient may be eligible to receive funding to pay for career, academic, psychological or physical assessments to support employment placements or placements within adult basic education, training, or employment programs.

Employment supports for people with disabilities

43. (1) For the purpose of determining eligibility for services under this section, "person with a disability" means a person who, because of a persistent and permanent physical, sensory, speech, communication, psychological, psychiatric, developmental or other disability, demonstrates significant challenges in accessing education, training or employment.

(2) Notwithstanding subsection (1), where the definition in that subsection limits a person's ability to participate in the Labour Market Agreement for Persons with Disabilities, the Labour Market Agreement for Persons with Disabilities shall apply.

(3) A person with a disability may be eligible for employment supports and services to acquire the skills, experience and supports necessary to successfully prepare for, access and keep work.

(4) Employment support under this section may be provided under the Labour Market Agreement for Persons with Disabilities or its successor agreement or through other employment supports and services for persons with disabilities.

(5) Where an applicant or recipient

(a) self-identifies as having a disability; and

(b) that applicant or recipient demonstrates, to the satisfaction of an officer, that the disability poses significant challenges to the applicant or recipient in accessing education, training or employment

that applicant or recipient may be eligible to participate in Labour Market Agreement for Persons with Disabilities supports and services or

supports and services under a successor agreement or in other employment supports and services for persons with disabilities.

(6) Supports and services for which an applicant or recipient may be eligible under this section include:

- (a) job trainer support for an eligible applicant or recipient with a developmental disability;
- (b) training services, to be eligible for which an applicant or recipient shall have significant challenges in accessing education, training or employment as a result of their disability;
- (c) enabling supports, including maintenance, transportation, tuition and other needs;
- (d) assessment services;
- (e) restorative services, including support for wheelchairs, prosthetics and other aids; and
- (f) tools and equipment, including support for tools, special clothing, equipment, special aids and modifications to physical structures as approved.

**PART III
GENERAL**

Use of income support to provide employment support

44. (1) A recipient's income support may, under the authority of subsection 19(2) of the Act and according to this section, be used to provide his or her employment support.

(2) Where a recipient has an employment plan approved by an officer which confirms that the use of income support to provide employment support is appropriate and where that recipient has been receiving income support for 3 consecutive months, that recipient shall enter into an agreement regarding the manner in which that use may be undertaken.

(3) An agreement referred to in subsection (2) shall contain:

- (a) a provision outlining the limits of the use of income support for employment support;

- (b) a statement that the recipient has no eligibility for additional income support during the period in which the use of income support for employment support is in place; and
- (c) evidence of the spouse or cohabiting partner's consent for the use of the recipient's income support to finance his or her employment support.

(4) A maximum of 3 month's entitlement of income support may be used to provide a recipient's employment support.

(5) Income support funds which are to be used to provide employment support may be paid

- (a) in a lump sum; or
- (b) in instalments

to the maximum of eligibility.

(6) Where a recipient is provided with additional income support during the time period for which he or she has already received income support under this section, that additional income support shall be considered an overpayment and shall be recovered in the manner prescribed by the Act and these regulations.

(7) Notwithstanding another provision of this section, the minister may, in exceptional circumstances, vary the time periods referred to in subsections (2) and (4).

Conjugal relationship

45. (1) In order to determine whether cohabiting partners as defined by the Act share a conjugal relationship, an officer shall evaluate

- (a) the economic interdependence of the 2 people;
- (b) the parental connections of the 2 people based on the evidence of shared biological children or whether they share parental roles; or
- (c) the societal perception of the 2 people, including whether they present themselves as a couple in the community

and if the officer so determines based on the criteria referred to above, a conjugal relationship shall, for the purpose of these regulations, be considered to exist.

(2) Where a conjugal relationship has been determined to exist under subsection (1), the financial resources of the cohabiting partner shall be evaluated and the income support of an applicant or recipient may, as determined by an officer, be confirmed, denied, varied, suspended or cancelled accordingly.

Investigations

46. (1) An officer shall, in determining continued eligibility for income or employment support, verify the information provided by the applicant or recipient as required under these regulations to assess eligibility.

(2) Where a determination of eligibility is incomplete or unsatisfactory or new information regarding the eligibility of an applicant or recipient has come to the attention of and been verified by an officer, an officer may, under the authority of subsection 18(2) of the Act, perform those investigations that are necessary to determine an applicant's or recipient's eligibility for income or employment support.

