



ಕರ್ನಾಟಕ ಸರ್ಕಾರ

**ತಂದೆ ತಾಯಿಯರ ಮತ್ತು ಹಿಲಿಯ ನಾಗರಿಕರ
ಪಾಲನೆ-ಷೋಷಣೆ ಮತ್ತು ಕಲ್ಯಾಣ ನಿಯಮಾವಳಿಗಳು
2009**

**THE KARNATAKA MAINTENANCE AND WELFARE OF
PARENTS AND SENIOR CITIZENS RULES
2009**

WOMEN AND CHILD DEVELOPMENT SECRETARIAT

NOTIFICATION

No: WCD 479 PHP 2007, Bangalore, Dated: 19th November, 2009

In exercise of the powers conferred by section 32 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Central Act 56 of 2007), the Government of Karnataka hereby makes the following rules, namely:-

1. Title and commencement:-

(1) These rules may be called the Karnataka Maintenance and Welfare of Parents and Senior Citizens Rules, 2009.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions:- In these rules the context otherwise requires:-

- a) 'Act' means Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Central Act 56 of 2007);
- b) 'Appellate Authority' means Appellate Tribunal constituted by the State Government under section 14 of the Act;
- c) 'Application' means an application made to a Tribunal under section 5 of the Act;
- d) 'Department' means the Department for Welfare of Disabled and Senior Citizens;
- e) 'Forms' means forms annexed to these rules;
- f) 'Presiding Officer' means an officer appointed to preside over a Maintenance Tribunal referred to under sub-section (2) of section 7 or an Appellate Tribunal under sub-section (2) of section 15;
- g) 'Respondent' means the party against whom an application for maintenance has been filed;
- h) 'Schedule' means Schedule 2 appended to these rules;
- i) 'Section' means section of the Act;
- j) 'State Government' means the Government of Karnataka;

3. Procedure for filling an application for maintenance and its registration;

(1) An application for maintenance under section 5 shall be made in Form 'A', in the manner laid down in clauses (a) and (b) of sub-section (1) of section 5.

(2) On receipt of an application under sub-rule (1), the Presiding Officer shall cause:-

- (a) its essential details to be entered in a Register of Maintenance Claim Cases, to be maintained in such form as the State Government may direct; and
- (b) its acknowledgement in Form 'B' to be given, notwithstanding anything contained in rules 5, to the applicant or his authorized representative in case of hand delivery, and its dispatch by post in other cases and the acknowledgement shall specify, inter alia, the registration number of the application.

(3) Where a Tribunal takes cognizance of a maintenance claim, suo motu, accurately as possible, through the staff of the Tribunal and shall, as far as possible, get it authenticated by the concerned senior citizen or parent, or any person or organization authorized by him and shall cause the same to be registered in accordance with clause (a) of sub-rule (2) above.

4. Preliminary scrutiny of the application:-

(1) On receipt of an application under sub-section (1) of section 5, the Tribunal shall satisfy itself that:-

- (a) the application is complete; and
- (b) the respondent has prima facie an obligation to maintain the applicant in terms of section 4

(2) In case where the Tribunal finds any lacunae in the application, it may direct the applicant to rectify such lacunae within a reasonable time limit.

5. Notice to the respondent:-

(1) Once the Tribunal is satisfied on the points mentioned in sub-rule (1) of rule 4, it shall cause to be issued to each person against whom an application for maintenance has been filled, a notice in Form 'C' directing them to show cause why the application should not be granted, along with a copy of the application and its enclosures, in the following manner:-

- (a) by hand delivery (Dastl) through the applicant if he so desires, else through a process server; or
- (b) (b) by registered post with acknowledgment due.

(2) The notice shall require the opposite party to appear in person, on the date to be specified in the notice and to show cause, in writing, as to why the applicant should not be granted and shall also inform that, in case he fails to respond to it, the Tribunal shall proceed ex-parte.

(3) Simultaneously with the issue of notice under sub-rules (1) and (2), the applicant(s) shall also be informed of the date mentioned in sub-rule (2) by a notice issued in Form 'C'.

(4) The provisions of Order V of the Code of Civil Procedure, 1908, shall apply mutatis mutandis, for the purpose of service of notice under sub-rules (2) and (3).

6. Procedure in case of non-appearance by the respondent:- In case, despite service of notice, the respondent fails to show cause in response to a notice, the Tribunal shall proceed ex-parte, by taking evidence of the applicant and making such other inquiry as it deems fit and shall pass an order disposing of the application.

7. Procedure in case of admission of claim:- In case, on the date fixed in the notice issued under rule 5, the opposite party appears and accepts his liability to maintain the applicant, and the two parties arrive at a mutually agreed settlement, the Tribunal shall pass an Order accordingly.

