

THE KERALA SENIOR CITIZENS' BILL, 2023

A

Bill

to Provide for Protection, Welfare and Social Security of Senior Citizens and to promote trust and respect towards them and for inspiring confidence in them by utilizing their knowledge, skill, capability and experience inherent in them.

Preamble: Whereas, it is expedient to make an Act for the protection, welfare and social security of Senior Citizens and to promote trust and respect towards them and for inspiring confidence in them by utilizing their knowledge, skill, capability and experience inherent in them;

BE it enacted in the Seventy Fourth Year of the Republic of India as follows:-

1. **Short title, extent and commencement.**- (1) This Act may be called the Kerala Senior Citizens' Act, 2023.
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
2. **Definitions.**- Unless the context otherwise requires,-
 - (a) "Care Centre" means an institution, a home, shelter or other facility of similar nature established and operated under this Act for the care and welfare of Senior Citizens with or without collecting fees;
 - (b) "Care and Welfare" means acts such as making provision for food, clothes, shelter, treatment, transportation, social services and entertainment for senior citizens and for their involvement in spiritual, social and cultural activities;
 - (c) "Commission" means the Kerala State Senior Citizens' Commission constituted under Section 10;

(d) "Committee" means the District Senior Citizens Welfare Committee constituted under section 18;

(e) "Day Service Centre" means an institution, a home, shelter or other facility of similar nature established and operated under this Act for the care and welfare of Senior Citizens during day time with or without collecting fees;

(f) "Family Member" means son, daughter, son-in-law, daughter-in-law, grand-son, grand-daughter and in their absence brother or sister of the Senior Citizen, but does not include a minor;

(g) "Fund" means the Senior Citizens' Welfare fund established under Section 26;

(h) "Government" means the Government of Kerala;

(i) "Indigent Senior Citizen" means a Senior Citizen satisfying any or all of the following conditions namely:-

- (1) having no means or source of income or property for earning his livelihood;**
- (2) having no family member for maintaining and taking care of him ;**
- (3) despite the existence of a family member, being compelled to live a discarded or disregarded life because of not being maintained by that member.;**

(j) "Incapable Senior Citizen" means a Senior Citizen who is physically incapable;

(k) " Legal heir" means a legal heir entitled to inherit the property of a Senior Citizen in accordance with his personal Law concerned;

(l) "Member" means a member of the Commission;

(m) "Mentally Challenged Senior Citizen" means a Senior Citizen who is mentally incapable;

(n) "Minor" means a person who, under the provisions of the Majority Act, 1875 (Central Act 9 of 1875) has not attained the age of majority;

(o) "Prescribed" means prescribed by Rules made under this Act;

(p) "Registrar" means the Registrar designated by the Government for the registration of the Care Centre or Day Service Centre under section 23;

(q) "Senior Citizen" means a citizen of India having attained the age of sixty years;

(r) "Senior Citizen Club" means a club established for or by Senior Citizens for recreation, entertainment or for the protection of their rights and interests;

(s) "Senior Citizen Park" means a welcoming public space established for Senior Citizens offering age friendly design and programming opportunities for low impact physical activities as well as settings for social and cultural interactions including recreational activities intended to relieve stress, increase fitness and for wellness to them;

(t) "State" means the State of Kerala.

3. Duty of Citizens.- It shall be the duty of all citizens to respect Senior Citizens.

4. Care and Welfare of Senior Citizen.- (1) It shall be the duty of each family member to take adequate measures for the care and welfare of Senior Citizen according to his economic capability and social status.

(2) No family member shall expel the Senior Citizen from his family or compel him to leave the family house against the will of the Senior Citizen.

(3) Where the family member who takes care and welfare of the Senior Citizen is incapable of doing so, other family members shall take adequate measures for the care and welfare of such Senior Citizen.

(4) Notwithstanding anything contained in this Section, a family member, relative or legal heir who uses or deals with the movable or immovable property of a Senior Citizen shall be duty bound to take the care and welfare of such Senior Citizen.

