

Senior Citizens Act, 2063 (2006)

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Act number 22 of the year 2063 (2006)

An Act Made to Provide for Protection and Social Security of Senior Citizens

Preamble: Whereas, it is expedient to make provisions immediately on the protection and social security of senior citizens and enhancement of trust, respect and good faith towards them by utilizing knowledge, skills, capability and experiences inherent in them;

Now, therefore, be it enacted by the House of Representatives in the first year of the issuance of the Declaration of the House of Representatives, 2063 (2006).

1. **Short title, extension and commencement:** (1) This Act may be called as the "Senior Citizens Act, 2063(2006)".
(2) It shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act,
 - (a) "Senior Citizen" means a citizen of Nepal having completed the age of Sixty years;
 - (b) "Helpless Senior Citizen" means a senior citizen on any or all of the following conditions:
 - (1) Having no basis or income source or property for earning his or her livelihood,

- (2) Having no family member for maintaining and taking care of him or her,
 - (3) Despite the existence of a family member, being compelled to live a discarded or disregarded life because of not being maintained by the member.
- (c) "Incapable Senior Citizen" means a senior citizen who is incapable physically or mentally;
- (d) "Care Centre" means a home, shelter or other structure of similar nature established and operated under this Act for the maintenance and care of senior citizens with or without collecting fees;
- (e) "Day Service Centre" means a home, shelter or other structure of similar nature established and operated under this Act for the care of senior citizens during day time with or without collecting fees;
- (f) "Maintenance and Care" means acts such as making provisions of food, clothes, housing, movement, social services and entertainment to and for senior citizens and of their involvement in religious activities;
- (g) "Family Member" means the following relative of a senior citizen:
- (1) son, daughter-in-law, daughter, grand-son or grand-daughter on the line of son living in a joint family,
 - (2) in the case of non-existence of the member as referred to in Clause (1), son, daughter-in-law, daughter, grand-son or grand-daughter on the line of son living in separately,
 - (3) in the case of non-existence of any relative as referred to in Clause (2), any other close relative.
- (h) "Heir" means an heir entitled to inherit a senior citizen pursuant to the Chapter on Inheritance of the *Muluki Ain*;

- (i) "Senior Citizen Club" means a club established by senior citizens under the prevailing laws for the protection of their rights and interests;
- (j) "Fund" means the senior citizen welfare fund established pursuant to Section 17;
- (k) "Designated Authority" means the authority designated by the Government of Nepal by a Notification in the Nepal Gazette;
- (l) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules or bye-laws framed under this Act.

3. **To respect senior citizens:** It shall be the duty of all to respect senior citizens.

4. **Maintenance and care of senior citizen:**(1)It shall be the duty of each family member to maintain and care the senior citizen according to the economic status and prestige of the member.

(2) Where the senior citizen has lived separately or wishes to live separately taking his or her partition share, the family member of his or her choice shall keep with him or her and maintain the senior citizen.

(3) No one shall detach the senior citizen from the family or compel the senior citizen to get detached from the family in against of his or her will.

(4) Where the economic condition of the senior citizen of the family member maintaining the senior citizen is weak, other family member shall make provision of maintenance and care of the senior citizen in spite of the fact that such member has not kept such senior citizen with him or her.

(5) Notwithstanding anything contained elsewhere in this Section, any family member, relative or heir who uses or deals with (consumes) the movable or immovable property of the senior citizen shall keep with him or her and maintain and care such senior citizen.

5. **Petition by senior citizen:** (1) Where a family member, relative or heir who has the duty to maintain and care a senior citizen pursuant to Section 4 fails to keep with him or her and maintain and care such senior citizen or fails to make provision of maintenance and care, such senior citizen may file a complaint to the Ward Chairperson of the concerned Village Development Committee or Municipality for maintenance and care.

(2) Where a complaint is filed pursuant to Sub-section (1), the Ward Chairperson shall examine such complaint as required and make reconciliation between him/her and the family member, relative or heir who has a duty to maintain and care for him/her.

(3) Where reconciliation cannot be made pursuant to Sub-section (2), the Ward Chairperson may make an order in writing to the family member, relative or heir to maintain and care such senior citizen.