8. Procedure for Impleading children or relatives:-

(1) An application by the opposite party, under the proviso to sub-section (5) of section 5, to implead any other person or relative of the applicant shall be filed on the first date of hearing as specified in the notice issued under sub-rule (1) of rule 5:

Provided that no such application shall be entertained after such first hearing, unless the opposite party shows sufficient cause for filling it at a later stage.

(2) On receipt of an application under sub-rule (1), the Tribunal shall, if it is prima facie satisfied, after hearing the parties, about the reasonableness of such application, issue notice to such other person or relative to show cause why they should not be impleaded as a party and shall after giving them an opportunity of being heard, pass an order regarding their impleadment or otherwise.

(3) In case the Tribunal passes an order of impleadment under sub-rule(2) it shall cause a notice to be issued to such impleaded party in form 'C' in accordance with rule 5.

9. Procedure to be followed by the maintenance tribunal:-

(1) Every order passed on any application shall be communicated within 7 days to the applicant and the respondent(s) either in person or by registered post free of cost.

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

(3) 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 willfully avoiding service, or wilfully neglecting to attend the Tribunal may proceed to hear and determine the case ex-parte.

(4) Language of the Tribunal shall be either in Kannada or in English.

10. Appointment of Conciliation Officer:-

(1) Every Tribunal shall prepare a panel of persons nominated as Conciliation Officer under explanation to sub-section (6) of section 6, which shall include the Maintenance Officer designated under section 18. The Tribunal shall publish the panel atleast twice in a year on 1st January and 1st July respectively with charges, if any.

(2) The persons nominated as Conciliation Officer shall have the knowledge of the law and be associated with an organization which is working for the welfare of senior citizens or weaker sections or in the area of education, health, poverty-alleviation, social welfare, rural development or related fields for atleast two years with an unblemished record of service as senior officer of the organization.

11. Reference to Conciliation Officer:-

(1) In case, on the date fixed in the notice issued under rule 5, the opposite party appears and shows cause against the maintenance claim, the Tribunal shall

seek the opinion of both the parties as to whether they would like the matter to be referred to Conciliation Officer and if they express their willingness in this behalf, the Tribunal shall ask them whether they would like the matter to be referred to a person included in the panel prepared under rule 10 or to any other person acceptable to both parties.

(2) If both the parties agree on any person, whether included in the panel under rule 10 or otherwise, the Tribunal shall appoint such person as the Conciliation Officer in the case and shall refer the matter to him through a letter, requesting the Conciliation Officer to try and work out a settlement acceptable to both parties, within a period not exceeding one month from the date of receipt of the reference.

(3) The reference shall be accompanied with copies of the application and replies of the opposite party thereto.

12. Proceedings by Conciliation Officer:-

(1) Upon receipt of a reference under rule 11, the Conciliation Officer shall hold meetings with the two parties as necessary and shall try to work out a settlement acceptable to both the parties, within a period of one month from the date of receipt of the reference.

(2) If the Conciliation Officer succeeds in working out a settlement acceptable to both the parties, he shall draw up a memorandum of settlement, get it signed by both parties and forward it, with a report, along with all records of the case received from the Tribunal, back to the Tribunal within a month from the receipt of the reference.

(3) If the Conciliation Officer is unable to arrive at a settlement within one month of receipt of a reference under rule 11, he shall return the papers received from the Tribunal along with a report, showing efforts made to bring about a settlement and the points of difference between the two parties which could not be reconciled.

13. Action by the Tribunal in case of settlement before a Conciliation Officer:-

(1) In case, the Tribunal receives a report from the Conciliation Officer under sub-rule (2) of rule 12, along with a memorandum of settlement, it shall give notice to both parties to before it on a date to be specified in the notice and confirm the settlement.

(2) In case on the date specified in the notice as above, the parties appear before the Tribunal and confirm the settlement arrived at before the Conciliation Officer, the Tribunal shall pass a final order as agreed in such settlement.

14. Action by the Tribunal in other cases: - in case,

- (i) the applicant(s) and the respondents do not agree for reference of their dispute to a Conciliation Officers per rule 11; or
- (ii) the Conciliation Officer appointed under rule 10 sends a report under sub-rule (3) of rule 12, conveying inability to work out a settlement acceptable to both the parties; or
- (iii) No report is received from a Conciliation Officer within the stipulated time-limit of one month; or

- (iv) in response to the notice issued under sub-rule (1) of rule 13, one or both the parties decline to confirm the settlement worked out by the Conciliation Officer;

the Tribunal shall give to both the parties an opportunity of leading evidence in support of their respective claims, and shall, after a summary inquiry as provided in section 7, pass such order as it deems fit.

