

THE KERALA SENIOR CITIZENS (MAINTENANCE, CARE, PROTECTION, WELFARE AND CREATIVE INVOLVEMENT) BILL

A bill to provide maintenance, protection, care, welfare and for creative involvement of all senior citizens in activities of public good and to lay down the measures to be taken by the State to ensure the same and matters connected therewith and incidental thereto;

WHEREAS Article 41 of the Directive Principles of the Constitution of India directs the State to provide for public assistance for senior citizens; to live in dignity and justice;

WHEREAS the care, protection and assurance of creative involvement of all senior citizens is a basic duty of a welfare State and the Indian Constitution mandates a welfare State for all the people;

WHEREAS the number of senior citizens is going up exponentially (in 1961 it was 5.83% of the population of Kerala; in 1991 it became 8.82% and in 2001 was 9.79%; in 2011 it is estimated to go upto 11.74% of the population) and it is necessary that their welfare be assured as integral to fundamental rights as well as for social stability and progress;

WHEREAS a large section of the senior citizens have valuable energy, experience and expertise, acquired by them during their working life, which constitute a rich resource for national development and progressive prosperity, if it is fully utilized and it is for the State and society to create fair opportunities for the senior citizens actively to involve themselves in educational, industrial, cultural, social and other developmental activities;

WHEREAS it has to be widely recognized that the ageing and the aged, especially in the lower income groups, need physical and financial help from the State and the society; this is particularly so because of the breakdown of the joint family system and materialistic changes in social attitudes;

AND WHEREAS though the State Government issued a senior citizen's policy in 2006 with various provisions which are forward looking and salutary, so far no measures have been taken to implement the policy and no budgetary provision has been made in this behalf and this makes necessary that there should be a legislative sanction and direction to lay down the measures to be taken by the State.

BE it enacted in the Fifty Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called The

Kerala Senior Citizens (Maintenance, Care, Protection, Welfare and Creative Involvement) Act

(2) It shall extend to the whole of the State of Kerala.

(3) It shall come into effect on such date as the Government may notify in the official Gazette.

2. *Definitions.*— *In this Act unless the context otherwise requires:—*

(a) “Government” means the Government of Kerala.

(b) “Senior Citizen” shall mean every Indian citizen, man or women of the age of 60 years and above but shall be deemed to include also persons who are under the service of the State or Central Government, statutory body or other public or private sector employer and is required to retire at an earlier age than 60 years.

(c) “Competent Authority” means the authority constituted by the Government under Section 8 (2) of the Act.

(d) “Senior Citizen pension” means the quantum of pension determined by the competent authority under Section 8(3) of the Act as payable by the State.

3. *Four categories of Senior Citizens.*— For the purpose of this Act, Senior Citizens may be classified into four categories.

(a) Those who draw no pension but has income from other sources sufficient to lead a reasonably dignified life.

(b) Those who draw no pension or other fair retiral benefits under any scheme or from any employer but was an employee at the time of retirement.

(c) Those who draw pension but do not have the right of reimbursement of—

(i) Medical expenses;

(ii) Medical expenses for treatment of any injuries caused by accidents, natural calamity or other adversities resulting from crime, tort or similar causes.

(d) Those who draw pension and right of reimbursement of expenses mentioned in sub-clauses (i) and (ii) of clause (c).

4. *Register of Senior Citizens.*—The Government shall direct all Panchayats, Municipalities, District Collector’s Offices and Police Stations to maintain a register of Senior Citizens with such details and particulars and in such manner as may be prescribed.

5. *Compulsory maintenance and care of Senior Citizens by their children.*—(1) Notwithstanding anything contained in any other law for the time being in force it shall be the duty of every person within the limits of his financial capacity to take care, look after and maintain his/her parents and grandparents and dependent minor children and widowed sisters without the means of minimal sustenance and to assure them a life with dignity and creative involvement.

(2) In case of non-compliance with the provision in sub-section (1), the Senior Citizen concerned or any person on behalf such Senior Citizen may file an application in the prescribed form against the defaulter for an order for payment of monthly allowance or lump sum payment for the maintenance of the Senior Citizen or Citizens concerned or dependent brothers or sisters.

(3) The application under sub-section (2) may be filed before a Magistrate of the first class within whose jurisdiction the Senior Citizen concerned is normally residing.

(4) The Magistrate may before passing orders in the application consider all or any of the following matters—

(a) The average income from all sources of the person against whom maintenance is claimed;

(b) The standard of living of the family to which Senior Citizen belongs;

(c) The minimum needs of the Senior Citizen or Citizens for whom maintenance is claimed; and

(d) Any other matter which, in the circumstances of each case, the Magistrate may consider relevant.

(5) An appeal shall lie to the High Court from any order made by the Magistrate under this section.

6. *Punishment for failure to comply with the order passed under Section 5.*—(1) Failure to comply with the orders passed under Section 5 without sufficient reasons, shall be treated as an offence punishable with imprisonment for a period of not less than one year and not more than two years and with a fine which may extend to Rs. 5 lakhs.

(2) The Magistrate who has passed the order alleged to have been violated or any Magistrate of the Ist Class within whose jurisdiction offender usually resides may on a complaint filed try and punish the offender following the procedure prescribed in the Criminal Procedure Code.

7. *Senior Citizen's right for reimbursement of medical expenses.*— In the case of Senior Citizens belonging to the categories mentioned in sub-sections (b) and (c) of Section 3, the State, statutory body or employer in the public or private sector shall fully reimburse the expenditure incurred consequent on, any sickness, injury or damage sustained in the course of employment or otherwise where the claimant is not in any manner or to any degree culpable.

8. *Constitution of Competent Authority and payment of pension to the Senior Citizens.*—(1) All Senior Citizens above the age of 60 years except those belonging to category mentioned in sub-section (a) of Section 3 may apply for pension from the State sufficient to lead a reasonably dignified life, in the prescribed form before the competent authority constituted under sub-section (2) detailing the circumstances which justifies the claim for such pension from the State. (2) Government may designate in each District an officer not below the rank of Sub Collector as the competent authority to entertain and dispose of the application filed under sub-section (1) in accordance with the rules prescribed in that behalf under the Act.

(3) The competent authority may conduct such enquiries as he deems fit to collect all relevant facts and circumstances required for recording a definite finding regarding the eligibility of the claimant to claim pension under the Act and about the appropriate quantum of pension payable by the State.

(4) In the case of Senior Citizens who draws pension under the relevant service rules or schemes the claimant shall establish special circumstances for raising the claim and the competent authority shall state special reasons for granting pension under Section 8 in such cases.

(5) In cases where an order is passed for payment of pension, the Government shall make appropriate arrangements to pay the amount ordered to the Senior Citizens in the first week of every month if the payment is to be made on a monthly basis. In other cases within the time indicated in the order by the Competent Authority.

9. *Medical treatment facilities to be provided to the Senior Citizens by the State.*—The Government shall provide to all Senior Citizens excluding those belonging to category referred to in sub-section (a) of Section 3 and those who are entitled to reimbursement of medical expenses from employers other than Government, special and speedy medical treatment facilities in Government Hospitals and dispensaries free of cost. Government shall also enter into appropriate and effective arrangements with private hospitals, nursing homes, and clinics recognized by the Government for providing Senior Citizens referred to above, special and speedy medical treatment without claiming payment of expenses needed for treatment from the senior citizens but only from the Government.

10. *Other facilities to be provided to the Senior Citizens.*—Government shall frame and implement schemes.

(a) for travel facilities either wholly free or at concessional rates in public transport vehicles and privately owned transport vehicles.

(b) For reservation of seats in all modes of public transports owned by the Government or by private owners by issuing necessary instructions to all authorities and making violation of these instructions punishable with imposition of prescribed penalty.

11. *Utilization of experience, energy and expertise of Senior Citizens for social, educational and economic development of the State.*—The Government shall devise appropriate schemes and ensure with the full involvement of municipalities, panchayats, non-governmental organizations, educational authorities and institutions, senior citizens forums wherever they exist, appropriate means and methods for the full utilization as far as possible without payment, of the experience, energy and expertise acquired by the Senior Citizens in the course of their working life for the general welfare and progress of the State as a whole.

12. *Establishment of Senior Citizen's homes.*—(1) The Government shall establish and maintain sufficient number of Senior Citizen's homes at accessible places in the State in consultation with the Senior Citizen's associations of the State if there is one and provide all necessary facilities in such homes as may be prescribed.

(2) The management of the Senior Citizen's homes shall, as far as possible, be entrusted to the Senior Citizen's association or non-governmental organizations whose functional capacity and commitment are found satisfactory on due enquiry.

(3) Apart from the facilities for living, the homes shall provide means of entertainment, library and recreational advantages and also activities which develop the physical, mental and moral qualities of the Senior Citizens.

13. *Setting up of a new Department for Senior Citizen's Affairs.*—The Government shall set up a Department for Senior Citizen's Affairs headed by a senior officer of the level of joint secretary, charged with the task of collecting information about Senior Citizens and their welfare and of ensuring implementation of the provisions of this Act and with the task of having regular consultations with the Senior Citizen's association and also create an appropriate forum for such regular consultations.

14. *Revision of existing policy of Senior Citizens.*—The Government shall review the existing policy in the light of this Act and also take all necessary steps, administrative, and otherwise, for the implementation of the provisions of this Act.

15. *Awareness programmes for inculcating values of respect, care and love for Senior Citizens in the young ones.*—The Government shall take appropriate steps to direct all educational authorities to introduce awareness programmes and extra curricular activities aimed at inculcating in the young minds values of respect, care and love for Senior Citizens.

16. *Free legal aid for certain Senior Citizens.*—The Government shall ensure that Senior Citizens who are granted Senior Citizen's pension are provided with free legal aid for the purpose of the solution of any problem which they may face.

17. *Duty of the police in charge of a Police Station to provide security for Senior Citizens.*—It shall be the duty of the officer in charge of every local Police Station to provide maximum

security to every lonely Senior Citizen or lonely couple residing within its jurisdiction in such manner as may be prescribed.

18. *Promoting study of problems of gerontology etc.*—The Government shall promote institutions and NGOs for study of problems of gerontology and for research into problems and issues related to ageing and the aged.

19. *Government shall make necessary budget allocations annually.*— The Government shall make due provision in the Annual Budget and provide requisite funds for implementing the beneficial provisions of this Act.

20. *Provisions in the Act to have overriding effect.*—The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to Senior Citizens in any part of the country.

21. *Power of the Government to make rules.*—(1) The Government may, by notification in the Official Gazette, make rules for implementing the provisions of this Act.

(2) Every rule made under this section, 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 that rule.

Statement of Objects and Reasons

The population of Senior Citizens has registered an upward increase recently and is estimated to go up in future. Article 41 of the Constitution of India directs the State to provide for public assistance to the Senior Citizens and to ensure their welfare and well-being. A large number of Senior Citizens is endowed with considerable experience acquired during their active life which, if channeled, would be of considerable benefit to the society at large. At the same time, it is also necessary to provide assistance to them to ensure their welfare. It is the duty of the State to take care of their needs in their old age. Their children too, if they are able and affluent, have a duty to share their income with them so that they would be able to live in peace in the evening of their lives. Hence this Bill to provide compulsory maintenance to Senior Citizens by way of pension and other benefits. The Bill also seeks to create offences for the willful neglect of the Senior Citizens by their children.