5. **Complaint by Senior Citizen.-** (1) Where a family member, relative or legal heir who has the duty for the care and welfare of a Senior Citizen under Section 4, fails to do so or fails to make provision for his care and welfare, such Senior Citizen may file a complaint to the Commission for his care and welfare.
- (2) Where a complaint is filed under Sub-section (1), the Commission shall enquire into such complaint as it deems fit and attempt to make reconciliation between him and the family member, relative or legal heir who has a duty for the care and welfare of the Senior Citizen.
- (3) Where reconciliation cannot be made under Sub-section (2), the Commission may, after hearing both the parties, pass appropriate orders except an order of maintenance which to be passed by the Tribunal constituted under Section 7 of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 (Central Act 56 of 2007).
- (4) The order issued by the Commission under Sub-section (3) shall be final and the same shall be published in the notice board of the office of the Commission, Village office and Local Self Government Institutions concerned.
- (5) Where the family member, relative or legal heir who fails to comply with the order passed by the Commission under Sub Section (3) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both.
- (6) The fine realised under Sub Section (5) shall be paid to the Senior Citizen who filed the complaint.
6. **Power to procure service.-** The Government or any other establishment under the control of the Government may procure the service of a senior citizen who has gained special knowledge, qualification or experience in any field and the Government or such establishment, as the case may be, may provide due remuneration to such senior citizen for the service rendered by him.

7. **Prohibition in begging.-** (1) A Senior Citizen shall not indulge in begging and no citizen shall engage a Senior Citizen in begging.
- (2) Any Senior Citizen found begging shall be rehabilitated in suitable care centres with the assistance of the State Police.
- (3) Any person who employs or engages a Senior Citizen for begging shall be deemed to have committed an offence and he shall, on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.
- (4) Any indigent Senior Citizen wandering or unauthorisedly staying in public places shall be rehabilitated in suitable care centres with the assistance of the State Police.
- (5) Senior Citizen other than indigent Senior Citizen wandering or unauthorisedly staying in public places shall be taken into custody by the State Police and handed over them to the family member or relatives or legal heirs, as the case may be.
8. **Providing facilities and concessions to incapable or mentally challenged Senior Citizens.-** (1) It shall be the duty of all concerned to provide necessary services, facilities and assistance to incapable or mentally challenged Senior Citizens in public vehicles, public undertakings, medical services, spiritual and public places in the manner as may be prescribed.
- (2) Organizations providing public services shall give priority to Senior Citizens in the manner as may be prescribed.
- (3) The Government shall ensure old age pension to indigent Senior Citizens at the rate fixed by the Government from time to time.
9. **Right to make complaints.-** Any Senior Citizen living in a Care Centre, Day Service Centre or any other person interested in this matter may file a complaint before the Commission or the District Senior Welfare Committee regarding the violations or infractions in the functioning of Care Centre or Day Service Centre for non-implementation of laws

providing protection, care and welfare of Senior Citizen and non-compliance of Policies, Schemes, Plans, Programmes, Guidelines or Instructions issued by the Government with respect to the care and welfare of Senior Citizens.

10. **Constitution of the Commission.-** (1) The Government shall, as soon as may be after the Commencement of this Act, by notification in the Official Gazette, constitute a Commission called the Kerala Senior Citizens' Commission to exercise all or any of the powers conferred on it and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of the following members appointed by the Government, namely:-

- (a) a Chairperson, who is committed to the cause of Senior Citizen with special knowledge and experience in matters relating to Senior Citizens;
- (b) not less than two other members having special knowledge and experience in matters relating to Senior Citizens, of which one shall be a person having sufficient knowledge in law and other shall be a woman.

(3) The Chairperson and Members shall be Senior Citizens at the time of their appointment.

(4) The Government shall appoint a person who is or has been holding a post not below the rank of an Additional Secretary to Government as the Secretary of the Commission.

(5) The headquarters of the Commission shall be at Thiruvananthapuram.

11. **Term of office and conditions of service of Chairperson and Members,-**

(1) The Chairperson and Members may hold office for a period of three years from the date on which they assume office.

(2) The Chairperson or Members may, at any time in writing addressed to the Government, resign his office.

