

# MAINTENANCE OF PARENTS ACT 1995

(No. 35 of 1995)

## ARRANGEMENT OF SECTIONS

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An Act to make provision for the maintenance of parents by their children and for matters connected therewith.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

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**Short title and commencement**

1. This Act may be cited as the Maintenance of Parents Act 1995 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

**Interpretation**

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

“applicant” includes a person in whose favour a maintenance order has been made under the provisions of this Act;

“approved person or organisation” means a person or an organisation that has been approved by the Minister in writing for the purposes of this Act;

“child” includes an illegitimate, adopted and step-child;

“Commissioner” means the Commissioner for the Maintenance of Parents appointed under section 12(1) and includes a Deputy Commissioner and an Assistant Commissioner for the Maintenance of Parents;

“respondent” includes a person against whom a maintenance order has been made under the provisions of this Act;

“Tribunal” means the Tribunal for the Maintenance of Parents established under section 13.

**Applications for maintenance orders**

3.—(1) Any person domiciled and resident in Singapore who is of or above 60 years of age and who is unable to maintain himself adequately (referred to in this section as the parent) may apply to the Tribunal for an order that one or more of his children pay him a monthly allowance or any other periodical payment or a lump sum for his maintenance.

(2) An approved person or organisation in whose care a parent resides may apply to the Tribunal for an order that one or more of his children pay the approved person or organisation a monthly allowance or any other periodical payment or a lump sum for the purpose of defraying the costs and expenses of maintaining the parent.

(3) Where the parent ceases to be in the care of the approved person or organisation, any part of the monthly allowance, other periodical payment or lump sum remaining, after deducting the reasonable costs and expenses of maintaining the parent, shall be held in trust for the parent.

(4) For the purposes of this section, a parent is unable to maintain himself if his total or expected income and other financial resources are inadequate to provide him with basic amenities and basic physical needs including (but not limited to) shelter, food and clothing.

(5) Notwithstanding that a person is below the minimum age specified in subsection (1), this Act shall apply to that person if the Tribunal is satisfied that he is suffering from infirmity of mind or body which prevents him from maintaining or makes it difficult for him to maintain himself or that there is any other special reason.

### **Joinder of respondents**

4. A respondent may serve notice in the prescribed form on other persons liable to maintain the applicant joining them as respondents in the action.

### **Maintenance orders**

5.—(1) The Tribunal may make a maintenance order if it considers that it is just and equitable that the respondent should maintain the applicant and that —

- (a) the respondent is able to provide maintenance to the applicant after his own requirements and those of his spouse and his children have been supplied; and
- (b) the applicant is unable, in spite of efforts on his part, to maintain himself through work or from his property or from any other source.

(2) When ordering maintenance for the benefit of an applicant, the Tribunal shall have regard to all the circumstances of the case including (but not limited to) the following matters:

- (a) the financial needs of the applicant, taking into account reasonable expenses for housing and medical costs;

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- (b) the income, earning capacity, property and other financial resources of the applicant and the manner in which an applicant has spent his savings or dissipated his financial resources;
  - (c) any physical or mental disability of the applicant;
  - (d) the income, earning capacity, property and other financial resources of the respondent;
  - (e) the expenses incurred by the respondent in supporting his spouse or children;
  - (f) the contributions and provisions, whether financial or otherwise, which the respondent has made for the maintenance of the applicant.

(3) If the Tribunal is satisfied upon due proof that the applicant abandoned, abused or neglected the respondent, it may dismiss the application or may reduce the quantum of maintenance ordered by such amount as may be just.

(4) The onus of proving abandonment, abuse or neglect shall be on the respondent alleging it.

(5) Where there is more than one respondent the Tribunal may apportion the maintenance among the various respondents in such manner as may be just.

(6) The Tribunal shall, before hearing an application under this section, refer the differences between the parties to a conciliation officer for mediation between the parties.

### **Power of Tribunal to order security for maintenance**

**6.—(1)** A maintenance order may provide for the payment of a lump sum, or a monthly allowance or periodical payment for such period as the Tribunal may determine.

(2) The Tribunal may, in its discretion, when awarding maintenance, order the respondent to secure the whole or any part of it by vesting any property in trustees upon trust to pay the maintenance or part thereof out of the income from that property.

(3) The Tribunal may, in awarding maintenance, order the applicant to —

- (a) deposit such minimum sum as the Tribunal may determine with a bank; or
- (b) purchase an annuity with an insurer with such minimum sum.

(4) The Tribunal may, in awarding maintenance, give directions as to the manner or method of payment.

