

[AS PASSED BY THE SENATE]

A

BILL

*to provide for the maintenance and welfare of old parents and well-being,
-comfort and dignity of the senior citizens in Pakistan*

PREAMBLE

WHEREAS It is provided in the Holy Quran

وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا ۗ إِمَّا يَبُلُغَنَّ عِنْدَكَ الْكِبَرَ أَحَدُهُمَا أَوْ
كِلَهُمَا فَلَا تَقُلْ لَهُمَا آفًا وَلَا تَنْهَرْهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا (٢٣)
وَ اخْفِضْ لَهُمَا جَنَاحَ الذَّلِيلِ مِنَ الرَّحْمَةِ وَقُلْ رَبِّي أَرْحَمُهُمَا كَمَا رَبَّبْنِي صَغِيرًا (٢٤)

"Your Lord has commanded that you worship none but Him, and that you be kind to your parents. If one or both of them reach old age with you, do not say to them a word of disrespect, or scold them, but say a generous word to them. And act humbly to them in mercy, and say. "My Lord, have mercy on them, since they cared for me when I was small" (17: 23-24).

AND WHEREAS the Constitution establishes a society based on democratic values, social justice and fundamental rights and seeks to improve the quality of life of all citizens;

AND WHEREAS the State must create an enabling environment in which the fundamental rights of every citizen must be respected, protected and fulfilled; and the senior citizens must be empowered to continue to live meaningfully and constructively in a society that recognizes them as important sources of knowledge, wisdom and expertise;

AND WHEREAS it is expedient to provide for the establishment of a Commission for the wellbeing, comfort and dignity of the senior citizens and old parents in the Islamabad Capital Territory;

It is hereby enacted as follows:

**PART-I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the Maintenance and Welfare of Old Parents and Senior Citizens Act, 2020.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Maintenance and Welfare of Old Parents and Senior Citizens Act, 2020;

(b) "Commission" means the Pakistan Maintenance and Welfare of Old Parents and Senior Citizens Commission established under section 3;

(c) "Concerned Division" means the Division dealing with the subject of Social Welfare;

(d) "Chairperson" means the Chairperson of the Commission;

(e) "Children" means the biological children, legal heirs and includes all those who are residing within any premises along with the old parents and senior citizen;

(f) "Fund" means the Pakistan Maintenance and Welfare of Old Parents and Senior Citizens Fund established under section 9;

(g) "Government" means the Federal Government of Pakistan;

(h) "Indigent" means any senior citizen who has not having sufficient means of income as may be determined by the Commission from time to time;

(i) "Prescribed" means prescribed by the rules framed under Section 26;

(j) "Regulation" means regulation made by the Commission under paragraph (o) of sub-section (2) Section (6);

(k) "Rehabilitation" means a process by which an older person is enabled to reach and maintain his optimal physical, sensory, intellectual, psychiatric or social functional levels, and includes measures to restore functions;

(l) "Relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;

(m) "Senior citizen" means an elderly person of age sixty years and above living in Pakistan;

- (n) "shelter" means any building or premises maintained or used for the reception, protection and temporary care of any senior citizen in need of care and protection;
- (o) "Welfare" includes all such services relating to social, economic, lodging and legal protection of senior citizens; and
- (p) "Welfare packages or grants" mean welfare and social security packages or grants announced for welfare of the senior citizens by the Government.

(2) The expressions, not defined in sub-section (1), shall have the same meaning as defined in any other relevant law or generally used.

PART-II OLD PARENTS AND SENIOR CITIZENS WELFARE COMMISSION

3. Establishment of the Commission.- (1) Within six months of the commencement of this Act, the Government shall establish a Commission to be known as the Pakistan Maintenance and Welfare of Old Parents and Senior Citizens Commission.

(2) The principal office and establishments of the Commission shall be at Islamabad and it may set up its offices at such place or places as it may deem appropriate.

(3) The Commission shall be a body corporate having perpetual succession and common seal and may sue and be sued in its own name and for the purpose of this Act, may enter into a contract and may acquire, purchase, take, hold and enjoy moveable and immoveable property of every description and may convey, assign, surrender, yield-up, charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any moveable and immoveable property or any interest vested in it.

(4) The Commission shall be an autonomous body under the administrative control of the Government.

(5) The common seal of the Commission shall be kept in the custody of the Chairperson or such other person as may be prescribed by regulations and documents required or permitted under the common seal shall be specified and authenticated in such manner as may be prescribed by regulations.

