



BERMUDA

FINANCIAL ASSISTANCE REGULATIONS 2004

BR 33 / 2004

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	SCHEDULE

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

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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);

“assets” means—

- (a) any interest in real property; and
- (b) any interest in valuable personal property (including, but not limited to, jewellery, art, motor vehicles, boats, inventory or machinery), if the Director determines that it is reasonable for a person to sell the property in order to meet his financial needs;

“excluded income” means income from any of the following sources—

- (a) pension and other benefits to an amount not exceeding \$500 per calendar month 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;
- (f) in relation to persons suffering from mental disorder who are resident in private residential 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;

“pensioner” means any person who has been awarded and is being paid a pension”;

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

“qualifying income”, in relation to a person, means his aggregate income 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.

[Definition of “pensioner” inserted by BR 74/2004 effective 1 January 2005 on the authority of section 11(d) of the Computerization and Revision of Laws Act 1989; Regulation 2(1) amended by BR 20/2008 effective 1 April 2008; “assets” and “qualifying income” inserted, and “excluded income” amended by BR 17 / 2011 reg. 2 effective 1 April 2011]

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; and
- (b) the value of investments and assets (whether located in Bermuda or elsewhere) owned by the household does not exceed \$500.

(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 any interest in real property 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.

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(4) Eligibility for an award for rent shall be determined by the Director in accordance with the size of the accommodation required to house the number of persons in the family of the person receiving the award.

(5) Where, contrary to the Director's determination under paragraph (4), a person chooses accommodation the rental of which is in excess of his family requirements, the person shall be responsible for the payment of the amount in excess of the award for rent determined as applicable for the housing of such person's family.

[Regulations 3 amended by BR 74/2004 effective 1 January 2005; amended by BR 17 / 2011 reg. 3 effective 1 April 2011; paragraphs (4) and (5) inserted by BR 58 / 2013 reg. 2 effective 1 October 2013]

Special category persons

3A (1) The criteria for eligibility specified in regulation 3(1) shall not apply to the following persons—

- (a) pensioners;
- (b) persons who are 65 years of age and over;
- (c) disabled persons;
- (d) persons aged 55 years and over who rent a room in a residence where they are not a family member; and
- (e) persons aged 18 to 21 years who were foster children under the Children Act 1988 and who continue to reside in the household of a former foster parent;

but the criteria set out in paragraph (2) shall apply.

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

- (a) the amount of his allowable expenses exceeds his qualifying income for that period; and
- (b) the value of investments and assets owned by the person (whether located in Bermuda or elsewhere) does not exceed—
 - (i) \$5000, in the case of a person who is 65 years or over; or
 - (ii) \$500, in any other case.

(2A) In a case where a disabled person or a person who is 65 years or over holds any interest in real property (whether located in Bermuda or elsewhere), the value of that interest (or those interests, where more than one) shall not be included in calculating the value of his assets and investments for the purposes of paragraph (2)(b).

(2B) Notwithstanding paragraphs (1) and (2A), a person who is 65 years or over who holds more than one interest in real property (whether located in Bermuda or elsewhere), shall not be eligible for an award.

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(3) The amount of the award for which a person is eligible under this regulation shall be determined in accordance with the formula set out in regulation 3(2), except that the words “a person’s qualifying income” shall be substituted for the words “qualifying household income”.

[Regulation 3A inserted by BR 74/2004 effective 1 January 2005; Regulation 3A(1) amended by BR 20/2008 effective 1 April 2008; Regulation 3A paragraph (2) deleted and substituted by BR 17 / 2011 reg. 4 effective 1 April 2011; Regulation 3A paragraph (2A) inserted by BR 17 / 2012 reg. 2 effective 1 April 2012; paragraph (2A) amended by BR 89 / 2012 reg. 2 effective 14 December 2012; paragraph (2B) inserted by BR 58 / 2013 reg. 3 effective 26 June 2013]

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, medical, dental or other healthcare practitioner or treatment facility provider 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.

[Regulation 4 subsection (2) amended by BR 17 / 2011 reg. 5 effective 1 April 2011]

Requirements before award may commence

4A (1) Payment of an award of financial assistance shall not commence until the applicant has been living in Bermuda for at least one year.

(2) If an application is made due to the termination of an applicant’s employment, payment of an award of financial assistance shall not commence until three months after the date of termination.

(3) In paragraph (2), “termination” of an applicant’s employment means—

- (a) termination for cause; or
- (b) resignation,

but does not include termination due to circumstances which are the basis of a complaint brought by the applicant under the Human Rights Act 1981.

(4) If an application is made due to the termination of an applicant’s employment for reasons of redundancy, and the applicant receives a redundancy payment, payment of an award of financial assistance shall not commence until the end of the period which is determined by the Director as a reasonable period for him to meet all of his financial needs from that redundancy payment.