(2) An order passed under rule 13 or under sub-rule (1) above, shall be a speaking one, spelling out the facts of the case as ascertained by the Tribunal and the reasons for the order.

(3) While passing an order under sub-rule (1), directing the opposite party to pay maintenance to an applicant the tribunal shall take the following into consideration:-

- (a) amount needed by the applicant to meet his basic needs, especially food, clothing, accommodation and healthcare:
- (b) income of the opposite party; and
- (c) value of and actual and potential income from the property, if any, of the applicant which the opposite party would inherit and/or is in possession of.

(4) A copy of every order passed, whether final or interim, on an application, shall be given to the applicant(s) and the opposite party or their representatives, in person, or shall be sent to them through a process server or by registered post.

15. Summary procedure in case of inquiry:-

(1) In holding an inquiry under section 5, the officer conducting such enquiry shall himself record the proceedings of such enquiry on his own handwriting either in kannada or in English.

(2) The Tribunal may follow such summary procedures as prescribed under section 125 of Cr.P.C.1973

16. Maintenance amount:-

(1) The maintenance awarded by the Tribunal shall be paid to the applicant either in cash under proper receipt or through Bank or Post Office as the case may be. In case of appeal against such order the Appellant shall deposit the amount awarded by the tribunal in the Appellate Tribunal.

(2) The maximum maintenance allowance which a Tribunal may order the opposite party to pay shall, subject to a maximum of rupees ten thousand per month, be fixed in such a manner that it does not exceed the monthly income from all sources of the opposite party, divided by the number of persons in his family, counting the applicant or applicants also among the opposite party's family members.

17. Procedure to be followed for appeals:-

(1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, prefer an appeal to the Appellate Tribunal in Form D.

(2) On receipt of an appeal, the Appellate Tribunal shall reolster it in a reolster to be maintained for the purpose in such form as the State Government may direct and shall, after registering such appeal, issue an acknowledgement to the appellant, specifying the appeal number and the next date of hearing, in Form

18. Notice of hearing to the respondent:-

(1) On receipt of an appeal, the Appellate Tribunal shall, after registering the cast and assigning an appeal number, cause notice to be served upon the respondent its seal and signature in Form-E.

(2) The notice under sub-rule (1) shall be issued through registered post with acknowledgement due, or through a process server.

(3) The provisions of Order V of the Civil Procedure Code shall apply mutatis mutandis for the purposes of service of notice issued under sub-rule (1).

19. Establishment of old age homes:-Scheme for management of old age homes for indigent senior citizens. The old age homes established under section 19 shall be run in accordance with the following norms and standards:-

(1) The old age home shall have physical facilities and shall be run in accordance with the operational norms as laid down in the Schedule-I.

(2) Inmates of the old age home shall be selected in accordance with the following procedure, namely:-

- (i) Application shall be invited at appropriate intervals, but at least once in every year from indigent senior citizens as defined in section 19 of the Act., desirous of living in the home;
- (ii) In case the number of eligible applicants on any occasion is more than the number of places available in a old age home for admission, selection of inmates shall be made in the following manner:-
 - (a) the more indigent and needy shall be given preference over the less indigent applicants,
 - (b) other things being equal, older senior citizens shall be given preference over the younger senior citizen and
 - (c) other things being equal, female applicants shall be given preference over male applicants.

20. Duties and powers of the district magistrate:-

(1) The District Magistrate shall perform the duties and exercise the powers mentioned under section 22 of the Act as to ensure that the provisions of the Act are properly carried out.

(2) It shall be the duty of the District Magistrate to:-

- (i) ensure that life and property of senior citizens of the District are protected and they are able to live with security and dignity;
- (ii) oversee and monitor the work Maintenance Tribunals and Maintenance Officers of the District with a view to ensuring timely and fair disposal of applications for maintenance, and execution of Tribunal orders;
- (iii) oversee and monitor the working of old age homes in the district so as to ensure that they conform to the standards laid down in these rules, and any other guidelines and orders of the State Government;
- (iv) ensure regular and wide publicity of the provisions of the Act, and senior citizens;

- (v) Encourage and coordinate with panchayats, municipalities, Nehru YuvaKendras, educational institutions etc. working in the district so that their resources and efforts are effectively pooled for the welfare of senior citizens of the district;
- (vi) ensure timely assistance and relief to senior citizens in the event of natural calamities and other emergencies;
- (vii) ensure periodic sensitization of officers of various departments and Local Bodies concerned with welfare of senior citizens, towards the needs of such citizens, and duty of the officers towards the latter;
- (viii) review the progress of investigation and trial of cases relating to senior citizens in the district, except in cities having a Police Commissioner;
- (ix) ensure that adequate number of prescribed application forms are available in offices of Panchayats, Post Offices, Tahasildar's Offices, Police Stations etc., and any other places notified by Tribunal; and
- (x) promote establishment of dedicated help line for senior citizens at district and taluk head quarter, to begin with.

