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MACHAKOS COUNTY SENIOR CITIZENS ACT, 2022

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THE MACHAKOS COUNTY SENIOR CITIZENS ACT, 2022

AN ACT of the County Assembly of Machakos to establish a framework for the empowerment and protection of senior citizens and the maintenance of their well-being, to alleviate poverty and reduce economic vulnerability among them; and for connected purposes

ENACTED by the County Assembly of Machakos, as follows—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Machakos County Senior Citizens Act, 2022.

Interpretation

2. In this Act, unless the context otherwise requires—

“beneficiary” means a senior citizen who receives the senior citizens’ grant;

“Board” means the Machakos County Public Service Board established under section 57 of the County Governments Act, 2012;

“Chief Officer” means the Chief Officer responsible for matters relating to social welfare and development;

“County” means the County of Machakos;

“County Executive Committee member” means the County Executive Committee Member responsible for matters relating to social welfare and development;

“county government” means the county Government of Machakos;

“grant” means the Senior Citizens Grant;

“home-based care” means care services provided at the place where a senior citizen resides, excluding at a residential facility, by a care giver in order to maintain the senior citizen’s maximum level of comfort;

“officer in charge” means an officer appointed by the County government to manage matters relating to senior citizens in the County including the administration of the senior citizens grant within the county;

“senior citizen” means a person who has attained the age of sixty years and who qualifies for a senior citizens grant under this Act; and

“senior citizens grant” means an amount of cash given to a senior citizen or for the benefit of a senior citizen.

Objects and Purpose

3. The objects and purpose of this Act are to—
- (a) provide for a framework for the promotion and protection of the rights of Senior Citizens as enshrined in the Constitution;
 - (b) promote and protect the status of Senior Citizens;
 - (c) prevent the abuse of senior citizens.

PART II—CARE OF SENIOR CITIZENS**Rights of senior citizens**

4. Every senior citizen has the right to—
- (a) fully participate in the affairs of the community based on the senior citizen's interests and capabilities;
 - (b) take part in activities that enhance the senior citizen's personal development and build capacity to generate income and to take part in activities that advance the senior citizen's economic development;
 - (c) access social and legal services for the enhancement of the protection of the senior citizen's rights under the Constitution;
 - (d) access appropriate medical care;
 - (e) protection from all forms of abuse including gender-based violence, neglect, torture, exploitation among other violations;
 - (f) enter into association with other senior citizens to safeguard their welfare;
 - (g) take part in activities that promote the senior citizen's social, physical, mental and emotional well-being; and
 - (h) receive reasonable care, assistance and protection from their family and the State.

Obligations of the County Government

5. The County Executive Committee Member shall—
- (a) implement the national policy and strategies relating to senior citizens within the county;
 - (b) formulate and implement county-specific programmes for the care and protection of senior citizens within the county;
 - (c) deliver social services for the care and protection of senior citizens within the county as they may consider appropriate;
 - (d) monitor and supervise institutions, organisations and such other persons involved in the delivery of social services to senior

citizens in the county and coordinate the delivery of such services within the county;

- (e) offer tax reliefs, reduction, exemptions and rebates to senior citizens;
- (f) promote home-based care for senior citizens while encouraging care in nursing homes as a last resort;
- (g) ensure ease in mobility and access by senior citizens of public buildings, means of transport and other public amenities; and
- (h) put in place programmes and projects that promote the generation of income by senior citizens and that enables senior citizens to, as far as possible, lead independent lives.

Delivery of services concerning Senior Citizens

6. Any person providing services concerning senior citizens within the County shall—

- (a) recognize the social, cultural and economic contributions of senior citizens;
- (b) promote the participation of senior citizens in decision making processes concerning them at all levels;
- (c) recognize the multi-dimensional needs of senior citizens and promote the fulfillment of such needs;
- (d) promote the development and basic care of senior citizens;
- (e) promote the prevention of exploitation and abuse of senior citizens; and
- (f) ensure, as far as is practicable, that services and facilities are accessible to senior citizens.

Right to family and Community Care

7. A senior citizen has the right to—

- (a) reside at home for as long as is possible; and
- (b) benefit from family and community care and protection in accordance with the society's system of cultural values.

Community Based Programmes

8. (1) The county government shall establish and implement community-based programmes for the care and protection of senior citizens residing within the county.

(2) Community based programmes established under subsection (1) shall comprise—

- (a) prevention and promotion programmes that seek to promote the independent living of senior citizens residing within the county; and
- (b) home based care programmes that ensure that senior citizens residing within the county who suffer from any form of physical or mental infirmity and are unable to care for themselves receive care.