(3) An officer performing an investigation

(a) may

- (i) access the applicant's or recipient's personal information that may be necessary to complete the investigation,
- (ii) contact third parties to obtain information about an applicant or recipient to complete an investigation,
- (iii) make visits to an applicant's or recipient's residence to obtain information to complete an investigation,
- (iv) at the conclusion of the investigation, recommend that an applicant's or recipient's income or employment support be confirmed, denied, varied, suspended or cancelled under the authority of these regulations, or
- (v) make a referral for prosecution where there is evidence that an applicant or recipient has committed an offence under section 48 of the Act; and

(b) shall

- (i) only conduct an investigation of a recipient on the approval of a manager,
- (ii) identify himself or herself as an officer and describe the purpose of the contact,
- (iii) interview an applicant or recipient personally where possible,
- (iv) at all times provide the applicant or recipient with the opportunity to respond,
- (v) complete the investigation within 4 months of it being assigned,
- (vi) only disclose personal information to third parties for the purpose of obtaining facts related to an investigation, and
- (vii) not disclose the identity of third parties without their permission to do so

and, in addition to the powers and duties prescribed in this subsection, an officer may, with the approval of the minister, do those other things necessary to complete an investigation.

(4) An officer who has received a recommendation from an officer performing an investigation under this section shall

- (a) confirm, deny, vary, suspend or cancel the income or employment support of the applicant or recipient who was the subject of the investigation; and
- (b) inform the applicant or recipient in writing of any action taken under paragraph (a) and of his or her right to request an internal review of that action and pending the outcome of the internal review, of his or her right to appeal under the authority of the Act and these regulations.

Temporary or
permanent incapacity

47. Whether an applicant or recipient is permanently or temporarily incapable of managing his or her financial affairs shall be determined

by an officer based on an assessment of the applicant or recipient which shall include

- (a) a recommendation by the applicant's or recipient's parents, guardians or others as the minister may determine, together with an opinion by an approved professional with supporting documentation;
- (b) an opinion by an approved professional alone, with supporting documentation; or
- (c) a determination by the court.

Other powers and duties of officers

48. (1) A support applications social worker may assist any person, including recipients of income or employment support, to obtain child or spousal support where appropriate.

(2) A support applications social worker may, under subsection (1),

- (a) assess potential eligibility for child or spousal support;
- (b) provide information about child or spousal support;
- (c) assist a person completing an application for child or spousal support;
- (d) provide information about the court and court documents, Child Support Guidelines and how they are applied;
- (e) provide general information about the support orders enforcement process;
- (f) explain departmental policies; and
- (g) do those other things that are appropriate in his or her capacity as an officer appointed by the minister.

(3) A support applications social worker referred to in this section may appear in court on behalf of the minister where authorized to do so by an Act of the province.

Information exchange

49. For the purpose of determining eligibility for income or employment support and under the authority of section 7 of the Act, the minister may exchange information with the entities listed in the Schedule.

**PART IV
UNDERPAYMENT, OVERPAYMENT AND
RECOVERY**

Rate of recovery

50. (1) Where an overpayment has accrued, the minister may recover that overpayment

- (a) where a recipient receives income support only, at a rate of 5% of the recipient's income support referred to in section 13, 14 or 15;
- (b) where a recipient receives employment support only, at a rate of 5% of the recipient's employment support; or
- (c) where a recipient receives both income and employment support, at a rate of 5% of the recipient's income support referred to in section 13, 14 or 15.

(2) The employment support referred to in this section includes monetary employment support only.

(3) Notwithstanding subsection (1), the minister may, in his or her discretion,

- (a) recover the overpayment at a rate lower than the rate prescribed in that subsection; or
- (b) decline to recover the overpayment.

(4) Notwithstanding subsection (1), where a child benefit adjustment is paid to a recipient under paragraph 19(1)(g) and that recipient receives a retroactive payment of the Newfoundland and Labrador child benefit or the Canada Child Tax Benefit, or both benefits with respect to the same period, the amount of child benefit adjustment that was paid or the retroactive payment, whichever is less, shall be recovered in full from the recipient's income support entitlement.

Apportionment

51. (1) Where an overpayment of income support accrues during a marriage or cohabitation, it shall be apportioned equally between the recipient and the recipient's spouse or cohabiting partner for the time period during which they both received the benefit of that overpayment of the income support during the marriage or cohabitation.

(2) Subsection (1) applies notwithstanding the subsequent dissolution of the marriage or cohabitation.

