

LEGAL SUPPLEMENT

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THE PROTECTION OF ELDERLY PERSONS ACT 2005

Act No. 16 of 2005

I assent

SIR ANEROOD JUGNAUTH

President of the Republic

4th May 2005

Date in Force: not proclaimed

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AN ACT

To set up a legal and administrative framework for greater protection and assistance to elderly persons

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the **Protection of Elderly Persons Act 2005**.

2. Interpretation

In this Act –

“abuse” means an act of abuse referred to in section 11;

“Chairperson” means the Chairperson of the Monitoring Committee, or of the Rodrigues Committee for the Elderly, as the case may be;

“Court” means –

(a) in the Island of Mauritius, the District Court of the district in which an elderly person resides;

(b) in Rodrigues, the Magistrate for Rodrigues;

“elderly person” means a person who has attained the age of 60;

“Elderly Watch” means an Elderly Watch referred to in section 8(1);

“member” –

- (a) means a member of the Monitoring Committee or of the Rodrigues Committee for the Elderly, as the case may be; and
- (b) includes the Chairperson and the Vice-Chairperson;

“Minister” means the Minister to whom responsibility for the subject of senior citizen welfare is assigned;

“Monitoring Committee” means the Monitoring Committee for the Elderly referred to in section 4;

“Network” means the Protection of the Elderly Network referred to in section 3;

“officer” means an officer of the Unit;

“protection order” means an order made by the Court under section 9;

“Rodrigues Committee for the Elderly” means the Committee referred to in section 5;

“Unit” means the Elderly Persons’ Protection Unit referred to in section 6;

“Vice-Chairperson” means the Vice-Chairperson of the Monitoring Committee, or of the Rodrigues Committee for the Elderly, as the case may be.

3. The Protection of the Elderly Network

- (1) There shall be, for the purposes of this Act, a Protection of the Elderly Network.
- (2) The Network shall consist of –

- (a) the Chairperson of the Monitoring Committee;
 - (b) the officer-in-charge of the Unit;
 - (c) a representative of every Elderly Watch designated by that Elderly Watch; and
 - (d) the Chairperson of the Rodrigues Committee for the Elderly.
- (3) The objects of the Network shall be to –
- (a) ensure, promote and sustain the physical, psychological, emotional, social and economic protection of elderly persons;
 - (b) ensure, promote and sustain the well-being of elderly persons so that they are able to play a meaningful part in society.
- (4) The functions of the Network shall be to –
- (a) advise the Minister on policies which will encourage the promotion of the welfare of elderly persons within the family unit and on any measures that appear necessary to achieve the objects specified in subsection (3);
 - (b) co-ordinate the activities of every statutory or other body or group of persons which contributes to the achievement of the objects specified in subsection (3).

4. The Monitoring Committee

- (1) There shall be, for the purposes of this Act, a Monitoring Committee for the Elderly.

- (2) The functions of the Monitoring Committee shall be to -
- (a) supervise the operations of the Unit and of every Elderly Watch and give to its officers such directions of a general character as it may deem necessary;
 - (b) provide adequate resources and facilities for the proper operation of the Unit and of every Elderly Watch.
- (3) The Monitoring Committee shall consist of -
- (a) the Permanent Secretary of the Ministry, who shall be the Chairperson;
 - (b) the Social Security Commissioner or his representative, who shall be the Vice-Chairperson;
 - (c) a representative of the Attorney-General's Office;
 - (d) a representative of the Ministry responsible for senior citizens;
 - (e) a representative of the Ministry responsible for health;
 - (f) a representative of the Commissioner of Police;
 - (g) the Island Chief Executive of Rodrigues, or his representative;
 - (h) the Chairperson of the Senior Citizens' Council or his representative;
 - (i) the Director of the Medical Unit of the Ministry responsible for social security;
 - (j) a psychologist appointed by the Minister;

- (k) four representatives of bodies, or groups of persons, involved in promoting the well-being of elderly persons, who shall be appointed by the Minister.
- (4) (a) The Monitoring Committee may co-opt other members as and when necessary.
 - (b) The co-opted members shall not have the right to vote.
- (5) The members referred to in subsection (3)(j) and (k) shall be appointed for a term of 2 years and shall be eligible for re-appointment.
- (6) Every member shall be paid such allowance as the Minister may determine.
- (7) (a) Subject to paragraphs (b) to (e), the Monitoring Committee shall conduct its proceedings in such manner as it thinks fit.
 - (b) The Monitoring Committee shall meet at such time and place as the Chairperson thinks fit but at least once a month.
 - (c) eight members shall constitute a quorum for a meeting.
 - (d) The Chairperson shall preside all the meetings of the Monitoring Committee and, in his absence, the Vice-Chairperson shall preside such meetings.
 - (e) Every decision of the Monitoring Committee shall be taken by a majority of the members present and voting.