(3) The community-based care programmes implemented pursuant to subsection (1) by the county government shall—

- (a) comprise county specific interventions that address the needs of senior citizens within the county;
- (b) promote family and community awareness on the care of senior citizens within the county and sensitize them on the care and support of senior citizens;
- (c) empower the senior citizens economically to enable them sustain themselves;
- (d) include the delivery of spiritual, cultural, medical, civil and social services to senior citizens within the county.

(4) The County Government shall put in place such infrastructure, including community centers and facilities, for the purpose of providing community-based care and support services under this Act.

Prohibition of abuse

9. (1) A person shall not abuse or subject a senior citizen to any form of physical or mental abuse.

(2) Any conduct or lack of appropriate action occurring within a relationship in which there is an expectation of trust, which causes harm or distress or is likely to cause harm or distress to a senior citizen constitutes abuse under subsection (1).

(3) For the purposes of subsection (1) and (2), abuse includes—

- (a) physical abuse which means any act or threat of physical violence towards a senior citizen;
- (b) any conduct that violates the sexual integrity of a senior citizen;
- (c) psychological abuse which means any pattern of degrading or humiliating conduct towards a senior citizen, including—
 - (i) repeated insults, ridicule or name calling;
 - (ii) repeated threats to cause emotional pain; and

- (iii) repeated invasion of a senior citizen's privacy, freedom, integrity or security.
- (d) economic abuse including—
 - (i) the deprivation of economic and financial resources to which a senior citizen is entitled under any law
 - (ii) the unreasonable deprivation of economic and financial resources which the senior citizens requires out of necessity; or,
 - (iii) the disposal of household effects or other property that belongs to the senior citizen without the senior citizen's consent.

(4) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding one million or to both such fine and imprisonment.

PART III—SENIOR CITIZENS GRANT

Machakos County Senior Citizens Protection Committee

10. (1) There is established the Machakos County Senior Citizens Protection Committee.

(2) The County Senior Citizens Protection Committee shall consist of—

- (a) the Executive Committee Member who shall be the Chairperson;
- (b) the Chief Officer who shall be the Secretary of the Committee who shall be an *ex officio* member;
- (c) the Chief Officer for the County Treasury;
- (d) a woman and a man representing faith-based organizations involved in social welfare matters in the County;
- (e) a woman and a man representing Public Benefit Organizations involved in social welfare matters in the County; and
- (f) a woman and a man representing persons with disabilities and who are involved in social welfare matters in the County.

(3) The persons referred to in paragraphs (1) (d), (e) and (f) shall be competitively recruited and appointed by the Board with the approval of the County Assembly.

(4) The persons referred to in paragraphs (1) (d), (e), and (f) shall serve for a fixed term of three years and they shall be eligible for appointment for one further term of three years.

(5) The Chairperson of the Board shall publish in the Gazette, the names of the Members of the Committee appointed under this section.

Functions of the County Senior Citizens Protection Committee

11. The functions of the County Senior Citizens Protection Committee are to—

- (a) advise the county government on legislative, policy and other measures necessary for the protection and the promotion of the welfare of senior citizens;
- (b) mobilize resources for the protection and welfare of senior citizens;
- (c) provide linkage with government agencies and non-governmental entities working for the welfare of senior citizens;
- (d) oversee the administration of the Grant kitty in accordance with objects and purpose of this Act;
- (e) report to the County Assembly concerning the protection of senior citizens;
- (f) undertake monitoring, evaluation and reporting on matters relating to senior citizens in the county; and
- (g) undertake such other activities as are necessary for the effective implementation of this Act.

Ward Senior Citizens Protection Committees

12. (1) There is established for every Ward, the Ward Senior Citizens Protection Committee.

(2) The Ward Senior Citizens Protection Committee shall consist of—

- (a) a woman and a man who ordinarily reside in the Ward who have knowledge and experience in public affairs representing older persons;
- (b) a woman and a man representing faith-based organizations involved in social welfare matters in the Ward;
- (c) a woman and a man representing Community Based Organizations involved in social welfare matters in the Ward;
- (d) a woman and a man representing persons with disabilities and who are involved in social welfare matters in the County;
- (e) the Ward Administrator who shall be the Secretary and an *ex officio* member of the Committee.

(3) The Ward Senior Citizens Protection Committee Members under paragraphs (1) (a), (b), (c) and (d) shall be nominated by members

of the public at a public meeting convened by the Board at the Ward headquarters.

(4) With the support of the leadership in the Ward, the Board shall ensure that all stakeholders including interest groups eligible for nomination as members of the Ward Senior Citizens Protection Committee are equitably represented in the nomination meeting.

(5) Within fourteen days of the nomination of members of the Ward Senior Citizens Protection Committee under this section, the Board shall compile a list of nominees from all the Wards and forward it to the County Assembly for approval.

(6) The Chairperson of the Board shall publish in the Gazette, the names of the Members of the Ward Senior Citizens Protection Committee appointed under this section.

