

Fifteenth Kerala Legislative Assembly

Bill No. 236

THE KERALA STATE ELDERLY COMMISSION BILL, 2025

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THE KERALA STATE ELDERLY COMMISSION BILL, 2025

A

BILL

to constitute an Elderly Commission for giving guidelines in matters related to the welfare and protection of the elderly and to enable rehabilitation and to make use of their skills for utilizing it for the general public and to ensure the protection of rights and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to constitute an Elderly Commission for giving guidelines in matters related to the welfare and protection of the elderly and to enable rehabilitation and to make use of their skills for utilizing it for the general public and to ensure the protection of rights and for matters connected therewith or incidental thereto;

BE it enacted in the Seventy-sixth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Kerala State Elderly Commission Act, 2025.

(2) It shall be deemed to have come into force on the 21st day of December, 2024.

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

(a) “Care Centre” means Government old age homes or old age homes having recognition of the Orphanage Control Board for protecting elderly;

(b) “Chairperson” means Chairperson of the Commission;

(c) “Commission” means the Kerala State Elderly Commission constituted under section 3;

(d) “Elderly” means a person who has completed sixty years of age;

(e) “Government” means the Government of Kerala;

(f) “Member” means a member of the Commission;

(g) “Notification” means a notification published in the Gazette;

(h) “Prescribed” means prescribed by rules made under this Act.

CHAPTER II

CONSTITUTION OF THE COMMISSION

3. *Constitution of the Commission.*—(1) The Government shall as soon as may be, after the commencement of this Act, by notification, constitute a body by name, the Kerala State Elderly Commission to exercise the powers conferred on it and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of a Chairperson and not more than three members who shall be appointed by Government by notification.

(3) The Chairperson including members to be appointed to the Commission shall be elderly and having experience in the field of welfare of the elderly and one shall be from among Scheduled Castes or Scheduled Tribes and the other shall be a woman.

(4) The Government shall appoint a person not below the rank of an Additional Secretary to Government as the Secretary of the Commission and a person not below the rank of the Joint Secretary to Government in Law Department as the Registrar of the Commission and a person not below the rank of the Deputy Secretary to Government in Finance Department as the Finance Officer of the Commission.

(5) Persons appointed under sub-section (4) shall have such powers and functions as may be prescribed.

(6) The headquarters of the Commission shall be at Thiruvananthapuram.

4. *Term of office and conditions of service of Chairperson and members.*—(1) The term of office of the Chairperson and the members shall be three years from the date on which they assume office:

Provided that the Chairperson may continue in office till his successor is appointed under sub-section (2) of section 3 and assumes office or for six months, whichever is earlier.

(2) The Chairperson or the member may, at any time by writing under his hand addressed to the Government, resign his office.

(3) In the event of occurrence of casual vacancy of the Chairperson or the member by resignation, death, removal or by like reasons, it shall be filled by appointment and the persons so appointed shall be entitled to hold office for the remaining period of the term of office in whose place he is so appointed.

(4) The Government may by order remove the Chairperson or any member from his office, if he,—

(a) is adjudged as an undischarged insolvent by a competent court;

(b) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude;

(c) become of unsound mind and stands so declared by a competent court;

(d) is absent from three consecutive meetings without obtaining permission from the Commission;

(e) is in the opinion of the Government, abused his official position in such a way so as to be detrimental to the interest of the elderly or to the public interest;

(f) abstain from discharging functions; or

(g) became incapable to discharge functions:

Provided that no person shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard.

(5) The Chairperson shall not engage in any other employment earning salary or in any other work having remuneration, in so far as he continues in that position.

(6) The Chairperson or a member shall not be eligible to hold office for more than two term:

Provided that in the case of a person appointed under the provisions of sub-section (3) and holding office only for a period of one year or less, such period shall not be construed as first appointment and such persons shall be eligible to hold office for two term in addition to such term.

(7) The general superintendence, guidance and administration in the day to day affairs of the Commission shall be vested with the Chairperson and he shall be assisted by other members in the discharge of such functions.

