

The Assam State Maintenance and Welfare of Parents and Senior Citizens Rules, 2012

ASSAM

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Rule

THE-ASSAM-STATE-MAINTENANCE-AND-WELFARE-OF-PARENTS-AND-SENIOR-CITIZENS-RULES-2012

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The Assam State Maintenance and Welfare of Parents and Senior Citizens Rules, 2012 Published vide Notification No. S.W.D.130/2010/170, 27th September 2012 [Last Updated 11th February, 2020 No. S.W.D.130/2010/170. - In exercise of power conferred under section 32 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act No. 56 of 2007), the Governor of Assam is hereby pleased to make the following rules, namely :-

Chapter I Preliminary

1. Short title and commencement.

(1) These Rules may be called the Assam State Maintenance and Welfare of Parents and Senior Citizens Rules, 2012. (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- In these Rules, unless the context otherwise requires, -(a) "Act" means the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 Act No. (56 of 2007); (b) "Application" means an application made to a tribunal under sections; (c) "Blood relations", in the context of a male and a female Inmate, mean father-daughter, mother-son, and brother-sister (not cousins); (d) "Form"

means a form appended to these rules;(e)"Inmate" In relation to an old age home, means a senior citizen duly admitted to reside In such a home;(f)"Opposite Party" means the party against whom application for maintenance has been filed under section 4;(g)"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;(h)"Schedule" means a Schedule appended to these rules;(i)"Section" means a section of the Act;(j)"State Government" means the Government of Assam;(k)Words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

Chapter II

Procedure for Maintenance Tribunal and Conciliation Officers

3. Panel for appointment as Conciliation Officers.

(1)Every Tribunal shall prepare a panel of persons suitable for appointment as Conciliation Officer under sub-section (6) of section 6, which shall include the Maintenance Officers designated under section 18 shall be chosen subject to fulfilling the following conditions namely:-(2)Persons referred to under sub-rule (1), other than Maintenance Officers designated under section 18, shall be chosen as Conciliation Officer subject to fulfilling the following conditions, namely:-(a)he should be associated with an organisation which is working for the welfare of senior citizens and/or weaker sections, or in the area of education , health, poverty-alleviation, women's empowerment, social welfare, rural development or related fields, for at least two years with an unblemished record of service;(b)he should be a senior office-bearer of organisation, and(c)he should possess good knowledge of law:Provided that a person who is not associated with an organisation of the kind mentioned above, may also be included In the panel mentioned in sub-rule (1) subject to fulfilling conditions, namely:-(i)He must have a good and unblemished record of public service in one or more of the areas mentioned in clause (a); and(ii)He should possess good knowledge of law.(3)The Tribunal shall publish the panel mentioned in sub-rule (1) for general Information at least twice every year, on 1st January and 1st July, respectively, and every time any change is effected therein.

4. Procedure for filing an application for maintenance and its registration.

(1)An application for maintenance under section 4 shall be made in Form "A", in the manner laid down in clauses (a) and (b) of sub-section (1) of sections.(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 acknowledgment in Form 'B' to be given, notwithstanding anything contained in rules 5, to the applicant or his authorised representative in case of hand delivery and its despatch 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, the Presiding Officer shall, after ascertaining facts, get Form 'A' completed as accurately as possible, through the staff of the tribunal, and shall, as far as possible, get it authenticated by the concerned senior citizen or parents, or any person or organization authorised by him and shall cost, the same to be registered

In accordance with clause (a) of sub. rule (2) above.

5. 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 opposite party 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.

6. Notice to the Opposite Party.

(1) Once the Tribunal is satisfied on the point mentioned in sub-rule (1) of rule 5, it shall cause to be issued to its person against whom an application for maintenance has been filed, 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 (*Dasti*) through the applicant if he so desires, else through a process server; or
(b) By registered post with acknowledgement 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 application 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 applicants shall also be informed of the date mentioned in sub-rule (2), by a notice issued in Form 'D'.
(4) The provisions of Order V of the Code of Civil Procedure, 1908, shall apply, *mutandis*, for the purpose of service of notice under Sub-rules (2) and (3).

7. Procedure in case of non-appearance by The Opposite Party.

- In case, despite of service of notice, the opposite party 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.

8. Procedure in case of admission of claim.

- In case, on the date fixed in the notice issued under rule 6, 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.

9. Procedure for impleading children or relatives.

- 1. An application by the opposite party, under the provision to sub-section (5) of section 5, to implead any other child or relative of the applicant shall be filed on the first date of hearing as specified in the notice issued under sub-rule (2) of rule 6: Provided that no such application shall be entertained after such first hearing, unless the opposite party shows sufficient cause for filing 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 child 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 6.

10. Reference to Conciliation Officer.

(1) In case, on the date fixed in the notice issued under rule 6, 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 a 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 3, 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 3 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 in Form 'E', 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 in Form 'E' shall be accompanied with copies of the application and replies of the opposite party thereto.