(3) A casual vacancy caused by reason of death, removal or resignation or otherwise in the office of the Chairperson or Members may be filled up by fresh appointment and the person so appointed shall hold office only for the remaining period of the term of the person in whose place he is appointed.

(4) The Government may, by order, remove the Chairperson or any Member from his office, if he,-

- (a) is adjudged as an insolvent by a competent Court; or**
- (b) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or**
- (c) becomes of unsound mind and stands so declared by a competent Court; or**
- (d) has failed to attend three consecutive meetings of the Commission without obtaining leave of absence from the Commission; or**
- (e) in the opinion of the Government, has abused his official position so as to render his continuance in office detrimental to the interest of Senior Citizens or on public interest:**

Provided that no person shall be removed under this Sub Section unless he has been given a reasonable opportunity of being heard.

(5) The Chairperson or Members shall, otherwise than as per an order of the Government, not engage in any other employment or work earning remuneration.

(6) The Chairperson or Members shall not be eligible to hold office for more than two terms:

Provided that the appointment of the Chairperson or a Member under Sub Section (3) shall not be considered as a term under this Section.

(7) The Salary and allowances payable and other terms and conditions of service of the Chairperson and Members shall be as may be prescribed.

12. Staff of the Commission.- (1) The Government shall provide the Commission with such officers and employees as are required for the proper functioning of the Commission.

(2) The salaries and allowances payable to and terms and conditions of service of the officers and other employees appointed for the Commission shall be as may be prescribed.

13. Salary, allowances and administrative expenses to be paid out of Fund.- The salary and allowances payable to the Chairperson and Members and the administrative expenses including the salary and allowances payable to the officers and other employees of the Commission shall be paid out of the fund constituted under this Act.

14. Vacancies etc. not to invalidate the proceedings of the Commission.- No act or proceedings of the Commission shall be invalid merely on the ground of existence of any vacancy in the Commission or any defect in its constitution.

15. Meetings of the Commission.- (1) The Commission shall meet as and when necessary at such time and place as the Chairperson thinks fit and the Commission shall have the power to regulate its own procedure:

Provided that such meeting shall be held at least once in three months.

(2) All orders and decisions of the Commission shall be authenticated by the Chairperson or any other member authorized by the Commission in this behalf and other instruments executed by the Commission shall be authenticated by the Secretary or any other officer of the Commission authorized by the Commission in this behalf.

(3) The Commission may for the purpose of transacting any business before it or for considering any special issue, invite persons having expertise or special knowledge on such issue, but they shall not have any right to vote in the meetings of the Commission:

Provided that the persons so invited may be paid such allowances as may be decided by the Commission.

16. **Duties and Functions of the Commission.**- The Commission shall perform all or any of the following functions, namely:-

- (a) examine and review the safeguards provided under this Act for the protection, care and welfare of Senior Citizens and recommend measures for their effective implementation;
- (b) to inquire into any complaints of violations against Senior Citizens rights and recommend to the Government as to the action to be taken in that matter;
- (c) examine all factors that inhibit the enjoyment of the rights of Senior Citizens affected by domestic violence, torture, exploitation or harassment from any person and recommend appropriate remedial measures.
- (d) look into the matters of Senior Citizens in need of special care, welfare and protection especially indigent, incapable or mentally challenged Senior Citizens and recommend appropriate remedial measures by submitting special reports to the Government;
- (e) conduct or promote research and studies in the field of Senior Citizens rights and their living conditions in the State;
- (f) conduct awareness programs among various sections of the society so as to promote awareness regarding the rights, care and welfare and protection of senior citizens;

- (g) make inquiry either suo-motu or on complaints and take appropriate measures to provide adequate relief to Senior Citizens regarding the following matters, namely:-**