(4) The order made by the Ward Chairperson pursuant to Sub-section (3) shall be posted on the notice board of the concerned Ward Office and other appropriate place.

(5) A party who is not satisfied with the order made by the Ward Chairperson pursuant to Sub-section (3) may make an application to the Chairperson of the concerned Village Development Committee or Mayor of the concerned Municipality no later than Seven days after the date of receipt of that order.

(6) Where an application referred to in Sub-section (5) is made, the Chairperson of the concerned Village Development Committee or Mayor of the concerned Municipality may summon the presence of both parties, convince them and issue an order in writing to the family member, relative or heir to maintain and care the senior citizen.

(7) The order issued by the Chairperson of Village Development Committee or Mayor of Municipality pursuant to Sub-section (6) shall be posted on the notice board of the concerned Village Development Committee or Municipality and other appropriate place.

(8) The concerned person shall abide by the order as referred to in Sub-section (3) or (6). Where such person fails to abide by such order, the Ward Chairperson, the Chairperson of Village Development Committee or the Mayor of Municipality shall not be bound to make a recommendation on any matter in relation to such person, notwithstanding anything contained in the prevailing laws.

6. **To deal property exclusively:** A senior citizen shall be entitled to deal exclusively any movable, immovable property and proceeds accrued therefrom, which is not subject to partition, and which is his or her partition share, pursuant to the prevailing laws.

7. **Power to procure service:** The Government of Nepal or a body established under the prevailing laws may procure service from a senior citizen who has gained special qualification or experience in any field; and such body shall provide such senior citizen with proper remuneration and facility for such service.

8. **Prohibition on engaging for begging:** (1) No person shall cause a senior citizen to make begging.

(2) No person shall make a senior citizen as hermit (*Sanyashi*), monk or *fakir* in against of his or her will.

(3) Where any person does any act in contravention of Sub-section (1) or (2), such person shall be deemed to have committed an offense referred to in this Act.

9. **Facilities and concessions:** (1) It shall be the duty of all to provide necessary services, facilities and assistance to the senior citizens in any public vehicles, public undertakings, medical services, religious and public places.

(2) The concerned owners or operators of such types of public motor vehicles as may be specified by the Government of Nepal by publishing a public notice shall reserve at least Two seats in such vehicles for the senior citizens and give them a concession of at least Fifty percent on the passenger fare.

(3) Each organization providing health services shall provide health services by giving priority to the senior citizens.

(4) Such organization providing health services as may be specified by the Government of Nepal shall give concession of at least Fifty percent on the fees chargeable on the treatment in such organization of senior citizens in the specified number.

(5) Other organizations providing public services including drinking water, electricity and telephone shall give priority to the senior citizens while providing such services.

(6) The Government of Nepal may, by a Notification in the Nepal Gazette, provide the senior citizens with other facilities and concessions from time to time, in addition to the facilities and concession set forth in this Section.

10. **Priority and representation in lawsuits:** (1) Notwithstanding anything contained in the prevailing laws, the courts shall try and settle, with priority, a case of which only the senior citizen is party or opposite party.

(2) Notwithstanding anything contained in the prevailing laws, while hearing a case of which only a helpless or incompetent senior citizen is party or

opposite party, the court shall make such hearing only after having a legal practitioner defending him or her.

(3) Where any senior citizen makes an application to the court stating that he or she is not able to appoint a legal practitioner to defend the case because of his or her weak economic condition, the concerned court shall provide the service of paid legal practitioner to him or her.

11. **Priority to be given in acts:** The concerned body shall perform any acts related with the senior citizen by giving priority to such acts.

12. **Power to rebate sentence of imprisonment:** (1) Notwithstanding anything contained in the prevailing laws, in relation to a senior citizen who has been imposed the punishment of imprisonment in a government case and serving the sentence, the sentence of imprisonment as follows may be rebated in view of his or her age and the nature of offense:

- (a) Not exceeding twenty five percent in the case of the senior citizen who has completed the age of Sixty Five years but not crossed the age of Seventy years,
- (b) Not exceeding Fifty percent in the case of the senior citizen who has completed the age of Seventy years but not crossed the age of Seventy Five years,
- (c) Not exceeding Seventy Five percent in the case of the senior citizen who has completed the age of Seventy Five years.