### **Duration of orders for maintenance**

7.—(1) Except where an order for maintenance is expressed to be for any shorter period or where any such order has been rescinded, a maintenance order shall expire —

- (a) if the maintenance was unsecured, on the death of the applicant or the respondent, whichever is the earlier;
- (b) if the maintenance was secured, on the death of the applicant.

(2) Where a maintenance order was made against more than one respondent, the death of a respondent does not affect the liability of the others to continue paying maintenance to the applicant. The applicant may apply to the Tribunal to re-apportion the liability among the surviving respondents.

### **Power of Tribunal to vary orders for maintenance**

8.—(1) The Tribunal may vary or rescind any subsisting order for maintenance, whether secured or unsecured, where it is satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in the circumstances of the applicant or respondents or where another person is joined as a respondent.

(2) An application for variation of a maintenance order may be made by —

- (a) the applicant;
- (b) a respondent;
- (c) the Commissioner;

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- (d) an approved person or organisation referred to in section 3(2); or
  - (e) in respect of secured maintenance, the legal personal representatives of a respondent.

(3) Where a maintenance order was made against more than one respondent or another respondent is joined, the Tribunal may re-apportion the maintenance upon an application to vary the maintenance order in such manner as it considers just.

### **Maintenance payable under order of Tribunal to be inalienable**

9. Maintenance payable to any person under this Act shall not be assignable or transferable or liable to be attached, sequestered or levied upon for, or in respect of, any debt or claim whatsoever.

### **Enforcement of maintenance orders**

10. Maintenance orders made under this Act shall be deemed to be orders made by a District Court and may be enforced in the same manner as maintenance orders for wives and children are enforced under the Women's Charter, and the provisions of that Act (Cap. 353) shall apply, mutatis mutandis, to enforcement of orders made under this Act.

### **Applications on behalf of incapacitated applicants**

11. Where an applicant is unable to make an application under this Act (whether by reason of physical or mental infirmity or for any other reason), such application may be made on his behalf by —

- (a) any member of his family;
- (b) any person in whose care he resides; or
- (c) any other person whom the applicant has authorised to make such application.

### **Appointment of and applications by Commissioner for the Maintenance of Parents**

12.—(1) The Minister may appoint —

- (a) a Commissioner for the Maintenance of Parents; and

- (b) such number of Deputy Commissioners and Assistant Commissioners for the Maintenance of Parents as he may consider necessary,

on such terms and conditions as the Minister may determine.

(2) The Commissioner may make an application under this Act on behalf of an applicant of or above 60 years of age (whether or not the applicant is able to do so) or represent such applicant in any proceedings or appeal under this Act.

(3) The Commissioner may consult, or direct a Deputy Commissioner or an Assistant Commissioner to consult, with the parents and children concerned in order to assist them to reach agreement by conciliation.

(4) Notwithstanding that a person is below the minimum age specified in subsection (2), the Commissioner may, in his discretion, make an application on his behalf or represent him if the Commissioner is satisfied that he is suffering from infirmity of mind or body which prevents him from maintaining or makes it difficult for him to maintain himself or if there is any other special reason.

### **Establishment of Tribunal for the Maintenance of Parents**

**13.**—(1) For the purposes of this Act, there shall be established a Tribunal for the Maintenance of Parents consisting of a President and such number of members, not being less than 2, as the Minister may think fit.

(2) The President and every member of the Tribunal shall be appointed by the Minister and upon appointment the names of the President and every member of the Tribunal shall be published in the *Gazette*.

(3) The President of the Tribunal shall possess the qualifications required for a District Judge under section 9(3) of the Subordinate Courts Act (Cap. 321).

(4) Three members of the Tribunal of whom the President shall be one shall form a quorum, and the opinion of the majority of the Tribunal present shall be decisive upon any matter, except that in the

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case of an equality the President shall decide which opinion shall prevail.

(5) The President and every member of the Tribunal shall hold office for a period of 3 years or for such shorter period as the Minister may determine and shall be eligible for reappointment.

(6) The President or a member of the Tribunal shall vacate his office where —

(a) he resigns; or

(b) where the Minister has revoked his appointment on the ground of his unfitness to continue in office or incapacity to perform the duties thereof.

(7) Where a person ceases to be the President or a member of the Tribunal, the Minister shall, as soon as is reasonably practicable, take steps to fill the vacancy but the existence of any vacancy in the Tribunal shall not invalidate the acts of the Tribunal.

(8) If the President or any member of the Tribunal is for the time being unable to perform the duties of his office, either generally or in relation to any particular proceedings, the Minister may appoint some other person to discharge the duties of the President or that member for any period, not exceeding 6 months at one time, or, as the case may be, in relation to those proceedings; and a person so appointed shall, during that period or in relation to those proceedings, have the same powers as the person in whose place he is appointed.

