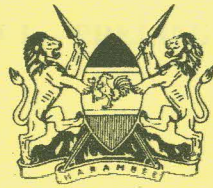


SPECIAL ISSUE

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REPUBLIC OF KENYA

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MACHAKOS COUNTY BILLS, 2020

NAIROBI, 26th January, 2021

CONTENT

Bill for Introduction into the County Assembly of Machakos—	PAGE
The Machakos County Senior Citizens Bill, 2020.....	1

MACHAKOS COUNTY SENIOR CITIZENS BILL, 2020

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Object and purposes.

PART II—CARE OF SENIOR CITIZENS

- 4—Rights of Senior Citizens.
- 5—Obligations of the County Government.
- 6—Delivery of Services concerning Senior Citizens.
- 7—Right to Family and Community Care.
- 8—Community Based Programmes.
- 9—Prohibition of Abuse.

PART III—SENIOR CITIZENS GRANT

- 10—Amount of Senior Citizens Grant.
- 11—Qualifications for Grant.
- 12—Application for Senior Citizens Grant.
- 13—Abuse of Senior Citizens Grant.
- 14—Termination of Senior Citizens Grant.
- 15—Lapse of Senior Citizens Grant.

PART IV—MISCELLANEOUS PROVISIONS

- 16—General Penalty.
- 17—Regulations.

**THE MACHAKOS COUNTY SENIOR CITIZENS
BILL, 2020
A Bill for**

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, 2020.

Interpretation

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

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

“County” means the County Government 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 five 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.

Object and Purposes

3. The object and purposes 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; and
 - (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) take part in activities that promote the senior citizen's social, physical, mental and emotional well-being; and
 - (e) 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; and

- (e) 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; and
- (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 centres 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 citizens 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 citizens;
- (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

Amount of senior Citizens Grant

10. The senior citizens grant shall be such amount as may be determined by the County Executive Committee member.

Qualifications for Grant

11. 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 65;
 - (d) has no ascertainable means of support or income; and
 - (e) is not a beneficiary of any other program with similar benefits.

Application for Senior Citizens Grant

12. (1) Applications for the senior citizens grant shall be submitted to the office of the County Executive Committee Member.

(2) The County Executive Committee Member shall designate an office within the department to receive and process application for senior citizens grant.

(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.

Abuse of Senior Citizens Grant

13. If in the opinion of the officer in charge a beneficiary abuses the grant, the officer in charge in consultation with the county executive committee member 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

14. (1) The officer in charge may in consultation with the county executive member 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 Executive Member 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

15. Senior Citizens grant lapses when the beneficiary—

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

MISCELLANEOUS PROVISIONS**General Penalty**

16. 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

17. (1) The County Executive Committee Member may make regulations 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.

MEMORANDUM OF OBJECTS AND REASONS

The principle purpose and objective of the Bill is to make provisions for the establishment of a legal framework to empower and protect senior citizens living and residing within the County.

The structure of the Bill is as follows:

Part-I (Clauses 1 to 3) of the Bill contains preliminary provisions which provides for the short title of the Bill, interpretation and objects and purpose of the Bill.

Part-II (Clauses 4 to 9) makes provisions for the rights of senior citizens; obligations of the county government to senior citizen's; factors that persons delivering services to senior citizen's must take into account; activities that county government must undertake in order to ensure that senior citizen's right to family and community care and community based program is protected.

Part-III (Clause 10 to 15) makes provisions for the procedure for consideration of how much amount are payable to senior citizen as grant and the circumstances in which the grant payable may lapse.

Part-IV (Clauses 16 to 17) deals with miscellaneous provisions by providing for the general penalty for persons who contravene the provisions of the Bill. It also makes provisions for the development of subsidiary legislations to help in the better implementation of the Bill.

Dated the 4th August, 2020.

CONSTANCE MBULA NZIOKI,
Member of the County Assembly.