(2) Notwithstanding anything contained in the prevailing laws, the court may, in view of the gravity of offense, order to hold an incompetent senior citizen or a senior citizen having completed the age of Seventy Five years who has been sentenced to imprisonment in a care centre not in a prison.

(3) The other provisions on the keeping of senior citizens in a care centre pursuant to Sub-section (2) shall be as prescribed.

13. Formation of central senior citizen welfare committee: (1) The Government of Nepal shall, by a Notification in the Nepal Gazette, form a central senior citizen welfare committee, as follows, for the purposes of the care, maintenance and social security of senior citizens:

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| (a) | Minister/Minister of State for Women, Children and Social Welfare | -Chairperson |
| (b) | Member, National Planning Commission (responsible for social service) | -Member |
| (c) | Secretary, Ministry of Finance | -Member |
| (d) | Secretary, Ministry of Home Affairs | -Member |
| (e) | Secretary, Ministry of Women, Children and Social Welfare | -Member |
| (f) | Secretary, Ministry of Health and Population | -Member |
| (g) | Secretary, Ministry of Local Development | -Member |
| (h) | Vice-chairperson, Social Welfare Council | -Member |
| (i) | One representative each of Nepal Municipality Federation and Village Development Federation | -Member |
| (j) | Member Secretary, Pashupati Area Development Fund | -Member |

- (k) Chairperson, Nepal Medical Association -Member
- (l) Chairperson, Nepal Nursing Association -Member
- (m) Two representatives including one woman nominated by the Government of Nepal from amongst the organizations operated for the protection of the interests of senior citizens -Member
- (n) Two persons including one woman nominated by the Government of Nepal from amongst the persons involved in religious and social activities -Member
- (o) Joint Secretary, Ministry of Women, Children and Social Welfare (looking after the concerned Division) -Secretary

(2) The tenure of the members nominated pursuant to Clauses (m) and (n) of Sub-section (1) shall be Three years and they may be re-appointed.

Provided that, if such member commits misconduct or suffers from incompetence, the Government of Nepal may remove such member prior to the completion of his or her tenure.

(3) The Ministry of Women, Children and Social Welfare shall act as the secretariat of the Central Senior Citizen Welfare Committee.

(4) Procedures relating to the meeting of the Central Senior Citizen Welfare Committee shall be as prescribed.

(5) The member of the Central Senior Citizen Welfare Committee may receive such allowance as prescribed by the Government of Nepal for taking part in the meeting of that Committee.

14. Functions, duties and powers of Central Senior Citizen Welfare

Committee: The functions, duties and powers of the Central Senior Citizen Welfare Committee shall be as follows:

- (a) To prepare policies, plans and programmes as may be required for the protection and social security of the senior citizens and submit the same to the Government of Nepal,
- (b) To implement and monitor the policies, plans and programmes approved by the Government of Nepal,
- (c) To update the inventory and records of senior citizens received from the District Senior Citizen Welfare Committee,
- (d) To coordinate and monitor the activities of the District Senior Citizen Welfare Committee,
- (e) To monitor the activities carried out by the care centres, day service centres, senior citizen clubs established and in operation throughout the State of Nepal and associations and organization doing activities relating to senior citizens,
- (f) To perform such other functions as prescribed.

15. Formation of District Senior Citizen Welfare Committee: (1) The Government of Nepal may, by a Notification in the Nepal Gazette, form a district senior citizen welfare committee, as follows, in each district:

- (a) Chairperson of District Development
Committee -Chairperson

- (b) Chief District Officer or officer level employee designated by him or her -Member
- (c) One representative nominated by the District Senior Citizen Welfare Committee from amongst the chairpersons of Village Development Committee and Mayors of Municipalities -Member
- (d) Office In-charge, District Public Health Office -Member
- (e) Two representatives including one woman nominated by the District Senior Citizen Welfare Committee from amongst the organizations, associations carrying out activities relating to senior citizens -Member
- (f) Women Development Officer -Secretary

(2) The tenure of the members nominated pursuant to Clauses (c) and (e) of Sub-section (1) shall be Three years and they may be re-appointed.

Provided that, if such member commits misconduct or suffers from incompetence, the Government of Nepal may remove such member prior to the completion of his or her tenure.