(8) The Chairperson shall be a full time officer having the rank of Secretary to Government and shall be eligible for such salary and allowances, as may be prescribed.

(9) The members of the Commission shall be eligible for honorarium, and such allowances or sitting fees, as may be prescribed, for attending the meetings.

5. *Officers and Staff of the Commission.*—(1) The Government shall provide to the Commission officers and staff required for the discharge of its functions.

(2) The salaries and allowances payable to the officers and staff, appointed under sub-section (1), and the method of appointment and other conditions relating to service etc. shall be in the manner as prescribed.

6. *Salaries, allowances and the administrative expenses shall be paid out of grants.*—The salary and allowances of the Chairperson, the honorarium and the allowances payable to the members and the administrative expenses including

salary, allowances and pension payable to the officers and staff referred to in sub-section (4) of section 3 and sub-section (1) of section 5 shall be met out of the grants referred to in sub-section (1) of section 12.

7. *Vacancies etc. not to invalidate the proceedings of the Commission.*—No act or proceedings of the Commission shall be invalid only on the ground that there exists any vacancy in the Commission or any defect in its constitution.

8. *Meetings of the Commission.*—(1) The Commission shall meet at such time and at such place as the Chairperson may think fit in accordance with the procedure as may be prescribed.

(2) All orders and decisions of the Commission shall be authenticated by the signature of the Chairperson or the Registrar as authorised by the Commission in this behalf and other instruments executed by the Commission shall be authenticated by the signature of the Secretary or an officer discharging the functions of the Secretary.

(3) The Commission may, for the purpose of transacting any business before it or for considering any special issue, call upon persons not exceeding two having special knowledge in the matter as special invitee but such persons shall have no right to vote in the meetings of the Commission.

(4) The persons invited under sub-section (3) shall be eligible for such allowances as may be prescribed.

CHAPTER III

FUNCTIONS, POWERS ETC. OF THE COMMISSION

9. *Functions of the Commission.*—(1) Subject to the provisions of this Act, it shall be the function of the Commission to issue guidelines for the welfare and protection of the elderly and to assist and to arrange rehabilitation to them, in collaboration with Government, whenever it is required and to provide legal aid in any manner when needed, and to undertake necessary activities for using the skills of the elderly for utilizing it for the general public and to perform such other functions as may be assigned to the Commission by the Government from time to time.

(2) The Commission may in furtherance of its object, perform the following functions, namely:—

(a) to conduct investigation or inquiry and to recommend necessary remedial measures for the implementation of the provisions relating to the welfare and protection of the elderly, contained in the Constitution of India or any other law or any order for the time being in force;

(b) to co-ordinate various Departments of the Government for ensuring welfare and protection of the elderly;

(c) to co-ordinate necessary actions for bringing to the Care Centres those elderly who were abandoned or orphaned;

(d) to advise the Government regarding the programmes which are to be planned for ensuring welfare and protection of elderly;

(e) when a complaint is received or brought to notice that there occurred denial or violation of the provisions relating to rights, protection or welfare of the elderly or there occurred violence against the elderly and where it is *prima facie* satisfied the denial or violation of such provisions or violence, it shall conduct a preliminary inquiry and prepare a report in writing thereon and bring it to the notice of the authorities concerned and to recommend for further action and shall, in appropriate cases, provide assistance from the Legal Aid Authorities;

(f) to conduct inquiry on a complaint received from prisons or lock-ups where the elderly are detained or other places related to custody and submit reports to the authorities concerned;

(g) to prepare status statement of the elderly;

(h) to advice Government on other matters referred to the Commission for consideration from time to time.

10. *Powers of the Commission.*—(1) The Commission shall for the purpose of carrying out its functions have the power to utilize the service of,—

(a) any officer of the Government, with the permission of the Government; or

(b) any officer of the Corporation or the Local Authorities concerned, with the sanction of Government owned Corporations or of the Local Authorities and with the concurrence of the Government.