(3) With a view to performing the duties mentioned in sub-rule (2), the District Magistrate shall be competent to issue such directions, not inconsistent with the Act, these rules, and general guidelines of the State Government, as may be necessary, to any concerned government or statutory agency or body working in the district, and especially to the following:-

- (a) Officers of the State Government in the Department of Police, Health and Family Welfare Department, Information Department and other departments dealing with welfare of senior citizens;
- (b) Maintenance Tribunals and Conciliation Officers;
- (c) Panchayats and Municipalities; and
- (d) Educational Institutions.

21. Action Plan for the protection of life and property of senior citizens:-

(1) The District Superintendent of police, and in the case of cities having a Police Commissioner, such Police Commissioner shall take all necessary steps, subject to such guidelines as the State Government may issue from time to time, for the protection of life and property of parents/senior citizens.

(2) Without prejudice to the generality of sub-rule (1):-

- (i) each police station shall maintain an up-to-date list of senior citizens living within their jurisdiction, especially those who are staying single;
- (ii) a representative of police station together, as far as possible, with a social worker or volunteer, shall visit such senior citizens at regular intervals of at least once a month, and shall, in addition, visit them as quickly as possible on receipt of a request for assistance from them;
- (iii) complaints/problems of senior citizens shall be given top priority by the local police;
- (iv) committee shall be formed at each police station area, constituting senior citizen, parents and meet at regular intervals;

- (v) the District Superintendent of Police or, as the case may be, the Police Commissioner shall cause to be published widely in the media and through the Police Stations, at regular intervals, the steps being taken for the protection of life and property of senior citizens and parents;
- (vi) antecedents of domestic servants and others working for senior citizens shall be promptly verified, on the request of such citizens;
- (vii) the District Superintendent of Police shall submit to the Director General of Police and to the District Magistrate, a monthly report by the 20th of every month, about the status of crime against senior citizens during the previous month, including progress of investigation and prosecution of registered offences and preventive steps taken during the month.

By order and in the name of the Governor of Karnataka,
Dr. D. S. ASWATH
Secretary to Government,
Women and Child Development Department

FORM-A

(See Rule-3)

APPLICATION FOR MAINTENANCE

Under Section 4 of the Act

PART-A

BEFORE THE _____ TRIBUNAL

AT _____

CASE No. _____

1. Name of Applicant :
2. Address of Applicant :
3. Telephone No. :
4. If represented by Organization/ person :
5. Against Whom Maintenance is claimed :
6. Name, Age, Address of Respondent (Child/Children/Relative) against whom maintenance is claimed :
7. Amount of maintenance Claimed :

- 8 Details of all sources of income :
 - (a) By applicant
 - (b) By Respondent
- 9 Details Property :
Movable and immovable
Owned by applicant and Respondent
- 10 Details of transfer of any property :
made by the applicant 3 years prior
to date of filling this application.
- 11 Details of maintenance of other :
amount being received by applicant
from child/children/relative, if any.
- 12 Details of earlier application, if any :
Filled by Applicant in this Tribunal
for Maintenance and result.
- 13 Any other information the applicant :
Wishes to furnish
- 14 Details of cases if any :
- 15 Documents if any :

Place :

SIGNATURE:
Applicant or Authorized Person
Authorized Organization.

Date :

(With seal)

In case where the tribunal finds any lacuna in the application it may direct applicant to reply such lacuna with in a reasonable time limit.

Verification

I _____ the applicant do
hereby declare that
what is stated above is true to the best of my knowledge and belief.

Signature of the Applicant or
Authorized person or organization

PART-B
FORM OF AUTHORISATION
(SEE SECTION 5)

BEFORE THE _____ TRIBUNAL

AT _____

CASE NO _____

I, _____ the Applicant in the above case
authorize

Mr. _____, son of

Mr. _____, residing

at _____

to represent me in and conduct the case. His/her signature is identified below.

SIGNATURE OF AUTHORISED REPRESENTATIVE

APPLICANT

PLACE :

DATE :

OR

I, _____ the Applicant in the above case authorize Mr/
Mrs _____ S/o Mr/Mrs _____ (name and details of organization)
or any of its representative to represent me in and conduct the above case.

