



RIGHTS AND DUTIES OF SOCIAL WELFARE BENEFICIARIES AND ACKNOWLEDGEMENT OF THE OBLIGATION TO REIMBURSE

English translation for information purposes only, with no legal value: if in doubt, the original French and German versions of the document prevail.

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1. Essential legal points

- Constitution fédérale (RS 101) / Federal Constitution
- Code pénal suisse (CP), du 21 décembre 1937 (RS 311.0) / Swiss Criminal Code (CP), of December 21st 1937
- Loi fédérale sur la compétence en matière d'assistance des personnes dans le besoin (LAS), du 24 juin 1977 (RS 851.1) / 'Federal Law on the Jurisdiction regarding support for individuals in need' (LAS), of June 24th 1977
- Loi cantonale sur l'intégration et l'aide sociale (LIAS), du 29 mars 1996 (RSV 850.1) / 'Cantonal Act on Integration and Social Welfare' (LIAS), of March 29th 1996
- Règlement d'exécution de la loi cantonale sur l'intégration et l'aide sociale (RELIAS), du 7 décembre 2011 (RSV 850.100) / 'Enforcement Regulation of the Cantonal Act on Integration and Social Welfare' (RELIAS), of December 7th 2011
- Loi cantonale sur la procédure et la juridiction administratives (LPJA), du 6 octobre 1976 (RSV 172.6) / 'Cantonal Act on Administrative Procedures and Jurisdiction' (LPJA), of October 6th 1976
- Directives du Département en charge des affaires sociales (www.vs.ch/web/sas) / 'Directives from the Department of Social Affairs'
- Recommandations de la Conférence suisse des institutions d'action sociale (CSIAS) (www.csias.ch), à titre subsidiaire / 'Recommendations from the Swiss Conference for Social Welfare' (CSIAS), on a subsidiary basis

2. The social welfare applicant's/beneficiary's main rights

2.1 The right to a minimum income (art. 12 Constitution fédérale, 1 LIAS, 1 and 8ss RELIAS)

- Any individual who is incapable of sufficiently or timely providing for themselves by their own means, is entitled to social welfare support (art. 12 Constitution fédérale). Debts are exempt.
- 'RELIAS' (art. 8 to 13) determines the specific principles for particular groups of people (young adults, self-employed individuals or those in training, property or real estate owners, 'L' permit holders, individuals without a residence permit).

2.2 Applying for social welfare (art. 12 LIAS, 28ss RELIAS)

- The request can be made by the person him/herself or by a representative.
- It is addressed verbally or in writing either to the municipality of residence providing the assistance (place where the applicant actually lives) or to the community health centre ('Centre Médico-Social – CMS').

2.3 The right to receive a verdict (art. 4 and 13 LIAS, 31s RELIAS, 29 LPJA)

- The municipality is responsible for making decisions on social welfare. It may, however, delegate this task to the 'CMS' (art. 4 LIAS).
- All of the municipality's decisions (the right to social welfare, a budget change, an entitlement withdrawal, the repayment of financial aid, etc.) must be reasoned and notified to the person concerned with an indication of the possibilities and deadlines for appeal.
- The decision must be given within **30 days** of the request being submitted. It specifies whether or not support has been granted and the amount thereof. A budget is attached if one has been established.

- If the individual expressly requests it, the municipality can give them a decision on urgent measures, within **5 days** of the request for support being submitted, pending the final decision.

2.4 The right of appeal (art. 14 LIAS, 33 RELIAS, 5, 34 and 41ss LPJA)

- The individual concerned by the municipality's decision can contest it at the « Conseil d'Etat, Palais du Gouvernement, 1950 Sion » ('Council of State, Palace of the Government, 1950 Sion'). (S)he addresses their appeal by signed letter, specifying what the contested decision is and their reason for contesting it. The individual can request for urgent measures to be granted.
- The deadline for appeal is 30 days as of the day that the individual receives the decision. If the municipality has not made a decision within the legal deadline (see point 2.3), their decision is considered as negative (art. 5 LPJA). In this case, the individual can, within a reasonable amount of time, lodge an appeal for 'denial of justice'.
Social Welfare Services, Avenue de la Gare 23, 1950 Sion, are in charge of setting up appeals against a municipality's decision.

2.5 The right to consult their file and to be heard (art. 19 and 25 LPJA)

- Upon request, the individual concerned has the right to consult their social welfare file.
- The individual can express themselves on all points which concern them.
- The individual is entitled to a copy of everything that they sign.