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(5) Where the applicant is a single, separated or divorced parent with one or more dependent children, the application must indicate what steps have been taken to apply to the court for an order in relation to the dependent children under whichever one or more of the following enactments apply—

- (a) Part IVB of the Children Act 1998 (order for support);
- (b) Part IV of the Matrimonial Causes Act 1974 (financial provision for child of family);
- (c) section 3(1)(g) of the Matrimonial Proceedings (Magistrates' Courts) Act 1974 (maintenance of a child of the family);
- (d) section 12(2) of the Minors Act 1950 (maintenance of a minor);
- (e) sections 2 and 3 of the Maintenance Orders (Reciprocal Enforcement) Act 1974 (transmission of maintenance orders and provisional maintenance orders),

and the applicant shall take such further steps as the Director may require before an award of financial assistance may commence.

[Regulation 4A inserted by BR 17 / 2011 reg. 6 effective 1 April 2011; para. (5) inserted by BR 41 / 2015 reg. 2 effective 1 July 2015]

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.

Duration and amount of award to able-bodied recipient

6A (1) Payment of an award to an able-bodied recipient shall be limited to a maximum period of five years, whether that period is—

- (a) continuous; or
- (b) an aggregate period made up of two or more awards.

(2) Payment of an award to an able-bodied recipient shall be paid at the full amount for a maximum period of one year only, and during the remaining four years (continuous or aggregate) shall be reduced as follows—

- (a) during the second year, at 90% of the full amount;

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- (b) during the third year, at 80% of the full amount;
- (c) during the fourth year, at 70% of the full amount; and
- (d) during the final year, at 60% of the full amount.

[Regulation 6A inserted by BR 41 / 2015 reg. 3 effective 1 July 2015]

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 (1) 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.

(2) In order to investigate and verify statements of a medical nature relating to an application by a person who has been in receipt of an award for a period in excess of three months, the Director may refer the applicant's case to the Chief Medical Officer, or a doctor nominated by the Chief Medical Officer, for review.

[Regulation 9 para. (2) inserted by BR 41 / 2015 reg. 4 effective 1 July 2015]

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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.

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(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.

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SCHEDULE

(regulation 2(2))

TABLE OF ALLOWABLE EXPENSES

Item of Expenditure	Description	Parameter	Maximum Rate
Adult Day Care		Cost per month	\$1,500
Auditory exam		At Cost	
Auditory equipment		At Cost	
Belco	1 - 2 persons	Cost per month	\$150
Belco	3 - 4 persons	Cost per month	\$250
Belco	5 or more persons	Cost per month	\$350
Child Care	After school/ camps/ transportation	Cost per month	At Cost
Chiropody	See Podiatrist		
Clothing	under-garments/shoes	Cost per six months	\$100
Dental Care		80% of Cost	
Disability allowance	Mental/Physical	Cost	\$650
Disability equipment/ services		At Cost	\$1,000
Eye care	Eye care - exam	At Cost	\$100
Eye care	Eye care - frames/lenses	At Cost	\$350
Food		Cost at Gov. nutrition rates	
Food	Supplementary	Cost at Gov. nutrition rates	
Fuel	Cooking gas	Cost not exceeding the rate for one cylinder	
Funeral Expenses		At Cost	\$3,000
FutureCare		At Cost	
Group Home Rates		To be determined by the Director	
Hearing Aids		At Cost	
HIP		At cost	
Home Care		Cost per month	\$2,000

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Item of Expenditure	Description	Parameter	Maximum Rate
Laundry		Cost per person per month	\$80
Medical Insurance		Cost not exceeding HIP rates	
Medical supplies		Cost per month	\$500
Medical equipment		Cost per month	\$1,000
Medical overseas travel (client only)		To be determined by the Director	
Medication		At cost per month	
Nursing Home		Cost per month	\$5,000
Podiatry		Cost per year	\$500
Public transportation	Adults	Cost per month based on PTB rates	
Public transportation	Students	Cost per month based on PTB rates	
Rent	Studio	Cost per month	\$1,150
Rent	1 bedroom	Cost per month	\$1,450
Rent	2 bedroom	Cost per month	\$1,900
Rent	3 bedroom	Cost per month	\$2,400
Rest Home Rates		Cost per month	\$4,000
Room and board		Cost per month	\$650
Room		Cost per month	\$550
School supplies		Cost per child per academic year	\$100
School clothing		Cost per child per academic year	\$700
Telephone		Cost per month	\$40
Water Supply		At cost	

[Schedule revoked and replaced by BR 44/2004 effective 1 July 2004; amended by BR 74/2004 effective 1 January 2005; revoked and replaced by BR 20/2008 effective 1 April 2008; "child day care" and "child day care arrears" deleted by 2008:38 s.18 effective 31 October 2008; Schedule revoked and replaced by BR 17 / 2011 reg. 7 effective 1 April 2011; Table deleted and substituted by BR 58 / 2013 reg. 4 effective 26 June 2013; revoked and replaced by BR 26 / 2014 reg. 2 effective 1 April 2014]

Made this 28th day of May, 2004

Minister of Health and Family Services

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[Amended by:

BR 44 / 2004

BR 74 / 2004

BR 20 / 2008

2008 : 38

BR 17 / 2011

BR 17 / 2012

BR 89 / 2012

BR 58 / 2013

BR 26 / 2014

BR 41 / 2015]