 - (i) violations or infractions regarding the functioning of Care Centers including Day Service Centre or Geriatric Care Centre;**
 - (ii) Non-implementation of laws providing for protection, care and welfare of Senior Citizens;**
 - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to Senior Citizens;**
- (h) give approval to the Schemes and Programs, for the protection, care and welfare and social security of Senior Citizens submitted by the District Senior Citizen Welfare Committee after due deliberations;**
- (i) conduct Adalats for disposal of complaints or petitions;**
- (j) conduct time bound enquiry and submission of report upon the request of the Registrar;**
- (k) prepare policies, plans and programmes as may be required for the protection, care and welfare of the Senior Citizens and submit the same to the Government;**
- (l) monitor and implement schemes, policies, plans and programmes approved by the Government in respect of Senior Citizens;**
- (m) co-ordinate and monitor the activities of the District Senior Citizen Welfare Committees;**
- (n) monitor the activities carried out by the Care Centres, Day Service Centre or Geriatric Care Centre, Senior**

Citizen Clubs or Associations functioning in the State and take necessary further action;

- (o) ensure that medical officers concerned make timely visits and examine the inmates staying in the Care Centres or Day Service Centres;**
- (p) conduct census or survey of Senior Citizens in Kerala;**
- (q) perform such other functions as may be prescribed. .**

17. Powers of the Commission.- (1) The Commission may, for the purpose of carrying out its functions, utilize the service of:-

- (a) any officer of the Government with the permission of the Government; or**
- (b) any officer of the Government owned Corporations or of the Local Authorities with the consent of such Corporation or Local Authority and with the concurrence of the Government.**

(2) The Commission shall, while performing its function under section 16, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;**
- (b) requiring the discovery and production of any document;**
- (c) receiving evidence on affidavits;**
- (d) requisitioning any public record or copy thereof from any court or office;**
- (e) appointing Commissions for the examination of witnesses or documents; and**
- (f) any other matter, as may be prescribed.**

(3) The Commission shall, while conducting the enquiry, afford opportunity to all parties to present their views by themselves or by their authorized representatives.

(4) The findings of the Commission on any enquiry conducted under this Act shall be communicated to the Government with its recommendation for appropriate action.

18. Formation of District Senior Citizen Welfare Committee: (1) The Government may, by a Notification in the official Gazette, form a District Senior Citizen Welfare Committee in each district as follows, namely:-

- (a) District Collector - Chairperson (ex-officio)
- (b) One R.D.O nominated by the Government – Member (ex-officio)
- (c) District Officer of the Social Justice Department – Member (ex-officio)
- (d) District Medical Officer –Member (ex-officio)
- (e) Joint Director Local Self Government Department – Member (ex- officio)
- (f) Two Senior Citizens, who are having special knowledge and experience in matters relating to Senior Citizens nominated by the Government, of which one shall be a women -Members

(2) The tenure of the Senior Citizens nominated by the Government shall be three years:

Provided that, if such a member commits misconduct or suffers from incompetence, the Government may remove such member after providing an opportunity of being heard.

(3) The honorarium and other allowances of the members other than ex-officio members shall be as may be prescribed.

19. Functions, duties and powers of District Senior Citizen Welfare Committee.- The functions, duties and powers of the District Senior Citizen Welfare Committee shall be as follows, namely:-

- (a) to collect the details of the Care Centres, Day Service Centres or Senior Citizen Clubs within the district and maintain records of the same.**
- (b) to prepare plans, schemes and programs for the protection, care and welfare and social security of the Senior Citizens within the district and submit the same to the Commission for approval.**
- (c) to implement and monitor the policies, schemes, plans and programmes of the Government relating to the protection, care and welfare and social security of the Senior Citizens.**
- (d) to monitor the activities carried out by the Care Centres, Day Service Centres and Senior Citizen Clubs established by the Government or any person or non-Governmental organisation and in the district relating to the protection and social security of the Senior Citizens.**
- (e) to mobilize local level organizations to carry out activities pertaining to the protection, care and welfare and social security of Senior Citizens.**
- (f) to conduct enquiry as it deems fit on complaints, if any received by the Committee and submit a report along with the complaint and records within thirty days from the date of receipt of such complaint to the Commission for further necessary action.**
- (g) to conduct time bound enquiry and submission of report upon the request of the Registrar**