4. Composition of the Commission.- (1) The Commission shall consist of,-

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| (a) | The Minister of the concerned Division; | Chairperson |
| (b) | Three Members of the Senate preferably having age of sixty years or above to be nominated by the Chairman Senate; | Members |
| (c) | Three members of the National Assembly preferably having age of sixty years or above to be nominated by the Speaker National Assembly; | Members |
| (d) | Chairman CDA; | Member |
| (e) | Secretary of the concerned Division; | Ex-officio Member/
Secretary |

(2) The Commission shall have powers to co-opt members from amongst persons who are experts in their respective fields, for advice on particular matters under its consideration.

(3) The members of the Commission, other than ex-officio members, shall be nominated for a term of three years.

(4) If a member of the Commission, other than ex-officio member, is unable to perform as member of the Commission, he shall inform the Commission and the Commission after receiving such information, may cancel his membership.

(5) Any casual vacancy of a member, other than an ex-officio member, shall be filled in by a person nominated by the respective authority and the person so nominated shall hold office for the unexpired period of the term of his predecessor.

5. Qualification of Members.- A person shall be eligible to be a Member of the Commission if,-

- (a) he is a citizen of Pakistan;
- (b) he is sane and of sound mind;
- (c) he has not been convicted of an offence involving moral turpitude;
- (d) he has not at any time been adjudicated insolvent;

- (e) he has not at any time been disqualified for employment in or dismissed from Government service;
- (f) he is not acting in contravention of the provisions of this Act; and
- (g) he has no financial interest in any aspect of the Commission, or has a conflict of interest, directly or indirectly, with the Commission.

6. Powers and functions of the Commission.- (1) Subject to the provisions of this Act and rules, the Commission shall exercise such powers and perform such functions, as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the fore-going sub-section, the Commission shall,-

- (a) formulate policy proposals on aging in the light of national commitments on the welfare of senior citizens and submit it to the Government for approval from time to time;
- (b) conduct research and compile data on various aspects of aging for the wellbeing of senior citizens for policy or plan formulation;
- (c) create different forums for the senior citizens to participate in activities that enhance their income-generating capacity;
- (d) take steps towards introduction of geriatrics as part of the syllabus of medical universities or colleges;
- (e) propose arrangements in hospitals for better medical attention to senior citizens;
- (f) provide facilities including clubs, community centers for their free access to opportunities that promote their optimal level of social, physical, mental and emotional well-being;
- (g) make them participate in inter-generational programmes for better social inter-action among all community members including senior citizens;

- (h) arrange workshops to educate senior citizens about life changing requirements for a healthy old age and an environment catering for the changing capacities;
- (i) formulate proposals to accommodate the requirements of senior citizens and parents in urban and rural planning and development;
- (j) promote participation of senior citizens in decision-making processes at all levels;
- (k) undertake social, economic and other welfare activities in collaboration with public and private sectors for the welfare of senior citizens and parents ;
- (l) mobilize financial resources for welfare of the senior citizens and parents;
- (m) constitute committees to assess and carry out welfare activities for senior citizens;
- (n) co-ordinate with Government, non-governmental social and welfare organizations at national and international level to take steps for the welfare of senior citizens and parents;
- (o) make regulations for proper functioning of the Commission including regulations for appointment of different categories of employees under the administrative control of the Commission;
- (p) publish reports and other material for guidance and welfare of senior citizens;
- (q) grant of senior citizens awards in the fields of their expertise;
- (r) ensure access to information by education and training of senior citizens and create awareness in the public through organizing seminars, workshops, conferences and use of mass media;
- (s) establish senior citizens homes to accommodate homeless, deserted and indigent senior citizens and parents ; and

- (t) encourage to setup organization of senior citizen corps for utilization of their potential for service activities and national development.

7. Meetings of the Commission.- (1) The meetings of the Commission shall be held quarterly, and shall be presided over by the Chairperson or, in his absence, by a member nominated by the Chairperson for the purpose. One third of the total members shall constitute the quorum.

(2) All decisions of the Commission shall be taken by simple majority of the members of the Commission present in the meeting. The Chairperson shall have a casting vote in case of a tie.

(3) Decision of the Commission shall be recorded by the Secretary of the Commission, who shall circulate such decisions for confirmation to Chairperson and the members within fifteen days of each meeting.

PART-III PRIVILEGES TO SENIOR CITIZENS

8. Privileges to senior citizens.- (1) A senior citizen may, on completion of his sixty years of age, apply for the senior citizen card.

(2) The procedure and criteria for obtaining the senior citizen card shall be such, as may be prescribed by rules.