(3) The District Woman Development Office shall act as the secretariat of the District Senior Citizen Welfare Committee.

(4) Procedures relating to the meeting of the District Senior Citizen Welfare Committee shall be as prescribed.

(5) The member of the District Senior Citizen Welfare Committee may receive such allowance as prescribed by the Government of Nepal.

16. 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:

- (a) To collect inventories and maintain records of the senior citizens within the district and update such inventories and records,
- (b) To prepare plans and programmes for the protection and social security of the senior citizens within the district and submit the same to the Central Senior Citizen Welfare Committee for approval,
- (c) To implement and monitor district level programmes in consonance with the policies, plans and programmes relating to the protection and social security of the senior citizens approved by the Government of Nepal,
- (d) To monitor the activities carried out by the care centres, day service centres, senior citizen clubs established and in the district and associations and organizations doing activities relating to the protection and social security of the senior citizens as well as other organizations and associations,
- (e) To mobilize local community organization to carry out activities pertaining to the protection and social security of senior citizens,
- (f) To make provisions for the distribution of allowances or facilities to be received by senior citizens pursuant to Section 24,
- (g) To perform such other functions as prescribed.

17. Senior citizen welfare fund: (1) A senior citizen welfare fund shall be established for the protection and social security of senior citizens.

(2) The following amounts shall be credited to the fund as referred to in Sub-section (1):

- (a) Amounts received from the Government of Nepal,
- (b) Amounts received from any foreign government, foreign national or international organization or association,
- (c) Amounts received from any native person, organization or association,
- (d) Amounts received from any other source.

(3) The Central Senior Citizen Welfare Committee shall, prior to obtaining the amounts referred to in Clause (b) of Sub-section (2), obtain prior approval of the Government of Nepal.

(4) Amounts to be credited to the fund as referred to in Sub-section (1) shall be deposited in an account to be opened with any commercial bank in the State of Nepal in the name of the Central Senior Citizen Welfare Committee.

(5) Amounts credited to the fund as referred to in Sub-section (1) shall be spent only for the purpose of the protection and social security of senior citizens.

(6) Amounts credited to the fund as referred to in Sub-section (1) shall be used through any care centre or day service centre operated by any organization or association established by the Government of Nepal itself or established under the prevailing laws.

(7) Notwithstanding anything contained elsewhere in this Section, no amount may be paid or distributed from the fund to any person for his or her personal purpose.

(8) The fund as referred to in Sub-section (1) shall be operated as prescribed.

18. Accounts and audit: (1) Accounts of incomes and expenses of the fund shall be maintained in accordance with the accounting system adopted by the Government of Nepal.

(2) The accounts of the fund shall be audited by the Office of Auditor General.

19. To prepare records: The District Senior Citizen Welfare Committee shall prepare, as prescribed, the records of senior citizens pursuant to this Act.

20. Establishment and operation of care centre or day service centre: (1) The Government of Nepal or any person or any organization or association formed under the prevailing laws may establish and operate a care centre or day service centre in any place of the State of Nepal.

(2) The infrastructures as prescribed shall be established and approval obtained from the prescribed authority for the establishment and operation of a care centre or day service centre as referred to in Sub-section (1).

(3) Any care centre or day service centre being operated by the private or non-governmental sector at the time of commencement of this Act shall obtain approval, as prescribed, from the authority as referred to in Sub-section (2) no later than Six months after the date of commencement of this Act.

(4) Senior citizens, incompetent senior citizens, helpless senior citizens and such senior citizens as may be ordered by the court to be held in a care centre pursuant to Sub-section (2) of Section 12 may be held in a care centre.

(5) If any senior citizen wishes to stay in any care centre or day service centre at his or her own expense, such centre shall hold such senior citizen depending on its capacity.

(6) Where a family member is not in a position to keep with him or her the senior citizen whom such member has to maintain and care, the family member may keep such senior citizen in any care centre. In such a case, the concerned care centre may keep such senior citizen by collecting the required expenses from such member.

(7) The concerned care centre or day service centre shall make arrangements to get the senior citizens staying in the care centre or day service centre pursuant to Sub-sections (4), (5) or (6) to be involved in religious, social, entertaining or economic activities according to their interest and stay in a family environment.

(8) Other provisions relating to the operation of a care centre or day service centre shall be as prescribed.