- (h) to enquire and ascertain whether any unregistered or unauthorised Care Centre, Day Service Centre or Senior Citizen Club is functioning in the District and if it is found so, the Committee shall, after providing an opportunity of being heard, impose a penalty which may extend to one lakh rupees and issue appropriate direction to regularise such centres in accordance with the provisions of this Act within a specific period of time stipulated by the Committee.
- (i) Even after communicating the direction issued by the Committee under Clause (h), such a Care Centre, Day Service Centre or Senior Citizen Club continues its functioning without complying the direction of the District Welfare Committee, the Committee shall take further steps including closure of such Centres and initiate measures to rehabilitate the inmates staying in such Centres to the nearest Centres.
- (j) Indigent Senior Citizens found unclaimed shall be rehabilitated in a suitable Care Centre so as to ensure their care and welfare.
- (k) to verify and ensure the infrastructure and other facilities of Care Centres and Day service Centres .
- (l) to exercise such other powers and perform such other functions as may be conferred or imposed by the Commission or the Government.

20. Establishment and operation of Care Centre, Day Service Centre, Senior Citizen Club or Senior Citizen Park .- (1) The Government , any person, any organization or association may establish and operate a care centre, day service centre or Senior Citizen Club or Senior Citizens Park.

(2) A paid Care Centre, Day Service Centre, Senior Citizen Club or Senior Citizen Park intended for accommodating Senior Citizen, who desire to avail better service at their own expense, may be established and operated by any person, organization or association by providing appropriate infrastructure and modern facilities and the same shall be verified and ensured by the Chairperson or any other member authorised by the Chairperson of the Committee.

(3) Any Care Centre or Day Service Centre being operated by the private or Non-Governmental organization at the time of commencement of this Act shall obtain registration under this Act not later than ninety days from the date of commencement of this Act.

(4) The Care Centre or Day Service Centre shall provide necessary arrangements to the Senior Citizens staying in or using such centres to be involved in religious, social, cultural or other activities according to their interest so as to enable them to stay or use it in a family atmosphere.

(5) Such other requirements relating to the operation of Care Centre or Day Service Centre shall be as may be prescribed.

21. Registration of Care Centre or Day Service Centre.-(1) Every Care Centre or Day Service Centre established after the commencement of this Act shall compulsorily be registered under the provisions of this Act.

(2) Any Care Centre or Day Service Centre established in the State after the commencement of this Act without obtaining registration under this Act shall be liable to a penalty which may extend to rupees two lakhs.

(3) The Registrar shall, after hearing the aggrieved party, impose the penalty provided under sub- section (2) and he shall collect and credit the same to the Fund established under section 27 of this Act.

22. **Licence for Senior Citizens Club or Park.-** The person in charge of a Senior Citizen Club or Senior Citizen Park shall obtain a licence from the Local Self Government Institution concerned by submitting necessary records for establishing and operating a Senior Citizen Club or Senior Citizen Park.
23. **Registrar of Care Centre and Day Service Centre .-** (1) The Government shall designate the Director of Social Justice Department as the Registrar of Care Centres and Day Service Centres in the State.
(2) He shall maintain a Register regarding the registration of Care Centres and Day Service Centres in the manner as may be prescribed.
(3) The Registrar shall keep all applications, records and other documents received for registration and copy of the certificate of registration and orders issued under this Act as permanent records in his office.
24. **Procedure for Registration of Care Centres and Day Service Centres.-**
(1) For the purpose of registration of a Care Centre or Day Service Centre, the Director or Manager or any other Authority of such Centre shall submit an application to the Registrar along with the records, bye-laws, rules or regulations and any other documents, in the manner as may be prescribed.
(2) The Registrar shall, on receiving the application and records, forward a copy of the same to the Chairperson of the Committee requesting him to furnish a detailed report regarding the infrastructure and other facilities provided by the Care centre or Day Service Centre, as the case may be.
(3) The Chairperson or any other member authorised by the Chairperson of the Committee shall make necessary enquiry in this regard and submit a detailed report to the Registrar within fifteen days of receipt of the request.
(4) On verifying the report submitted by the Committee as above and after due consideration of other matters, the Registrar shall either

register the Care centre or Day service centre, as the case may be , on remitting such fee as may be prescribed or reject the application :

Provided that, the Registrar shall, before rejecting the application afford an opportunity to the applicant of being heard.