(9) The President and every member of the Tribunal when and so long as he is serving on the Tribunal shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224) and the proceedings of the Tribunal shall be deemed to be judicial proceedings.

(10) There shall be paid to the President and the members of the Tribunal such salaries, fees and allowances as the Minister may determine.

(11) The Minister may appoint a Secretary to the Tribunal, conciliation officers and such other officers and employees of the Tribunal as may be necessary.

(12) The exercise of the powers of the Tribunal shall not be affected by any vacancy in the membership of the Tribunal if a quorum is present at the commencement of the proceedings.

### **Tribunal to hear and determine claims**

**14.**—(1) The Tribunal shall have jurisdiction to hear and determine in accordance with this Act all applications made under this Act.

(2) Sittings of the Tribunal shall be held at such places and times as the President of the Tribunal may determine.

(3) Any interested party may be represented before the Tribunal —

- (a) by an agent acting without fee, gain, reward or any expectation thereof, in any case in which the Tribunal may at the request of that party and for good reason permit;
- (b) if he is an applicant, by the Commissioner;
- (c) if he or it is an approved person or organisation, by an employee or officer of the approved person or organisation.

(4) No party to any proceedings before the Tribunal may be represented by an advocate and solicitor of the Supreme Court except that the Commissioner may represent the applicant before the Tribunal although he may be an advocate and solicitor.

(5) Every summons and notice issued under the hand of the Secretary to the Tribunal to any person shall be deemed to be issued by the Tribunal and may be served on that person —

- (a) by delivering the summons to the person or to some adult member of his family at his last known place of residence;
- (b) by leaving the summons at his usual or last known place of residence or business in an envelope addressed to the person;
- (c) by sending the summons by registered post addressed to the person at his usual or last known place of residence or business; or

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- (d) where the person is a body of persons or a company —
- (i) by delivering the summons to the secretary or other like officer of the body of persons or company at its registered office or principal place of business; or
  - (ii) by sending the summons by registered post addressed to the body of persons or company at its registered office or principal place of business.

(6) Any summons or notice sent by registered post to any person in accordance with subsection (5) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would in the ordinary course of post be delivered and in proving service of the summons, it shall be sufficient to prove that the envelope containing the summons was properly addressed, stamped and posted by registered post.

(7) The Tribunal shall have the following powers:

- (a) to dismiss frivolous or vexatious claims at a preliminary stage on the basis of the affidavits and other documentary evidence;
- (b) to summon any person to appear before a conciliation officer for the purpose of mediation;
- (c) to summon any person whom it may consider able to give evidence to attend at the hearing of an application;
- (d) to examine such person as a witness either on oath or otherwise and to require such person to produce such records, documents or articles as the Tribunal may think necessary for the purposes of the proceedings;
- (e) to allow any person, attending the proceedings any reasonable expenses necessarily incurred by him in so attending to be paid by such party as the Tribunal may determine;
- (f) to make an order by consent of the parties; and
- (g) all the powers of a District Court with regard to the enforcement of attendance of witnesses, hearing evidence on oath and punishment for contempt.

(8) Every person examined as a witness by or before the Tribunal, whether on oath or otherwise, shall be legally bound to state the truth and to produce such records, documents or articles as the Tribunal may require.

(9) The Tribunal shall not be bound by the strict rules of evidence and shall determine the conduct of its proceedings.

### **Contempt of Tribunal**

**15.**—(1) Any person who —

- (a) assaults, wilfully insults or obstructs the President, a member or an officer of the Tribunal or any witness during a sitting of the Tribunal or while the President, a member, witness or officer is on his way to or from such a sitting;
- (b) assaults or wilfully insults or obstructs any person in attendance at a sitting of the Tribunal;
- (c) wilfully interrupts or otherwise misbehaves at a sitting of the Tribunal; or
- (d) without lawful excuse disobeys any order or direction of the Tribunal during a sitting of the Tribunal,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months.

(2) A Tribunal may by oral order exclude from a sitting of the Tribunal any person whose behaviour in the opinion of the President constitutes an offence under subsection (1) whether or not such person is charged with the offence, and the member or officer under the President's control or any police officer may take such steps as are reasonably necessary to enforce such exclusion.