(3) The senior citizens shall be allowed the following privileges on the basis of senior citizen card:-

- (a) free of charge entry to public museums, libraries, parks and recreation facilities;
- (b) financial supports to deserving senior citizens;
- (c) separate counters for senior citizens in hospitals, malls, banks and all other public places wherever applicable;
- (d) prioritized receiving of basic services at all services areas;
- (e) concession in medical facilities and medicine charges;

- (f) separate medical wards and rehabilitation care units and the provisioning of proper care to the deserving senior citizen; and
- (g) fares concession in public transport.

9. Fund.- (1) The Government shall establish a Fund to be known as the Pakistan Maintenance and Welfare of Old Parents and Senior Citizens Fund, which shall consist of,-

- (a) all grants and allocations made by the Government;
- (b) donations, endowments and contributions made by the private individuals and organizations within country and abroad; and
- (c) all sums received by the Commission from any other source including Pakistan Bait-ul-Mal, profits on investment from funds, funds generated by different motivated campaigns and received from lawful sources. Funds shall be invested only in scheduled banks and National Saving Schemes. No investment will be made in stock market shares or used for speculation in any manner.

(2) The Fund shall be administered by the Commission, which shall make such allocations for specific activities, enumerated in sections 8 and 9 of this Act and may deem appropriate in line with the performance of functions of the Commission.

(3) The Government shall make annual budgetary allocations for the establishment and other charges of the Commission.

(4) The Fund shall be utilized for,-

- (a) the establishment charges; and
- (b) welfare of the senior citizens.

(5) The Fund shall be maintained in a scheduled bank and shall be operated in accordance with directions of the Commission.

(6) The Fund shall be regularly monitored by the Commission and audited in the same manner as in the case of the funds of other Government Departments.

(7) The Fund shall be maintained in accordance with the rules and shall be auditable annually through Auditor General of Pakistan and annual audit report of the Fund shall be submitted to the Government.

10. Public servants.- All employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

11. Appointment of officers, employees, etc.- To carry out the purposes of this Act, the Commission may, appoint advisors, consultants and experts, having specialization and expertise in the related field and other officers and employees on such terms and conditions as may be prescribed.

PART-IV

MAINTENANCE OF PARENTS AND SENIOR CITIZENS

12. Maintenance.- (1) A senior citizen including parent who is unable to maintain himself from his own earning or out of property owned by him, shall be entitled to make an application under section 13 in case of,-

- (a) Parent or grand-parent, against one or more of his children not being a minor;
- (b) A childless senior citizen, against such of his relative referred to in paragraph (l) of section 2.

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the child to maintain his parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen:

Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relatives in the proportion in which they would inherit his property.

13. Application for maintenance.- (1) An application for maintenance under section 13, may be made,-

- (a) by a senior citizen or a parent, as the case may be; or
- (b) if he is incapable, by any other person or organization authorized by him; or
- (c) the Tribunal may take cognizance suo-motu.

Explanation.- For the purposes of this section, organization means any voluntary association or NGO registered under the Registration Act.

(2) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizens including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

(3) The Tribunal may on receipt of an application for maintenance under sub-section (1) and after giving notice of the application to the children or relative and providing the opportunity of being heard, hold an inquiry for determining the amount of maintenance.

(4) An application filed under sub-section (2) for the monthly allowance for the maintenance and expenses shall be disposed of within ninety days from the date of the service of the notice of the application to such person:

Provided that the Tribunal may extend such period, once for a maximum period of thirty days in exceptional circumstances for reason to be recorded in writing.

(5) An application for maintenance under sub-section (1) may be filed against one or more persons:

Provided that such children or relative may implead the other persons liable to maintain the parent in the application of maintenance.

(6) Where a maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

(7) Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

(8) If, children or relative so ordered fail, without sufficient cause to comply with the order of the Tribunal may, for every breach of the order, may issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

14. Jurisdiction and Procedure.- (1) The proceedings under this section may be taken against any children or relative of senior citizen in the Islamabad Capital Territory,-

(a) where he reside: or last resided; or

(b) where children or relative resides.

(2) On receipt of the application under sub-section (1), the Tribunal shall issue a process for procuring the presence of children or relative against whom the application is filed.

(3) For securing the attendance of children or relative the Tribunal shall have the power of a Judicial Magistrate of first class as provided under the Code of Criminal Procedure, 1898.

(4) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case ex-parte.

(5) Where the children or relative is residing out of Pakistan, the summons shall be served by the Tribunal through such authority, as the Government may by notification in the official Gazette, specify in this behalf.