(3) Notwithstanding subsection (1), the minister may, in exceptional circumstances, vary the manner of apportionment prescribed in that subsection.

Certificate of judgment

52. A certificate of judgment referred to in section 34 of the Act shall only be issued against former income support recipients who have an overpayment.

Set off

53. Where a former recipient who is owed money from an underpayment according to section 23 of the Act also owes a debt to the Crown in the form of an overpayment under section 24 of the Act, the money owing to the Crown may be recovered from the money owing to the former recipient and the remainder, if any, shall be paid to the former recipient.

Amount and rate of garnishment

54. The amount and rate of garnishment under section 29 of the Act shall be the same as that under section 49 of the *Judgment Enforcement Regulations* under the *Judgment Enforcement Act*.

PART V APPEALS

Request for internal review

55. (1) An applicant or recipient may request that a decision of an officer be reviewed by an officer or officers appointed by the minister to perform an internal review.

(2) A request under subsection (1) shall be in writing.

Internal review

56. (1) An internal review shall be performed in the time period referred to in subsection 41(5) of the Act and the outcome of an internal review shall be communicated to the applicant or recipient in the time period referred to in that subsection.

(2) A communication referred to in subsection (1) shall include

- (a) the reasons for the finding or decision;
- (b) a notice specifying the right of appeal to the appeal board;
- (c) the time within which the right of appeal may be exercised;
- (d) the appeal procedure;
- (e) the manner in which an appeal may be conducted; and
- (f) that the applicant or recipient may access his or her appeal file in anticipation of the appeal, including any record of the appeal.

Appeal to the
appeal board

57. A person aggrieved by the outcome of an internal review may, in writing, appeal that outcome to the appeal board under section 43 of the Act in the time period referred to in that section.

Board practice and
procedure

58. The board may set its policy and procedure but it shall, at all times,

- (a) receive sworn evidence in relation to an appeal; and
- (b) give clear reasons, in writing, for its decisions.

Remuneration and
costs

59. (1) The rate of remuneration of appeal board members for meetings convened under the Act and regulations shall be according to the rates of remuneration for boards, commissions and agencies as set by Treasury Board.

(2) The members of the appeal board shall, in accordance with government policy, be paid all travel, accommodation and other expenses necessarily incurred by them in carrying out their duties under the Act and regulations.

(3) The department may, in the most reasonably economic manner, support the reasonable costs of an appellant relating to an appeal, but those costs shall not include any fees for legal services.

Shorter time period
by agreement

60. Notwithstanding section 43 of the Act, where there is an agreement among all the parties to the appeal, the hearing of an appeal may be rescheduled with less than 7 days notice.

**PART VI
COMMENCEMENT**

Commencement

62. These regulations shall come into force on the date the *Income and Employment Support Act* comes into force.

Schedule

**Entities or Agencies With Whom or With Which
The Minister May Exchange Information under
subsection 7(3) of the Act**

Federal Government Departments including:

Department of Citizenship and Immigration

Department of Finance

Department of Health

Department of Human Resources and Skills Development

Department of Indian Affairs and Northern Development

Department of Justice Canada

Department of Labour

Department of National Revenue

Department of Social Development

Department of Veterans Affairs

Federal Agencies, including:

Atlantic Canada Opportunities Agency

Canada Revenue Agency

Insurance Bureau of Canada

Provincial Government Departments including:

Department of Education

Department of Finance

Department of Government Services

Department of Health and Community Services

Department of Innovation, Trade and Rural Development

Department of Justice

Department of Municipal and Provincial Affairs

Government departments of other provinces or territories of Canada including any self-governing aboriginal entities

Provincial Agencies, including:

Newfoundland and Labrador Housing Corporation

Regional Health and Community Services and Integrated Boards under the *Health and Community Services Act*

Workplace Health, Safety and Compensation Commission

Memorial University

College of the North Atlantic

Private post secondary institutions affiliated with employment support programs

Community Agencies affiliated with employment support programs

Employers affiliated with employment support programs

©Earl G. Tucker, Queen's Printer

Index

Title of Act and Subordinate Legislation made thereunder	CNLR or NL Reg.	Amendment	NL Gazette Date & Page No.
Income and Employment Support Act			
Proclamation bring Act into force	NLR 143/04	New	Extra. Nov 30/04 p. 3
Income and Employment Support Regulations	NLR 144/04	New	Extra. Nov 30/04 p. 5