(5) After registration, the Registrar shall enter the name and other details of the Care centre or Day service centre in the Register maintained for the purpose and shall issue a certificate of registration in the form as may be prescribed.

(6) If the application is rejected the order thereof shall be communicated to the applicant forthwith

(7) The party aggrieved by the decision of the Registrar may file an appeal before the Government within 30 days of receipt of the order and thereupon Government shall, after hearing the parties concerned, pass appropriate orders and the decision of the Government shall be final.

25. Registration of Care centres and Day service centres registered prior to this Act.-(1) Care centres and Day service centres, by whatever name called, already registered under any other Law for the time being in force before the commencement of this Act and functioning within the State, shall file an application along with the certificate of registration and other records, as may be prescribed, before the Registrar for registration within 90 days from the date of commencement of this Act:

Provided that, for reasons recorded in writing, the Government may, by order, extend the aforesaid period.

(2) The Registrar shall, on receiving the application and records, forward a copy of the same to the Chairperson of the Committee concerned, requesting him to furnish a detailed report regarding the infrastructure, nature of functioning and other facilities of such Centre.

(3) The Chairperson or any other member authorised by the Chairperson of the Committee shall make necessary enquiry in this regard and submit a detailed report to the Registrar within fifteen days of receipt of the request.

(4) On verifying the report submitted by the Committee as above and after due consideration of other matters, the Registrar shall either register the Care centre or Day service centre, as the case may be, on remitting such fee as may be prescribed or reject the application after providing sufficient time to rectify the defects, if any, reported by the Committee and upon failure to comply the same :

Provided that, the Registrar shall, before rejecting the application, afford an opportunity to the applicant of being heard.

(5) After registration, the Registrar shall enter the name and other details of the Care Centre or Day service Centre in the Register maintained for the purpose and shall issue a certificate of registration in the form, as may be prescribed.

(6) If the application is rejected the order thereof shall be communicated to the applicant forthwith.

(7) The party aggrieved by the decision of the Registrar may file an appeal before the Government within 30 days of receipt of the order of rejection and thereupon Government shall after hearing the parties concerned, pass appropriate orders and the decision of the Government shall be final.

(8) In case where no appeal is filed against the order of rejection or an appeal preferred is rejected, the Government shall take appropriate measures to rehabilitate the inmates staying in such Centres.

26. Cremation.- (1) If any Indigent, incapable or mentally challenged or unpaid Senior Citizen dies in a Care Centre, the Authority in charge of such centre shall, after intimating the matter in writing to the Station House officer concerned, make arrangements for the cremation of such deceased Senior Citizen.

(2) If any other Senior Citizen or paid senior citizen dies in a Care Centre, the Authority in charge of such centre shall intimate the matter to the family member, relative or legal heir, as the case may be, of such deceased Senior Citizen.

(3) If the family member, relative or legal heir of the deceased Senior Citizen is not forthcoming to receive the body of the deceased within a reasonable time or refuses to accept the body, the Authority in charge of the Care Centre shall, after giving intimation in writing to the Station House officer concerned, make arrangements for the cremation of such deceased Senior Citizen.

(4) The Authority in charge of such Care Centre shall maintain a separate register for this purpose and enter the details of such deceased Senior Citizen and shall also take steps to register the death of such Senior Citizen before the Registrar of Births and Deaths concerned within the stipulated time limit.

27. Senior citizens' welfare fund: (1) A Senior Citizens' welfare fund shall be established by the Commission for the Care and welfare, protection and social security of Senior Citizens.

(2) The following amounts shall be credited to the fund, namely:-

- (a) Amounts received from the Government by grant;
- (b) Amounts received from the Local self Government Institutions;
- (c) Amounts received from any Government or Non-Governmental organizations or associations;
- (d) Fee, fine and penalty received or collected under this Act;
- (e) donations or any other sums received by the Commission;
- (f) Any other amount received from other sources as may be prescribed.