21. To give information: (1) If any senior citizen is found unclaimed, it shall be the duty of each citizen to give information thereof to the nearby care centre or day service centre or police office or Village Development Committee or Municipality.

(2) If the police find any senior citizen unclaimed, the police shall hand over such senior citizen to the nearby care centre or day care centre.

22. Cremation: If any senior citizen dies in a care centre, the concerned care centre shall make arrangements for the cremation of such citizen in accordance with the social customs of such citizen or with such religious customs as he or she wished.

23. Provisions relating to property: (1) If any senior citizen staying in a care centre pursuant to Sub-section (5) of Section 20 dies, the remaining property of such deceased shall devolve on the concerned care centre, notwithstanding anything contained in the prevailing laws.

(2) If any senior citizen held in a care centre pursuant to Sub-section (6) of Section 20 dies, such care centre shall return such amounts as remains after deduction of the expenses incurred in his or her care to his or her family member or relative or heir.

24. **May provide allowance or facility:** The Government of Nepal may categorize senior citizens, helpless senior citizens, incompetent senior citizens on be prescribed grounds and provide allowance or facility as prescribed.
25. **To provide identity card:** The Government of Nepal shall provide identity cards having the details as prescribed to the senior citizens through the Village Development Committee or Municipality where such citizens are residing.
26. **Punishment:** (1) No chief, operator, employee or other person of a care centre or day service centre shall do, or cause to be done, any act with *mala fide* intention to take up the property of any senior citizen.

(2) If a person commits any act referred to in Sub-section (1), such person shall be deemed to have committed an offense pursuant to this Act, and such person shall be punished with imprisonment for a term of One year to Five years or with a fine equal to the amount in controversy or with both.

(3) A person who commits the offense referred to in Sub-section (1) of Section 8 shall punished with imprisonment for a term not exceeding Three months or with a fine of up to Twenty Five Thousand Rupees or with both punishments.

(4) A person who commits an offense referred to in Sub-section (2) of Section 8 shall punished with imprisonment for a term not exceeding One year or with a fine of up to Fifty Thousand Rupees or with both.

(5) Notwithstanding anything contained in the prevailing laws, if any person does any act which is considered by the prevailing laws as an offense against any incompetent senior citizen or any senior citizen who have

completed the age of Seventy Five years, such person shall be subjected to punishment that is Twenty Five percent additional to the punishment to be imposed on such person.

27. **Power to try and settle case at first instance:** The concerned District Court shall have power to originally try and settle the offenses referred to in Section 8 and Sub-section (2) of Section 26.
28. **Appeal:** A party who is not satisfied with a judgment made pursuant to Section 27 may make an appeal to the concerned Court of Appeal no later than Thirty Five days after the date of knowledge of the decision.
29. **Government to be the Plaintiff:** A case relating to the offense referred to in Section 8 and Sub-section (2) of Section 26 shall be a Government case and the case shall be deemed to be included in Schedule-1 of the Government Cases Act, 2049 (1992).
30. **Power to give direction:** (1) The Government of Nepal may, from time to time, give necessary direction to the Central and District Senior Citizen Welfare Committees; and the Central Senior Citizen Welfare Committee may, from time to time, give necessary direction to the District Senior Citizen Welfare Committee.

(2) It shall be the duty of the concerned the Senior Citizen Welfare Committee to abide by the direction given pursuant to Sub-section (1).
31. **Report to be submitted:** The District Senior Citizen Welfare Committee shall submit an annual report containing the activities carried out by it to the Central District Senior Citizen Welfare Committee no later than Two months after the expiry of each financial year; and the Central Senior Citizen Welfare Committee shall submit such report to the Ministry of Women, Children and Social Welfare no later than Three months after the expiry of each financial year.

32. Power to frame Rules and Bye-laws: (1) The Government of Nepal may frame necessary Rules for the implementation of the objectives of this Act.

(2) Subject to this Act and the Rules framed under this Act, any association operating a care centre or day service centre may frame necessary Bye-laws in relation to the admission, habitation and conduct of senior citizens.

(3) The Bye-laws referred to in Sub-section (2) shall come into force after being approved by the Ministry of Women, Children and Social Welfare.

NEPAL LAW COMMISSION