### **Power of Tribunal to state special case for decision of High Court**

**16.**—(1) The Tribunal may, at any stage of an application or proceeding before it, reserve for the consideration of the High Court any question of law arising in the application or proceeding in the form of a special case which shall be —

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- (a) drawn up by the President and shall set out shortly the facts on which the law is to be applied and the question or questions of law to be determined;
  - (b) sent by the President to the Registrar of the Supreme Court; and
  - (c) set down for argument in such manner as the High Court directs.

(2) The High Court shall hear and determine the question or questions of law arising on the special case and shall thereupon remit the matter to the President with the opinion of the Court thereon and that opinion shall be binding on the Tribunal.

(3) Nothing in this section shall be construed to prevent the Tribunal from determining any question of law arising in the application or proceeding before it.

### **High Court may call for proceedings of Tribunal**

17.—(1) The High Court, either on its own motion or on the application within 14 days of any party aggrieved by a decision of the Tribunal on the ground that it is wrong in law, may call for the proceedings and the grounds of the award and give such order thereon, either by directing a fresh hearing or otherwise, as seems necessary to secure that substantial justice is done.

(2) The powers of revision conferred upon the High Court in this section shall not extend to a decision of the Tribunal as to the quantum of maintenance awarded or apportioned under this Act.

### **Appeals to High Court**

18.—(1) Except as provided in this section and sections 16 and 17, the decision of the Tribunal shall be final.

(2) The applicant, the Commissioner on behalf of the applicant, a respondent, an approved person or organisation or any other affected party may appeal to the High Court from the decision of the Tribunal upon any question of law or of mixed law and fact except in any case where the Tribunal has made the order with the consent of the parties

unless it is alleged that the consent was obtained by means of fraud, duress, threat or misrepresentation.

(3) The procedure governing such appeals to the High Court shall be the same as that for appeals from decisions of the District Court to the High Court.

(4) The High Court shall have jurisdiction to hear and determine any such appeal and may confirm, vary or annul the decision of the Tribunal on appeal and make such further or other order on such appeal, whether as to costs or otherwise, as the Court may consider fit.

(5) There shall be no further right of appeal from decisions of the High Court unless the High Court reserves for the decision of the Court of Appeal any question of law of public interest which has arisen in the course of the appeal and the determination of which by the High Court has affected the event of the appeal.

### **Proceedings in camera**

**19.**—(1) Subject to subsections (2) and (3), all proceedings before the Tribunal and in appeals to, or in cases stated for the opinion of, the High Court and in appeals from decisions of the Tribunal and High Court shall be heard in camera.

(2) Where any party at the hearing before the Tribunal applies to the Tribunal, the High Court or the Court of Appeal, as the case may be, that the proceedings be heard by way of a hearing open to the public, the Tribunal or the Court may, in its discretion, direct that the proceedings be so heard, notwithstanding any objection from the other party to the proceedings.

(3) Where in the opinion of the Tribunal, the High Court or the Court of Appeal, any proceedings heard in camera ought to be reported, the Tribunal or the Court may publish or authorise the publication of the facts of the case, the arguments and the decision relating to these proceedings without disclosing the identity of the party concerned.

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**Costs**

**20.**—(1) Subject to subsection (2), the costs of —

- (a) an application under this Act shall be in the discretion of the Tribunal;
- (b) an appeal shall be in the discretion of the Court hearing the appeal;
- (c) any proceedings in the High Court on a case stated shall be in the discretion of the Court and may be dealt with by the order of the Court.

(2) In all proceedings under this Act including a case stated and an appeal from the decision of the Tribunal or the High Court, as the case may be —

- (a) the remuneration a solicitor is entitled to receive in respect of such proceedings shall not exceed the maximum amount prescribed in rules made under section 21 and any agreement for costs which exceeds the maximum amount so prescribed shall be null and void;
- (b) the costs of the Commissioner shall be in the discretion of the Tribunal or the Court, as the case may be, but the Commissioner shall not be ordered to pay the costs of any of the other parties; and
- (c) no member of the Tribunal shall be personally liable to any costs in respect of a case stated or an appeal from the decision of the Tribunal.

**Rules**

**21.**—(1) The Minister may make rules generally for carrying out the provisions of this Act and for prescribing anything which may be prescribed under this Act.

(2) Without prejudice to the generality of subsection (1), such rules may make provisions for —

- (a) regulating and prescribing the procedure to be followed for applications and the conduct of proceedings under this Act;

- (b) regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given including but not limited to affidavits;
  - (c) the manner in which frivolous or vexatious claims may be dismissed at a preliminary stage on the basis of the affidavits and other documentary evidence;
  - (d) the discovery of documents and other evidence and public records;
  - (e) the manner and method of payment of maintenance awarded under this Act; and
  - (f) the costs of any proceedings under this Act.
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