(3) Amount to be credited to the fund as referred to in Sub-section (2) shall be deposited in an account to be opened with any Nationalised Bank in the State in the name of the Commission.

(4) Amounts credited to the fund as referred to in Sub-section (2) shall be spent only for the purpose of Care and Welfare, protection and social security of Senior Citizens.

(5) The fund shall be operated in the manner as may be prescribed.

28. Accounts and Audit.-(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Commission shall be audited annually in the manner as may be prescribed.

(3) The accounts of the Commission, as audited together with the audit report thereon, shall be forwarded annually to the Government by the Commission and the Government shall lay the report within a period of six months from the date of its receipt before the Legislative Assembly.

29. Annual report of the Commission.-(1) The Commission shall, within three months after the end of each financial year, submit to the Government an annual report of the activities and programmes undertaken during the previous financial year, together with a statement regarding the functioning and administration of the Commission, in such form and such date, as may be prescribed.

(2) A copy of the report received under Sub-Section (1) shall be laid before the Legislative Assembly within six months, after the same is received by the Government.

30. Punishment: (1) No person in charge of a Care Centre or Day Service Centre shall do or cause to be done any act with malafide intention to obtain the property of any Senior Citizen.

(2) Whoever, being in charge of a Care Centre or Day Service Centre does any act under sub-section (1) he shall be deemed to have committed an offence under this Act and shall, on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine .

(3) Whoever, being the family member , relative or legal heir of a Senior Citizen ,subjects such Senior Citizen to cruelty shall , on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purpose of this sub-section “cruelty “means

- (a) any wilful conduct which is of such nature as is likely to compel the Senior Citizen to leave the house where he resides or to cause grave injury or danger to life, limb or mental or physical health of such Senior Citizen; or**
- (b) harassment of the Senior Citizen where such harassment is with a view to coerce him to meet any unlawful demand for any movable or immovable property or valuable security of the Senior Citizen.**

(4) Any family member, relative or legal heir responsible for the care and welfare of a Senior citizen, leaves such Senior Citizen in any Care centre or in any other place against his will or consent with an intention to avoid him shall, on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

(5) Every offence under this Act shall be cognizable and non bailable.

31. Senior Citizens’ Welfare Scheme.- (1) Government may, by notification in the Official Gazette, frame any Scheme to be called “Senior Citizens’ Welfare Scheme” for care, welfare, protection and social security of senior citizens under this Act.

(2) The Scheme may provide for all or any of the following purposes, namely:-

- (a) for the payment of old age pension to the Senior Citizens;**
- (b) for any financial assistance to the Senior Citizens and Care centres;**
- (c) for free medical aid to Senior Citizens;**
- (d) for the assistance of service to Geriatric care ;**

- (e) for providing medical equipment including Glucometer, spigmo manometer etc.;
- (f) for establishing second Innings home with moderate or extra facilities ;
- (g) for establishing memory clinics and awareness centres to Senior citizens;
- (h) for establishing Mobile clinics , Palliative care Centres etc.;
- (i) for facilitating Enderline Scheme for ensuring welfare and protection of Senior Citizens;
- (j) for assisting Nutritional Support to Senior Citizens;
- (k) for establishing homes, Clubs or Parks for supporting mental and physical health of Senior Citizens;
- (l) for opening Old Age Homes in Government sector;
- (m) for establishing Bodhi Project so as to promote dementia friendly state;
- (n) for granting senior citizen Awards for creating model activities among Senior Citizen;
- (o) for establishing Senior Citizen's Club or Park
- (p) for any other purposes as may be prescribed.