(7) The persons referred to in paragraphs (1) (a), (b), (c) and (d) shall serve for a fixed term of three years and they shall be eligible for appointment for one further term of three years.

Functions of the Ward Senior Citizens Protection Committee

13. (1) The functions of the Ward Senior Citizens Protection Committee are to—

- (a) mobilize communities and other stakeholders in the Ward to participate in programmes aimed at ensuring the protection of senior citizens;
- (b) facilitate public education, awareness creation, and capacity building at the Ward level on matters relating to senior citizens;
- (c) respond to the needs of senior citizens;
- (d) receive, consider, assess, and prioritize applications for the grant and recommend to the County Committee for consideration;
- (e) oversee the prudent utilization of the senior citizens' grant at the Ward level; and
- (f) conduct monitoring, evaluation and reporting on senior citizens' matters in the Ward.

(2) In performing its functions, the Ward Senior Citizens Protection Committee shall ensure effective public participation and stakeholder consultations including with the area leaders.

Funds for the senior Citizens Grant

14. (1) In developing the Annual County Budget, the Executive Committee member for Finance shall ensure that at least 0.2 % of the budget is allocated to the senior citizens' grant.

(2) 10% of the funds allocated for the Grant under subsection (1) shall be set aside for administration purposes.

(3) The amount to be disbursed to each applicant for the grant shall be such as may be determined from time to time by the County Senior Citizens Protection Committee.

Qualifications for Grant

15. (1) A person qualifies for a senior citizens grant if that person—

- (a) is a Kenyan citizen;
- (b) is a permanent resident of Machakos county;
- (c) has attained the age of 60;
- (d) has no ascertainable means of support or income; and
- (e) is not a beneficiary of any other program with similar benefits.

(2) Despite the provisions of subsection (1) (c), a person with a disability who has attained the age of 55 qualifies for consideration for the senior citizens' grant.

(3) Without prejudice to subsection (1), in assessing the qualification of a senior citizen to the grant, every senior citizen shall be granted the opportunity to justify their needs to be able to qualify for the grant.

Application for Senior Citizens Grant

16. (1) Applications for the senior citizens grant shall be submitted to the Ward Senior Citizens Protection Committee.

(2) The Ward Administrator shall receive applications for the senior citizens grant and table them before the Ward Senior Citizens Protection Committee for consideration.

(3) A person may apply for the senior citizens grant in the prescribed manner and form.

(4) Where an application is made by a person in accordance with this section, the officer in charge may conduct an investigation to verify that the person is eligible and may request for additional information if necessary.

(5) If the applicant does not qualify for issuance of grant in terms of this Act, the officer in charge shall in writing, inform the applicant—

- (a) that the applicant does not qualify for a grant in terms of this Act; and
- (b) of the reasons why, the applicant does not qualify.

(6) The officer in charge shall convey the decision to the applicant within one month from the time the application is received.

(7) Unless otherwise required, an application for the Grant shall be made once.

Abuse of Senior Citizens Grant

17. If in the opinion of the officer in charge a beneficiary abuses the grant, the officer in charge in consultation with the County Senior Citizens Protection Committee may—

- (a) suspend payment of grant; or
- (b) appoint a person to receive the grant on behalf of the beneficiary and to apply it, subject to the prescribed conditions and any other conditions that the county executive member may determine, for the benefit of the beneficiary.

Termination of Senior Citizens Grant

18. (1) The County Senior Citizens Protection Committee may terminate payment of the grant to or on behalf of a senior if the—

- (a) senior citizen is absent from the county, for a continuous period of six months or longer except for reasons of medication;
- (b) grant was obtained through misrepresentation, deceit, fraud or failure to disclose any material information;
- (c) grant is in excess of amounts permitted by this Act and Regulations made pursuant to this Act; and
- (d) grant was approved and granted in error.

(2) The County Senior Citizens Protection Committee may reinstate the provision of grant suspended under subsection (1) where the county executive member is satisfied that the reasons advanced by the applicant justify the reinstatement.

Lapse of Senior Citizens Grant

19. Senior Citizens grant lapses when the beneficiary—

- (a) dies;
- (b) is admitted to a residential institution.

Disbursement of the Senior Citizens Grant

20. The County Executive Committee Member shall ensure that the grant is disbursed to the beneficiaries using the most convenient and may include mobile money transfers.

PART IV – MISCELLANEOUS PROVISIONS

General Penalty

21. A person who is convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding one

million shillings, or to imprisonment for a term not exceeding two years, or to both.

Regulations

22. (1) The County Executive Committee Member shall make regulations within 60 days of the coming into effect of this Act generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the procedure for applying for the Senior Citizens grant;
- (b) forms required under this Act;
- (c) conditions for the award of the senior citizens' grant;
- (d) such other matters as the as may be necessary for full implementation of this Act.