(6) The Tribunal before hearing an application under this section may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

Explanation.- For the purposes of this sub-section "Conciliation Officer" means any person or representative of an organization referred to in Explanation to sub-section (1) of section 13 or the Maintenance Officers designated by the Government under sub-section (1) of section 22 or any other person nominated by the Tribunal for this purpose.

15. Constitution of Tribunal.- (1) The Government shall within a period of six months from the date of the commencement of this Act, by notification in the Official Gazette, constitute for Islamabad Capital Territory one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 14.

(2) The Tribunal shall be presided over by a first class Civil Judge-cum-judicial Magistrate, who shall be appointed by the Government in consultation with the chief justice of Islamabad High Court.

(3) Where two or more Tribunals are constituted for Islamabad Capital Territory, the Government may, by general or special order, regulate the distribution of business among them.

16. Summary Procedure in case of Inquiry.- (1) In holding any inquiry under section 14, the Tribunal may, subject to any rules that may be prescribed by the Government in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a Criminal Court for all the purposes and of the Code of Criminal Procedure, 1898.

(3) Subject to any rule that may be made in this behalf, the Tribunal may, for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

17. Order for Maintenance.- (1) If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.

(2) The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the Government which shall not exceed ten thousand rupees per month.

18. Alteration in Allowance.- (1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under this section, the Tribunal may make such alteration, as it thinks fit, in the allowance for the maintenance.

(2) Where it appears to the Tribunal that, in consequence of any decision of a competent Civil Court, any order made under section 18 should be cancelled or varied, it shall cancel the order or, as the case may be, vary the same accordingly.

19. Enforcement of order of Maintenance.- (1) A copy of the order of maintenance including the order regarding expenses of proceedings, shall be given without payment of any fee to the senior citizen or to parent, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, resides.

(2) A maintenance order made under this Act shall have the same force and effect as an order passed under the Code of Civil Procedure, and shall be executed in the manner prescribed for the execution of such decree by that Code.

20. Constitution of Appellate Tribunal.- (1) The Government may, by notification in the Official Gazette, constitute Appellate Tribunal for Islamabad Capital Territory to hear the appeal against the order of the Tribunal.

(2) The Tribunal shall be presided over by a Additional District and Sessions Judge who shall be appointed by the Government in consultation with the Chief Justice of the Islamabad High Court.

21. Appeal.- (1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.

(3) The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

(4) The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.

(5) The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorized representative.

(6) The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

(7) A copy of every order made under sub-section (5) shall be sent to both the parties free of cost.

22. Maintenance Officer.- (1) The Government shall designate an officer not below the rank of a District Social Welfare Officer, by whatever name called as Maintenance Officer.

(2) The Maintenance Officer referred to in sub-section (1), shall represent a parent if he so desires, during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

PART-V ESTABLISHMENT OF OLDAGE HOMES

23. Establishment of old age homes.- (1) The Government may establish and maintain such number of old age homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in Islamabad Capital Territory to accommodate senior citizens who are indigent.

(2) The Government may, prescribe a scheme for management of old age homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.

24. Exposure and abandonment of senior citizens and parents.- Whoever, having the care or protection of senior citizen or parent leaves, such senior citizen or parent in any place with the intention of wholly abandoning such senior citizen or parent, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to twenty five thousand rupees or with both.

25. Cognizance of offences.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under this Act shall be cognizable and bail able.

(2) An offence under this Act shall be tried summarily by a Magistrate.

26. Power to make rules.- The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

When the winds of change blow all around and new situations and conditions emerge, this necessitates newer responses conducive to achieve the broad national goal. There has been a steady rise in the population of older persons in Pakistan, because of an appreciable increase in the life expectancy. But with the increase in population the traditional norms and status of the senior citizens have deteriorated. The result of withering of the joint family system, industrialization, globalization etc. is that a large number of parents are not being maintained by their children, as was the normal social practice. Consequently, the elders are now exposed to emotional neglect and to lack of physical and financial support. They are facing a lot of problems in the absence of adequate social security. Allah Almighty has ordained in the Holy Quran to be "docile, humble and obedient and do not utter even 'uff' if they scold you." Keeping in view these facts, to ensure that the children perform their moral obligation towards their parents and to eliminate the agony and sufferings of this vulnerable section of society, legislation for the welfare of the Parents and Senior Citizens is proposed and titled as "The Maintenance and Welfare of Old Parents and Senior Citizens Act, 2019".

The Bill seeks to achieve the above objectives.

SENATOR RANA MAQBOOL AHMAD
Member-in-Charge