2.6 The start of the social welfare entitlement (art. 15s RELIAS)

- If the individual is entitled to social welfare, the assessment of their right generally begins on the date that they applied for it (see point 2.2).
- If the application is submitted during the month, the calculation is carried out on a pro rata temporis basis (according to the number of days). Nevertheless, the municipality can pay the entire rent for the first month, provided it has not already been paid.
- The municipality sets a deadline for the individual to provide the documents necessary for the assessment of their right to welfare and to calculate the amount of their financial support (financial, personal, medical and social situation) (see point 3.2).
- If, for a good reason, certain documents cannot be obtained within the deadline of 30 days for the decision to be made, the municipality will decide on temporary support, based on the documents that have been provided.
- The municipality may temporarily refuse to grant social welfare, if the situation of destitution cannot be established within the deadline for the decision to be made due to the individual not providing the information/documents within the agreed time limit, without a good reason. If the individual subsequently provides the information/documents, the entitlement to social welfare will be analysed from the day that the information/documents are provided and not retroactively to when the support was applied for.

2.7 Payment of social welfare (art. 16 RELIAS)

- The individual has the right to receive social welfare during the first days of the current month. Depending on the situation, the welfare can be paid in instalments.
- It is possible for the social welfare authority to pay certain bills directly to the creditors (eg. rent, medical expenses, third party liability and household contents insurance).

3. The social welfare applicant's/beneficiary's main duties

3.1 Subsidiarity of social welfare (art. 2 and 19a al. 3 LIAS, 1s and 43 RELIAS)

- Social welfare is subsidiary to any other source of income and personal wealth.
- The individual must undertake all possibilities which could lead to providing them with a financial resource (salary, private or social insurance, alimony, family allowance, duty of assistance, inheritance, etc.) and must accept any suitable employment proposal. If they do not comply, or if they divest an asset, the municipality will include a hypothetical income in the budget (if necessary over a period of several months) which corresponds to the amount renounced or divested by the individual. The principle of proportionality must be respected.
- If the individual owns a property, they must accept to mortgage it in order to ensure the repayment of the social welfare they receive.

3.2 Obligation to provide information (art. 12 LIAS, 24 and 29s RELIAS)

- The individual applying for social welfare must prove their destitution by disclosing their detailed financial situation (income, wealth, property assets, etc.). They must explain their professional, social and personal situations (in particular by stating all persons living in their household) and their medical situation (enforced by a medical certificate, if required).

- The information must be provided within the time limit indicated by social services (see point 2.6) for all members of the family (or partners) forming part of the same household, as well as any dependent children, even if they live elsewhere.
- The social welfare beneficiary must inform the authorities immediately of any change to their situation. If they do not do this, and the municipality has any doubt regarding their right to welfare, it can decide to temporarily suspend the social welfare payments and set a deadline by when the relevant information/documents must be provided.

3.3 Cooperating towards reintegration (art. 11 LIAS, 18ss RELIAS)

- The beneficiary must undertake everything that can reasonably be expected of them in favour of their social reintegration and to get their financial independence back.
- (S)he must cooperate with the authorities and organisations helping them to get this independence back, notably private and social insurances (AI / 'invalidity insurance', AC / chômage / 'unemployment insurance', SUVA / 'accident insurance') and accept the various measures that are offered to them. If the beneficiary is fit to work, even if only partially, (s)he must register as an unemployed job seeker (regardless of a potential entitlement to a daily allowance), be supervised by a Regional Employment Office advisor (Office Régional de Placement – 'ORP') whom (s)he must provide with proof of their job search.

3.4 Housing

- Municipalities regularly establish a scale of average rental costs permitted in the region and, on request, communicate it to the social welfare beneficiaries. If a beneficiary's rent is too high, the municipality may send them a letter requesting them to move within a reasonable time limit.
- If the individual refuses to move within the agreed time limit, or if (s)he does not prove that (s)he has been looking for suitable housing, the municipality may refuse to pay the part of the rent that exceeds the established scale.
- If the individual pays their rent themselves, (s)he must provide the social welfare authorities with proof of the payment every month.