(2) The Commission shall, while performing its functions under section 9, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining them on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copy thereof from any court or office or other institutions;

(e) issuing commissions for the examination of witnesses and verification of documents;

(f) any other matter as may be prescribed.

(3) The Commission shall, while conducting an inquiry under section 9, afford a reasonable opportunity of being heard to the persons concerned by themselves or through authorised representative.

(4) The findings of the Commission on any inquiry under this Act shall be forwarded to the Government along with its recommendation for appropriate action or for redressal to the parties in dispute.

(5) The statement or deposition given by a person relating to himself before the Commission as part of taking evidence shall not be used in proceedings before any civil court or criminal court except in prosecution proceedings for giving false evidence by way of such statement or deposition.

11. *Contributions, endowments etc. towards the Commission.*—The Commission shall, with the previous sanction of the Government and subject to such terms and conditions as may be specified by the Government in this behalf, have the power to receive money from any organisation or person by way of

donation or contribution or by any other name called, instituting endowments and for awarding prizes for encouraging elderly in various literary, cultural and sports activities.

CHAPTER IV

FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT

12. *Grants by the Government.*—(1) The Government shall, after due appropriation made by the Legislature by law in this behalf, pay to the Commission by way of grant such sum of money as the Government may think fit for being utilized for the purpose of this Act.

(2) The Commission may spend such sum out of the grant as it may deem fit for performing the functions under this Act and such sum shall be treated as expenditure payable out of the grant referred to in sub-section (1).

13. *Accounts and Audit.*—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in consultation with the Accountant General in the Form as may be prescribed.

(2) The accounts of the Commission shall be audited by the Accountant General in each financial year and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant General.

(3) The Accountant General and any person appointed by him in connection with the audit and accounts of the Commission under this Act shall have the same rights and privileges as the Accountant General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand production of books and accounts, connected vouchers, other documents and papers and to inspect any Office of the Commission.

(4) The accounts of the Commission as certified by the Accountant General or any other person appointed by him in this behalf along with the audit report thereon shall be forwarded by the Commission in each financial year to the Government and the Government shall lay the report before the Legislative Assembly within a period of six months from the date of its receipt.

14. *Annual report of the Commission.*—(1) The Commission shall within three months after the end of each financial year submit to the Government an annual report giving a full account of the activities and programmes undertaken during the previous financial year in such Form and in such date as may be prescribed.

(2) A copy of the report received under sub-section (1) shall be laid before the Legislative Assembly by the Government within six months from the date of receipt of the same.

CHAPTER V

MISCELLANEOUS

15. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Chairperson or any Member, Secretary or any other officer or staff of the Commission acting under the direction of the Commission in respect of anything which is done or purported to be done in good faith under this Act.

16. *Chairperson, Members, Secretary and other officers and staff to be public servants.*—The Chairperson, Members, Secretary and other officers and staff shall be deemed to be public servants within the meaning of clause (28) of section 2 of the Bharatiya Nyaya Sanhita, 2023 (Central Act 45 of 2023).

17. *Application of other laws not barred.*—The provisions of this Act shall be in addition to and not in derogation of any other laws for the time being in force.

18. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulties:

Provided that no such order shall be issued after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall as soon as may be after it is made be laid before the Legislative Assembly.

19. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and other terms and conditions of service of the Chairperson and the honorarium, allowances or sitting fees payable to the Members;

(b) the powers and functions of the Secretary, the Registrar and the Finance Officer appointed under sub-section (4) of section 3;

(c) the method of appointment, salary, allowances and other conditions of service of the staff to be appointed in the Commission under section 5;

(d) the procedure for summoning the meeting of the Commission under sub-section (1) of section 8;

(e) the allowances payable to the special invitee as per sub-section (3) of section 8;

(f) the allowances and other benefits payable to officers performing functions under sub-section (1) of section 10;

(g) the Form for preparing the annual statement under sub-section (1) of section 13;