5. Rodrigues Committee for the Elderly

- (1) There shall be, in Rodrigues, a Rodrigues Committee for the Elderly.

- (2) The Rodrigues Committee for the Elderly shall perform in Rodrigues such functions as are conferred upon the Monitoring Committee in Mauritius.
- (3) The Rodrigues Committee for the Elderly shall consist of –
- (a) the Commissioner responsible for senior citizens, who shall be the Chairperson;
 - (b) the departmental head of the Commission responsible for senior citizens, who shall be the Vice-Chairperson;
 - (c) a representative of the Ministry;
 - (d) the departmental head of the Commission responsible for health;
 - (e) the departmental head of the Commission responsible for arts and culture;
 - (f) the departmental head of the Commission responsible for family welfare;
 - (g) the Chief Officer of Police or his representative;
 - (h) a representative of the Senior Citizen Welfare Association;
 - (i) a representative of a non-governmental organisation representing the interests of senior citizens, who shall be appointed by the Commissioner responsible for senior citizens;
 - (j) one other member who shall be appointed by the Commissioner responsible for senior citizens.

- (4) (a) The Rodrigues Committee for the Elderly may co-opt other members as and when necessary.
- (b) The co-opted members shall not have the right to vote.
- (5) The members referred to in subsection (3)(i) and (j) shall be appointed for a term of 2 years and shall be eligible for re-appointment.
- (6) Every member shall be paid such allowance as the Chief Commissioner for Rodrigues may determine.
- (7) (a) Subject to paragraphs (b) to (e), the Rodrigues Committee for the Elderly shall conduct its proceedings in such manner as it thinks fit.
- (b) The Rodrigues Committee for the Elderly shall meet at such time and place as the Chairperson thinks fit but at least once a month.
- (c) six members shall constitute a quorum for a meeting.
- (d) The Chairperson shall preside all the meetings of the Rodrigues Committee for the Elderly and, in his absence, the Vice-Chairperson shall preside such meetings.
- (e) Every decision of the Rodrigues Committee for the Elderly shall be taken by a majority of the members present and voting.

6. The Unit

- (1) (a) There shall be, for the purposes of this Act, an Elderly Persons' Protection Unit which shall comprise of such public officers as may be designated by the Permanent Secretary.

- (b) The Unit shall be under the administrative control of a public officer of the Ministry who shall be appointed officer-in-charge of the Unit.
 - (c) There shall be a Rodrigues branch of the Unit.
- (2) The functions of the Unit shall be to –
- (a) organise public awareness and sensitisation campaigns on the rights of elderly persons and the need to provide them with assistance and protection;
 - (b) receive complaints from elderly persons who are in need of protection or assistance and take such measures as may be necessary;
 - (c) apply to the Court for a protection order where it deems it necessary in circumstances where there is a real danger to, or threat on, the life of an elderly person;
 - (d) assist in arranging for the admission of an elderly person to a residential care home, where required;
 - (e) ensure that every Elderly Watch and other appropriate bodies or authorities get a proper feedback on the situation of elderly persons who are, or may be, in need of protection or assistance.

7. Powers of officers

- (1) Subject to subsection (2), an officer of the Unit may, at all reasonable times, for the purpose of exercising any of the functions of the Unit, enter any premises, make inspections, seek information, examine records and make copies of them.

- (2) (a) A Magistrate may, upon an affidavit sworn by an officer of the Unit to the effect that he reasonably believes that an elderly person is being abused, issue a warrant authorising the officer to enter such premises as may be specified in the warrant for any of the purposes specified in subsection (1).
- (b) A warrant issued under paragraph (a) shall be valid for the period stated in the warrant.
- (3) An officer exercising his powers under subsection (1) or (2) –
 - (a) shall, on demand, show his authority by producing a card or other document signed by the Permanent Secretary and bearing the seal of the Ministry; and
 - (b) may be accompanied by a police officer.
- (4) The officer-in-charge of the Unit may, for the purpose of exercising any function of the Unit, require any person to –
 - (a) attend such place at such time as he may direct; and
 - (b) provide such written or oral information as may be necessary.