3.5 Reimbursement of social welfare (art. 21ss LIAS, 48ss RELIAS)

- Any individual over the age of 18 who receives social welfare is required to pay it back interest free, particularly if their financial position is considered stronger according to the Federal Debt Enforcement and Bankruptcy Law (LP). Falsely obtained benefits are to be paid back at any time with interest.
- The action is barred at the end of twenty years after the last benefit was paid. If the municipality and the beneficiary cannot agree on the reimbursement terms, the municipality makes a formal decision that the individual can contest at the Council of State ('Conseil d'Etat') (see point 2.4).
- There is no obligation to pay the welfare support back if the file is opened in the name of someone under the age of 18 or a young person before they have finished their compulsory education.
- In the event of social welfare being paid in the form of a loan based on provisions due to be received from a third party or from a private or social insurance, the beneficiary signs a concession contract in favour of the social welfare authorities. The reimbursement is payable as soon as the benefits have been received, up to the amount of welfare granted retroactively. The concession contract enables the authorities to be paid directly by the insurance company or third party. If the retroactive payment is nevertheless paid to the welfare beneficiary, the latter commits to informing the social welfare authorities and to paying back the amounts owed immediately.

4. **Suspicious of illicit social welfare benefit claims (art. 12 and 15b ss LIAS)**

- If there is a reason to suspect an individual of claiming, having claimed or trying to claim benefits illicitly, the social welfare authorities can call on specialized inspectors to investigate.
- The beneficiary and all members of their family must allow social workers and inspectors carrying out the investigation to enter their home and, if applicable, their vehicles, as well as their place of work, in their presence and at appropriate times.
- If requested, the beneficiary of social welfare must provide the investigating authority with any information which might be necessary to establish the facts. This obligation also applies to relatives and close friends, in accordance with the provisions in Art. 110 al. 1 and 2 of the Swiss Criminal Code.
- In the event of an offence being discovered, the social welfare authorities inform the individual involved of the outcome of the investigation.
- The investigating authority reports the facts of all offences that are prosecuted ex officio to the competent authorities, such as the Office of Attorney General ('Ministère public'). The social

welfare authorities communicate the penalties prescribed by the Law for all other offences and inform the Social Welfare Services.

5. Penalty for non-compliance

5.1 Administrative penalties (art. 19a ss LIAS)

- The municipality can temporarily refuse to proceed, if an individual does not provide proof of their destitution.
- The social welfare beneficiary is liable to being penalised if they fail to comply with one of their legal obligations.
- The penalty imposed is decided by the municipality or, upon delegation, by the community health centre ('CMS') and is reasoned and communicated in writing to the social welfare beneficiary. It specifies what penalty is being applied and why, how long it will be applied for (the months concerned) and the behaviour expected. The decision can be contested at the Council of State ('Conseil d'Etat') (see point 2.4).
- There are three possible kinds of penalties:
 - 1) a tiered reduction of maintenance benefits:
 - a 15% reduction of maintenance benefits;
 - suspension of rights to social welfare support with emergency support being granted: monthly maintenance benefits amounting to : Fr. 500.- per adult; Fr. 300.- per child over the age of 12; Fr. 220.- per child under the age of 12;
 - suspension of rights to social welfare support with emergency support being granted: daily maintenance benefits amounting to: Fr. 10.- per adult and Fr. 6.- per child;
 - 2) a hypothetical income taken into account;
 - 3) withdrawal of social welfare support in the event of repeated abuse of rights.

5.2 Criminal penalties (19d LIAS, 66a, 146 and 148a CP)

- False acquisition of social welfare benefits can lead to a fine of up to Fr. 10'000.-, depending on the Cantonal Act in force, if the Federal Law has not foreseen a stiffer penalty.
- According to the Federal Law, an individual can be condemned to a custodial sentence (prison) for up to one year, or be fined, for illicit acquisition of social welfare benefits and/or, in the case of fraud, be condemned to a custodial sentence (prison) for up to five years, or be fined.
- If the social welfare beneficiary is foreign and is condemned for social welfare fraud or illicit acquisition of social welfare benefits, the judge will also order the individual to be evicted from Switzerland for a period of time between five and fifteen years.

By signing, the undersigned confirm(s) their request for social welfare support from the municipality of:

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and declare(s) having taken note of the above mentioned legal provisions regarding the beneficiaries' main rights and duties, particularly social welfare's subsidiarity, and being aware of their obligation to reimburse the amounts paid to them as a welfare measure (see point 3.5 above).

(Surnames, first names and signatures)

Applicant:

Spouse/partner:

Children over 18:

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Place and date: