

*A Bill Supplement to the Zanzibar Government Gazette
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A Bill for an Act to Provide for Provisions Pertaining to the Rights and Welfare Services to Elder Persons, and Establish the Universal Pension Scheme, Its Management and other matter connected there with 1

NOTICE

The Bill following hereunder shall be presented before the House of Representatives for the first reading which will start its session on 27th November, 2019, and is gazetted for the public notice incorporating together with their object and reasons.

ZANZIBAR
06th November, 2019

(Dr. ABDULHAMID Y. MZEE)
*Secretary to the Revolutionary
Council and Chief Secretary*

A BILL

for

AN ACT TO PROVIDE FOR PROVISIONS PERTAINING TO THE RIGHTS AND WELFARE SERVICES TO ELDER PERSONS, AND ESTABLISH THE UNIVERSAL PENSION SCHEME, ITS MANAGEMENT AND OTHER MATTERS CONNECTED THEREWITH.

ENACTED by the House of the Representatives of Zanzibar

PART ONE PRELIMINARY PROVISIONS

- Short Title and commencement date. **1.** This Act may be cited as Elder Persons Affairs Act, 2019 and shall come into force on such date as the Minister may, by notice published in the Gazette, appoint.
- Application. **2.** This Act shall apply to elder persons, organisations and institutions providing services to elder persons in Zanzibar.
- Interpretation. **3.** In this Act, unless the context otherwise requires:
- “Abuse” means the various forms of action or behavior towards elder persons as elaborated in section 22 (2);
 - “Act” means Elder persons Affairs Act, 2019;
 - “Assistive devices” means implements and tools provided to elder person to enable him carry on his day to day activities;
 - “Basic services” includes provision of food, medical care, housing, sanitation and water;
 - “Care” means physical, psychological, social or material assistance to an elder person, and includes services aimed at promoting the quality of life and general well-being of an elder person;
 - “Caregiver” means a person who gives care to elder persons;
 - “Community-based care and support services” means any programme contemplated in Part Four of this Act;
 - “Elder person” means any person from the age of 70 years or above;
 - “Elder person in need of care and protection” means a person as contemplated in Part Three of this Act;
 - “Family” means a group of people closely related by blood, marriage or adoption to the elder person;

“Government” means the Revolutionary Government of Zanzibar;

“Health care provider” means a health care provider as defined by applicable laws in Zanzibar;

“Home-based care” means care provided or services rendered at the place where a frail elder person resides, excluding at an institution, by a caregiver in order to maintain such frail member of society's maximum level of comfort, including care towards a dignified death;

“Institution” means an elderly home providing services to elder persons;

“Local Authorities” means the local government authorities as defined by the Zanzibar Local Government Authority Act;

“Minister” means the Minister responsible for elder persons affairs;

“Ministry” means the Ministry responsible for elder persons affairs;

“Pension” means payments made under Part Six of this Act;

“Pensioner” means a person qualified to receive universal pension;

“Rehabilitation” means a process by which an elder person is enabled to reach and maintain his optimal physical, sensory, intellectual, psychiatric or social functional levels.

“Scheme” means Zanzibar Universal Pension Scheme (ZUPS);

“Service providers” means an institution or a person who offers services designed to address the needs of elder person;

“Service” means any activity or programme designed to meet the needs of an elder person;

“Shelter” means any building or premises maintained or used for the reception, protection and temporary care of an elder person in need of care and protection; and

“Social assistance” means benefits in the form of kinds or transfers made by government or non-governmental organisation or individuals to households intended to meet the basic needs of elder persons.

PART TWO GENERAL PRINCIPLES, RIGHTS, ENTITLEMENTS AND OBLIGATIONS

General Principles.

4.-(1) All proceedings, actions or decisions in a matter concerning elder person shall:

- (a) respect, protect, promote and fulfil the elder person’s rights, the best interests of the elder person and the rights and principles set out in this Act, subject only to any lawful limitation;
- (b) respect the elder person’s inherent dignity;
- (c) treat the elder person fairly and equitably; and
- (d) protect the elder person from any form of discrimination and violence.

General rights of elder person.

5. An elder person in the society shall have the following general rights to:

- (a) participate in the affairs of society and community life in any position appropriate to his interests and capabilities;
- (b) establish and participate in associations for elder persons;
- (c) participate in activities that enhance his income-generating capacity;
- (d) live in an environment catering for his changing capacity;
- (e) access opportunities that promote his optimal level of social, physical, mental and emotional well-being;

- (f) pursue his personal development;
- (g) manage his own property;
- (h) live in dignity and be free from abuse;
- (i) receive reasonable care and assistance from his family, the state and any other person;
- (j) access services related to social protection activities; and
- (k) be registered in the elder persons' register.

- 6.** An elder person has a right to legal representation and the right to access all arrangements and support necessary for exercising that legal representation. Right to legal representation.
- 7.** An elder person has a right to be issued with an Identity Card which will enable him to access services and any other document of identification. Right to identification for accessing social services.
- 8.** An elder person shall have a right to live in dignity and security, free of exploitation and physical or mental abuse. Right to human dignity.
- 9.** An elder person has a right to suitable and specialized protection and safety in situations of risk, including situation of armed conflict, humanitarian emergencies, and the occurrence of natural disasters. Right to protection and safety of elder person.
- 10.** An elder person shall have the right to free health services and special treatment in any public health centre. Right to health.
- 11.** Any elder person has the right to receive information which is relevant to his welfare and well-being. Right to information.
- 12.-(1)** An elder person shall have right to:
- (a) admission into any premises to which members of the public are ordinarily admitted; or
- Right of admission into public and private premises.

(b) the provision of any services or amenities to which members of the public are entitled.

(2) The owner of private premises which provide social services shall not prohibit the right of admission of an elder person to enter into his premises.

Sports, recreation, leisure and culture rights.

13.-(1) An elder person has a right to participate in sports, recreation, leisure and cultural activities including national and international sports events.

(2) An elder person shall be entitled free of charge to use recreational or sports facilities owned or operated by the Government during social, sporting or recreational activities.

(3) Subsection (2) of this section shall not apply in case where facilities are provided by private owner.

Right to privacy.

14.-(1) An elder person shall not be subjected to arbitrary interference and intrusion with his privacy, family, home or correspondence or other types of communication.

(2) A public or private institution shall protect the privacy of personal, health and rehabilitation information of elder person.

Property rights.

15.-(1) An elder person has a right to be educated on the need of making wills and powers of attorney to protect his property.

(2) An elder person is entitled to hold and dispose of his property in a manner that as he deems fit according to his capabilities.

Support to elder persons taking care of vulnerable children.

16. The Ministry shall set measures to support elder persons who take care of vulnerable children.

Obligations of elder person.

17.-(1) Any elder person has responsibilities towards his families, communities, the Government and international communities.

(2) Subject to subsection (1) of this section, an elder person shall:

- (a) mentor and pass on knowledge and experience to the younger generations;
- (b) facilitate dialogue and solidarity within his family and communities; and
- (c) play a role in mediation and conflict resolution.

(3) An elder person shall not misuse the rights or privileges given under this Act.

18. In caring for the elder person, a family where such elder person lives shall have the following obligations to:

Obligations of the family.

- (a) provide love, affection, food, shelter and accommodation;
- (b) complement the efforts of the Government and local authorities in providing medical expenses for the elder person suffering from illnesses and provide him with nursing care;
- (c) facilitate to stay with his spouse unless there are compelling circumstances for him to be separated;
- (d) sustain the possession of his properties including houses or any income from such properties owned by him; and
- (e) provide any other relevant assistance where necessary.

19. Any community shall have the obligation to safeguard the best interest of elder persons in the society.

Obligation of community.

PART THREE
ELDER PERSONS IN NEED OF CARE AND PROTECTION

Elder person in need of care and protection.

20. An elder person who is in need of care and protection is one who:

- (a) has been removed from his house against his wishes or who has been unlawfully evicted from any property lawfully occupied by him;
- (b) has been neglected or abandoned without any means of support;
- (c) lives or walks on the streets, or begs for a living;
- (d) abuses or is addicted to a substance and is without any support or treatment for such substance abuse or addiction;
- (e) lives in circumstances likely to cause or expose the person to abduction or exploitation including sexual or economic exploitation;
- (f) lives in or is exposed to circumstances which may harm that person physically or mentally or is in a state of physical, mental or social neglect; and
- (g) lives in any other circumstances that Ministry deems as elder person qualifies.

Duty to report.

21.-(1) A person who reasonably believe that an elder person needs care and protection shall report such finding to either:

- (a) Sheha;
- (b) Police station; or
- (c) the Ministry.

22.-(1) A person who abuses an elder person is guilty of an offence and shall, on conviction, be liable to imprisonment for a term of not exceeding fourteen years or a fine of not less than Two Million Shillings or both penalties. Offence against elder person.

(2) For the purposes of subsection (1) of this section, “abuse” includes physical, sexual and psychological, and:

- (a) “physical abuse” means any act or threat of physical violence towards an elder person;
- (b) “sexual abuse” means any conduct that violates the sexual integrity of an elder person and any other sexual offense under the Penal Act;
- (c) “psychological abuse” means any pattern of degrading or humiliating conduct towards an elder person, including:
 - (i) repeated insults, ridicule or name calling;
 - (ii) repeated threats or false accusations that may cause emotional pain; and
 - (iii) repeated invasion of an elder person’s privacy, liberty, integrity or security.

PART FOUR COMMUNITY-BASED CARE AND SUPPORT SERVICES FOR THE ELDER PERSONS

23.-(1) Local Authority may establish community based care and support services for the purpose of accommodating elder persons residing within. Establishment of community based care and support services.

(2) The Minister may issue guidance on the establishment of Community based care and support services.

(3) Support services mentioned in subsection (2) of this section may include:

- (a) legal aid;

- (b) psychosocial support;
- (c) health services;
- (d) nursing; and
- (e) any other support depending on the circumstance of the elder person.

Rights of elder person in the community based care and support services.

24. An elder person receiving community based care and support services has, in addition to the rights contemplated in Part Two, the rights to:

- (a) reside at family home or institution for as long as practically and reasonably possible;
- (b) pursue opportunities for the full development of his potential; and
- (c) benefit from family and community care and protection in accordance with society's system of cultural values.

Monitoring and evaluation of community based care and support services.

25.-(1) The Ministry shall monitor and evaluate community based care and support services.

(2) The procedures of monitoring and evaluation of such services shall be prescribed in the Regulations.

PART FIVE REGISTRATION OF ELDER PERSONS INSTITUTIONS

Application for registration.

26.-(1) An elder persons' institutions shall not operate without attaining official registration.

(2) Procedures for the registration shall be prescribed in the Regulations made by the Minister.

Refusal to register.

27. The Ministry may, if satisfied that the applicant has failed to meet the prescribed requirements for registration under the Regulations, refuse to register such applicant, and shall inform the same in writing the reasons of such refusal.

28.-(1) Where an approved Institution for elder persons fails to maintain the required standards, the Ministry may suspend or cancel the registration.

Suspension or cancellation of registration.

(2) Before suspending or cancelling the registration, the Ministry shall:

- (a) inform the applicant in writing the intention to suspend or cancel the registration; and
- (b) give the applicant the opportunity to be heard or to be represented.

(3) The Ministry may, by notice in writing, require the applicant to remedy defects in the running of the institution.

(4) Where the applicant fails to comply with the requirements of the notice under subsection (3) of this section, the Ministry may proceed to suspend or cancel the said registration.

29. A person who is aggrieved by the decision of the Ministry for refusing to issuing or suspension or cancellation of a registration under this Part, may appeal to the Minister within thirty days from the date of such refusal or suspension or cancellation.

Appeal.

30.-(1) The Ministry shall monitor and supervise to make sure that all elderly homes are in good condition and managed accordingly.

Role of Government.

(2) The Ministry shall initiate implementation of policies and programs relating to elder persons.

PART SIX
UNIVERSAL PENSION SCHEME

Establishment of Universal Pension Scheme.

31. It is hereby established Universal Pension Scheme which shall be coordinated by the Ministry.

Amount.

32.-(1) There shall be an amount to be given to every elder person who qualifies to receive pension from the Universal Pension Scheme.

(2) The amount stated in subsection (1) of this section, shall be paid in monthly basis.

(3) The Minister subject to official approval by the Revolutionary Council shall publish in the Government Gazette the amount to be paid to elder persons.

Application and eligibility for Universal Pension Scheme.

33.-(1) An elder person shall apply to the Ministry through his Sheha and respective District Commissioner for enrolment to Universal Pension Scheme.

(2) An elder person shall not qualify to apply for enrolment to Universal Pension Scheme unless he:

- (a) has 70 years old or above;
- (b) is a Zanzibar Resident; or
- (c) has been a resident of Zanzibar for more than 10 years continuously.

(3) The application made under subsection (1) of this section shall be accompanied with the following:

- (a) two recent passport size photographs;
- (b) birth certificates or affidavit of birth; and
- (c) Zanzibar Identity Card.

(4) The age provided in subsection (2) (a) may be reduced or increased by Minister upon the consultation with the Revolutionary Council.

34.-(1) The pensioner shall cease to receive monthly pension in the occurrence of the following event: Cessation.

- (a) death;
- (b) misrepresentation; or
- (c) fraud.

(2) The procedures for notification upon occurrence of events under subsection (1) of this section shall be prescribed in the regulations.

PART SEVEN MISCELLANEOUS PROVISIONS

35.-(1) The Ministry may facilitate the establishment of an independent Elder persons' associations or organisations.

Estab-
lishment
of elder
persons
asso-
ciations or
organisa-
tions.

(2) In establishing an associations or organisations, the elder persons shall consider the following matters:

- (a) association or organisation bringing elder persons together to pursue their interests;
- (b) coordination of the co-operation between elder persons and the Government, private sectors, civil societies and other institutions of similar interest;
- (c) advocating and advising the government at national and local level on the various issues of communities' interests; and
- (d) monitoring and guiding the young generation in the society.

General
penalty.

36. A person who contravenes any provision of this Act, save section 17 (1), for which no penalty is specifically provided shall be liable to a fine of not exceeding One Million Shillings or to imprisonment for a term not exceeding one year or both penalties.

Regulations.

37. The Minister may make regulations in any matter which deems necessary for the better implementation of the provisions of this Act.

OBJECTS AND REASONS

The objects and purposes of this Bill is to make legally procedures for safeguarding the rights and welfare of elder persons and to facilitate accessibility of their services regarding their capacity and needs. This Bill also is intending to establish the Universal Pension Scheme for sustainability to provision of monthly allowance to elder persons.

Furthermore, the Bill provides for the establishment of community based care and support services for bringing social services closer to the elder persons in the communities. Also, this Bill makes provisions for Government commitment in taking care of elder persons in need of care and protection.

The Bill is divided into Seven Parts:

Part One: provides for the preliminary provisions which include short title and commencement, application; and interpretation of words invariably used in the Bill.

Part Two: propose the provisions relating to general principles, rights, entitlement and obligations. It explains on the general rights of elder person, right to legal representation, right to identification for accessing social services and right to human dignity. This part also deals with the provisions of protection and safety of elder person, rights to health, right to information, right of admission into public and private premises, Sports, recreation, leisure and culture rights and rights to privacy. It sets out the provisions for obligations of elder person, obligations of the family and obligation of community.

Part Three: creates the provisions dealing with elder persons in need of care and protection also the duty to report abuse against elder persons and offence against elder person.

Part Four: has detailed on community based care and support services which includes establishment of Community Based Care and Support Services, rights of elder persons in community based care and support services and monitoring and evaluation of the services.

Part Five: is talking about the registration of elder persons institutions which include the application for registration, procedures, the refusal to register, the suspension or cancellation of registration, and the role of the Government.

Part Six: proposes the provisions for Universal Pension Scheme such as establishment of the Scheme, application and eligibility for Universal Pension Scheme and cessation of pensioner.

Part Seven: is about the miscellaneous provisions which include establishment of elder persons associations or organisations, general penalty and regulations.

ZANZIBAR
06th November, 2019

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