8. Elderly Watch

- (1) There shall be, in every region designated by the Monitoring Committee, an Elderly Watch.
- (2) The functions of the Elderly Watch shall be to –
 - (a) promote the welfare of elderly persons in the region for which it is responsible;

- (b) provide support to families that need assistance and protection for elderly persons;
 - (c) endeavour to prevent acts of abuse on elderly persons;
 - (d) report cases of repeated abuse of an elderly person to an officer of the Unit.
- (3) Every Elderly Watch shall consist of –
- (a) such volunteers working for the care of elderly persons of the region as may be appointed by the Minister;
 - (b) such voluntary organisation member of the Senior Citizens' Council as may be designated by that Council;
 - (c) such public officer as may be designated by the Minister.
- (4) (a) Every Elderly Watch shall be administered by a Managing Committee of not more than 7 persons, who shall be appointed by the members of the Elderly Watch.
- (b) The Managing Committee shall regulate its proceedings in such manner as it thinks fit.

9. Elderly Persons' Protection Order

- (1) Where a Court is satisfied by information on oath that the officer-in-charge of the Unit has reasonable cause to believe that an elderly person has suffered, is suffering or is likely to suffer an act of abuse, the Court shall issue an elderly persons' protection order restraining the respondent from engaging in any conduct which may constitute an act of abuse and ordering him to be of good behaviour towards the elderly person.

- (2) The information on oath referred to in subsection (1) and the elderly persons' protection order shall be in such form as may be prescribed.
- (3) On an application being made for an elderly persons' protection order, the Court shall cause notice of the application to be served on the respondent requiring him to appear before the Court on such day as may be specified in the notice, not being later than 14 days after the date of the application, to show cause why the order applied for should not be made.
- (4) An application for an elderly persons' protection order shall be heard as a civil case between the parties.
- (5) Where the Court is satisfied that there is a serious risk of harm being caused to the elderly person before the application may be heard and that the circumstances revealed in the application are such as to warrant the intervention of the Court even before the respondent is heard, the Court may –
 - (a) issue an interim elderly persons' protection order in such form as may be prescribed, restraining the respondent from engaging in any conduct which may constitute an act of abuse and ordering him to be of good behaviour towards the elderly person;
 - (b) order the Commissioner of Police to provide police protection to the elderly person until such time as the interim order is served on the respondent or for such time as the particular circumstances of the case may justify.
- (6) Where an interim elderly persons' protection order is issued, the District Clerk shall immediately take steps to have a copy of the order served on the respondent requiring him to appear before the Court on such day as may be specified in the order to show cause why it should not be confirmed, varied or discharged.

- (7) An interim elderly persons' protection order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the elderly persons' protection order.
- (8) (a) Where an elderly persons' protection order is in force, either party may apply in Court for a variation or revocation of the order.
- (b) The party applying for the variation or revocation of the order shall cause a copy of the application to be served on the other party.

10. Immunity of members and officers

No liability, civil or criminal, shall be incurred by a member or an officer of the Unit or the Elderly Watch in respect of any act done by him in good faith in the exercise of his functions under this Act.

11. Offences

- (1) Any person who –
- (a) wilfully subjects an elderly person to ill-treatment, whether physical or verbal;
- (b) subjects an elderly person to prolonged mental or emotional harassment;
- (c) intentionally causes pecuniary loss or material prejudice to an elderly person,
- shall commit an act of abuse.
- (2) Any person who –

- (a) commits an act of abuse;
- (b) wilfully fails to provide an elderly person under his care with adequate food, medical attention, shelter and clothing; or
- (c) fails to comply with a protection order,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

12. Regulations

- (1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.
- (2) Regulations made under subsection (1) may provide for the payment of fees and the levying of charges.

13. Commencement

- (1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.
- (2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on the nineteenth day of April two thousand and five.

Ram Ranjit Dowlutta
Clerk of the National Assembly