32. Protection of action taken in good faith.- No suit, or prosecution or other legal proceedings shall lie against the Commission or the Committee, Chairman or any member or Secretary or any officer or any other employee of the Commission or the Committee acting under the direction of the Commission or the Committee in respect of anything which is done or purported to be done in good faith under this Act.
33. Chairperson, Members, Secretary, Officers and Employees of the Commission or the Committee to be public servants.- The Chairperson, Members, Secretary, Officers and Employees of the Commission or the

Committee shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860)

34. Application of other laws not barred.- The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

35. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published to the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this Section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

36. Power to make rules.- (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers the Government shall have power to make Rules with reference to the following matters namely:-

- (a) salary and allowances payable to and other terms and conditions of service of the Chairperson and Members;
- (b) salary and allowances payable to and terms and conditions of service of the officers and employees of the Commission;
- (c) the honorarium and other allowances of the Members other than ex-officio members of the Committee;
- (d) requirements relating to the operation of Care Centers and Day Service Centers;

- (e) procedure and other documents required for registration;
- (f) the form of certificate of registration;
- (g) the manner of operation of fund.
- (h) the manner of audit of accounts and audit of the Commission.
- (i) the form of annual statement of accounts and annual report of the Commission.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under this rule.

STATEMENT OF OBJECTS AND REASONS

Traditional Indian concept of joint family system was a strong pillar in ensuring the security and wellbeing of the elderly. But modernization and globalization paved way for the birth of nuclear families. The individualistic and self centered thoughts among the younger people encouraged them to live independently and this has adversely affected the living conditions of old people. In Kerala, the changes in the family pattern, greater life expectancy, deterioration of the values, norms and beliefs and

difficulty of the elderly people to adjust with these changes and the upcoming modern technologies are the main challenges faced by them.

2. The population of the aged Citizens has been increasing over the years. They are classified as young old (60-69), old old (70-79), oldest old (80-89) and extreme old (90+). Their rights are being encroached upon each day and protection has to balance their human rights. They are treated as the most vulnerable category of our society. In the years to come the number of elderly persons would increase and our State lacks basic expertise to support and respond to the genuine needs of this section. Information gathered from various sources reveals that the senior citizens are deprived of basic medical care, the expenses to maintain their livelihood, adequate financial support, and thereby and large face discrimination, mistreatment, lack of security and they are now an isolated and abandoned lot.

3. Even the government policies and norms are not sufficient enough to assure security to Senior Citizens. The elderly people mainly suffers from the chronic diseases like cardio vascular illness, cancer, arthritis, hyper tension, diabetics, kidney problems Loss of vision, memory loss etc. Elderly people with good health are viewed with respect. Elderly people with poor health are considered to be a liability and burden. Their companions in our present society are only illness and loneliness.

4. So there is an obligation upon the State to provide care and protection, social security and support to the elderly so that they can earn and live a respectful and independent life. By keeping these principles in mind, legislations to protect the interest of the elderly have to be enacted,

since the existing laws are not adequate to tackle the issue in the proper perspective.

5. Eventhough the State Government has initiated various schemes to safeguard the interest of Senior Citizens by coming out with a State Policy which states that the State will extend support for financial security, health care, shelter, welfare and other needs of Senior Citizens, provide protection against abuse and exploitation and will provide them with opportunities to run active, creative, productive and satisfying life and though the policy aims at having an age-integrated society and recognizes the elderly persons as resourceful and capable of rendering useful services to the family and the society, in the absence of a legislation the above assurances are not legally enforceable.

6. The Law Reforms Commission has evaluated and considered the issues of senior citizens in detail and made discussions with with the Social Justice Department, Senior citizens' Committees and Welfare Associations/ Federations and its Authorities and persons of expertise in the filed and obtained their valuable suggestions .

7. In these circumstances the Commission has decided to prepare a Bill as “ The Kerala Senior Citizens’ Bill, 2023 for providing the objectives including establishment and working of Care Centres , Day Service Centres, Senior Citizen Club and Senior Citizens Park for the care and welfare of Senior Citizens in the Governmental or non Governmental sectors, constitution of Senior Citizens Commission and formulation of District level Senior Citizens Welfare Committees, compulsory registration of Care Centres and Day Service Centres of Senior Citizens newly established or established earlier, by designating a Registrar for the purpose and its

procedure, establishment of a Senior Citizens Fund, making of Senior Citizens Welfare Schemes by the State Government and punishment and penalty for violations or offences under this Act .

The Bill seeks to achieve the above object.