SIGNATURE & SEAL OF AUTHORISED REPRESENTATIVE

APPLICANT

PLACE :

DATE :

PART-C

BEFORE THE _____ TRIBUNAL _____

ACKNOWLEDGMENT FOR APPLICATION FILED

Received

from _____ (details) _____ on Application for maintenance.
The application is registered as case No. _____ of _____ the case is
posted to _____ for hearing.

DATE :

SIGNATURE

PLACE :

FORM-B
(See rule 3(2))

BEFORE THE _____ TRIBUNAL _____ AT _____

ACKNOWLEDGMENT FOR APPLICATION FILED

Received from _____ (details) _____ an
application for
maintenance. The application is registered as case No. _____ of _____. The case
is posted to _____ for hearing.

PLACE :

SIGNATURE

DATE :

FORM-C
FORM OF NOTICE/SUMMONS TO RESPONDENT/S
(see rules 5(2))

BEFORE THE _____ TRIBUNAL

AT _____

(Address)

CASE NO. _____

VS.

APPLICANT

RESPONDENT/s

To:

TAKE NOTICE that the Applicant has filed an application under section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (central Act 56 of 2007) claiming maintenance of Rs. _____ per month from you.

The case is posted to _____ at _____ the office of the Tribunal at the address stated above. You are required to be personally present on the said date and time, together with your statement of objections and documents you wish to rely upon. If you fail to appear the case would be decided ex-parte.

Given under my hand and seal on this the _____ day of _____ 2009.

REGISTRAR

(SEAL OF THE TRIBUNAL)

FORM-D

FORM OF APPEAL TO THE APPELLATE TRIBUNAL

(see rule 17(1))

BEFORE THE _____ APPELLATE TRIBUNAL

AT _____

APPEAL NO. _____

Appellant:

Name & address/es

Respondent/s:

Name/s & address/es

Case No. and date of order Appealed

Against.

Copy to be enclosed.

GROUND

APPELLANT

VERIFICATION

I, _____, the Appellant above named do hereby declare that what is stated above are true to the best of my knowledge, information and belief.

PLACE :

APPELLANT

DATE :

FORM-E

(see rule 18(1))

FORM OF NOTICE OF APPEAL UNDER SECTION 16(2).

BEFORE THE _____ APPELLATE TRIBUNAL

AT _____

APPEAL NO. _____

APPELLANT

RESPONDENT/S

Take notice that the above Appeal has been filed by the Appellant against the order dated _____ in Case No. _____/_____. The Appeal has been posted to _____ at _____ for final hearing. You are required to appear in person or an authorized representative (not an Advocate) on such date, failing which the Appeal would be heard and disposed off exparte.

Given under my hand and seal of the Court on this the _____ day of _____ 2009.

SIGNATURE

REGISTRAR

SCHEDULE-1

(Rule 12)

NORMS OF PHYSICAL FACILITIES AND OPERATIONAL STANDARDS OLD AGE HOME FOR INDIGENT SENIOR CITIZENS ESTABLISHED U/S 19 OF THE ACT.

I. Physical Facilities.

1. Land : There is adequate land for recreation, gardening, further expansion etc.
2. Living Space : The old age home shall, as far as possible, have minimum area per inmate as per the following norms:-
 - (i) Area of bedroom/dormitory per inmate: 7.5 sq. meters.
 - (ii) Living area or carpet area per Inmate i.e. including (I) above plus ancillary areas like kitchen, dining hall, recreation room, medical room, etc. but excluding verandahs, corridors etc. 12 sq. meters.

3. Facilities : 1. The Old age home shall have the following facilities:-
- (i) Residential area comprising rooms/dormitories separately for men and women;
 - (ii) Adequate water for drinking and ancillary purpose;
 - (iii) Electricity, fans and heating arrangements for inmates (as necessary);
 - (iv) Kitchen-cum-store and office;
 - (v) Dining hall;
 - (vi) Adequate number of toilets and baths, including toilets suitable for disabled persons;
 - (vii) Recreation facilities, television, newspaper and an adequate collection of books and
 - (viii) First aid, sick bay and primary healthcare facilities.
2. The old age home shall be barrier-free with provision of ramps and handrails, and where necessary, lifts etc.

II. Operational Standards.

1. Supply of nutritious and wholesome diet as per scale to be fixed by the State Government.
2. Adequate clothing and linen for the inmates, including for the winter season.
3. Adequate arrangements for sanitation, hygiene and watch and ward/security.
4. Arrangements with the nearest hospital for emergency medical care and with the nearest Police Station for security requirements.

* * * * *