(h) the Form and time limit of annual report to be prepared by the Commission under sub-section (1) of section 14;

(i) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive

sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20. *Repeal and saving.*—(1) The Kerala State Elderly Commission Ordinance, 2024 (3 of 2024) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

For giving guidance to the Government in matters related to the welfare and protection of the elderly and to enable their rehabilitation and to provide legal aid whenever it is required, to prepare status statement of the elderly, and to undertake necessary activities for using the skills of the elderly for utilizing it for the general public, to inquire into and to recommend necessary remedial measures for the implementation of the provisions of any law or orders relating to the protection of the elderly, to co-ordinate various departments of the Government for ensuring welfare and protection of elderly and for other matters, the Government have decided to enact a law for constituting a Commission in the State called the Elderly Commission.

2. As the Legislative Assembly of the State of Kerala was not in session and as the said proposal had to be given effect immediately, the Kerala State Elderly Commission Ordinance, 2024 was promulgated by the Governor of Kerala on the 19th day of December, 2024 and the same was published as Ordinance No.3 of 2024 in the Kerala Gazette Extraordinary No.4050 dated 21st December, 2024.

3. The Bill seeks to replace the Ordinance No.3 of 2024 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

If the Bill for the constitution of the Elderly Commission is enacted and brought into operation, an annual recurring expenditure of approximately one crore rupees by way of the allowances/honorarium, sitting fees of the Chairperson and members, salary of employees, etc. and approximately of nine lakhs rupees by way of non-recurring expenditure including setting up of infrastructure facilities is expected to be incurred from the Consolidated Fund of the State of Kerala.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 3 of the Bill empowers the Government to constitute the Kerala State Elderly Commission by notification.

2. Sub-clause (2) of clause 3 of the Bill empowers the Government to appoint a Chairperson and not more than three members in the Commission by notification.

3. Sub-clause (4) of clause 3 of the Bill empowers the Government to appoint a person not below the rank of an Additional Secretary to Government as the Secretary of the Commission and a person not below the rank of the Joint Secretary to Government in Law Department as the Registrar of the Commission and a person not below the rank of the Deputy Secretary to Government in Finance Department as the Finance Officer of the Commission.

4. Sub-clause (5) of clause 3 of the Bill empowers the Government to prescribe the powers and functions of the officers appointed as per sub-clause (4) of clause 3.

5. Sub-clause (8) of clause 4 of the Bill empowers the Government to prescribe the salary and allowances of the Chairperson.

6. Sub-clause (9) of clause 4 of the Bill empowers the Government to prescribe the honorarium and allowances or sitting fees to the members of the Commission for attending the meetings.

7. Sub-clause (2) of clause 5 of the Bill empower the Government to prescribe the method of appointment and the salaries and allowances to the officers and staff appointed in the Commission.

8. Sub-clause (1) of clause 8 of the Bill empower the Government to prescribe the procedure followed for the meeting of the Commission.

9. Sub-clause (4) of clause 8 of the Bill empower the Government to prescribe the allowances of the specially invited persons in the Commission's meeting.

10. Item (f) of sub-clause (2) of clause 10 of the Bill empowers the Government to prescribe the powers deemed to be given to the Commission for performing the duties of a civil court, as per this Bill.

11. Sub-clause (1) of clause 13 of the Bill empowers the Government to prescribe the form to prepare annual statement of the Commission.

12. Sub-clause (1) of clause 14 of the Bill empower the Government to prescribe the form and date to prepare annual report of the Commission.

13. Sub-clause (1) of clause 18 of the Bill empower the Government to issue order not inconsistent with the provisions of this Bill, if any difficulty arises in giving effect to the provisions of this Bill.

14. Clause 19 of the Bill empower the Government to make Rules by notification in the Gazette, for carrying out the provisions of this Bill.

15. The matters in respect of which rules may be made or notifications or orders issued are matters of procedure and are of routine or administrative in nature. Further, the rules so made are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is therefore of a normal character.

DR. R. BINDU