11. Proceedings by Conciliation Officer.

(1) Upon receipt of a reference under rule 10, 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 in Form 'F', get it signed by both parties, and forward it, with a report in Form 'G', 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 (10), he shall return the papers received from the Tribunal along with a report in Form 'H', showing efforts made to bring about a settlement and the points of difference between the two parties which could not be reconciled.

12. 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 11, along with a memorandum of settlement, It shall give notice to both parties to appear 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.

13. Action by the tribunal in other cases.

- 1. In case-i. The applicant(s) and the opposite parties do not agree for reference of their dispute to a Conciliation Officer as per rule 10, orii. The Conciliation Officer appointed under rule 10 sends a report under sub-rule (3) of rule 11, conveying inability to work out a settlement acceptable to both the parties, oriii. No report is received from a Conciliation Officer within the stipulated time-limit of one month , oriv. In response to the notice issued under sub-rule (1) of rule 12, if one or both the parties decline to confirm the settlement worked out 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 sub section (1) of section 8, pass such order as it deems fit.

2. An order passed under rule 7, rule S 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, andc) 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 applicant (s) and the opposite party of their representatives, in person, or shall be sent to them through a process server or by registered post.

14. Maximum maintenance allowance.

- 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.

Chapter III

Procedure of Appellate Tribunal

15. Forms of appeal.

- An appeal under sub-section (1) of section 16 shall be filled before the Appellate Tribunal in Forms "I" and shall be accompanied by a copy of the impugned order of the Maintenance Tribunal.

16. Registration and Acknowledgement of appeal.

- On receipt of an appeal, the Appellate Tribunal shall register it In a register to be maintained for the purpose in such form as the State Government may direct, and shall, after registering such appeals give an acknowledgement to the appellant, specifying the appeal number and the next date of hearing in Form "J".

17. Notice of hearing to the respondent.

(1) On receipt of an appeal, the Appellate Tribunal shall, after registering the case and assigning an appeal number, cause notice to be served upon the respondent under its seal and signature in Forms "K". (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).

Chapter IV

Scheme for Management of Old Age Homes Established under section 19

18. Scheme for management of Old Age Homes for Indigent Senior Citizens.

(1) Old Age Homes established under section 19 shall be run in accordance with the following norms and standards (A) The home shall have Physical facilities and shall be run in accordance with the operational norms as laid down in the Schedule. (B) Inmates of the home shall be selected in accordance with following procedure. (a) Application shall be invited at appropriate intervals but at least once each year, from indigent Senior Citizens, as defined in section, 19 of the Act, desirous of living in the homes. (b) In case the number of eligible applicants on any occasion is more than the number of places available in a home for admission, selection of inmates will be made in the following manner. (i) The more indigent and 'needy' will be given preference over the less indigent applicants. (ii) Other things being equal, Order Senior Citizens will be given preference over the less old, and (iii) Other things being equal, female applicants will be given preference over male applicants. Illiterate and / or very infirm Senior Citizens may also be admitted without any formal application If the District Magistrate or other competent authority, designated by him for the

purpose, is satisfied that the Senior Citizen is not in a position to make a formal application, but is badly in need of shelter.(C)While considering applications or cases for admission no distinction shall be made on the basis of religion or caste.(D)The homes shall provide separate lodging for men and women inmates, unless a male and a female inmate are either blood relations or a married couple.(E)Day to day affairs of the old age home shall be managed by a Management Committee which shall be constitute in accordance with orders and guidelines issued by the State Government from time to time, such that inmates are also suitable represented on the Committee.(2)State Government may Issue detailed guidelines /orders from time to time for admission Into and management of Old Age Homes in accordance with the norms and standards laid down In sub-rule (1) and the schedule.

Chapter V

Duties and Powers of the District Magistrate

19. Duties and Powers of the District Magistrate.

(1)The District Magistrate shall perform the duties and exercise the poWers mentioned in sub-rules (2) and (3) so as to ensure that the provisions of the Act are properly carried out in his District.(2)It shall be the duty of the District Magistrate to :-i. 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 of Maintenance Tribunals and Maintenance Officers of the District with a view to ensuring timely and fair disposal of applications for maintenance and execution of Tribunals ordersiii. 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 Central and State Governments programmes for the Welfare of Senior Citizens.v. Encourage and coordinate with panchayats, municipalities, Nehru Yuwa Kendras, specialist, experts, activists etC. working the district so that their resources and efforts are effectively pooled for the Welfare of Senior Citizens of their district.vr. Ensure provision, of 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 the duty of the officers towards the tatter.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 numbers of prescribed application forms for maintenance are available in offices of common contact for citizens like Panchayats, Post Offices, Block Development Offices, Tahsil offices, Collectorate, Police Stations etc.x. Promote establishment of dedicated helpline for Senior Citizens at District Headquarters, to begin with; and.xi. Perform such other functions as the State Government may, by order, assign to the District Magistrate in this behalf from time to time.(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 Police, Health and Publicity Department and the

Department dealing with Welfare of Senior Citizen.(b)Maintenance Tribunals and Conciliation Officers.(c)Panchayats and Municipalities and(d)Educational Institution.

Chapter VI

Protection of Life and Property of Senior Citizens

20. 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 takes all necessary steps, subject to such guidelines as the State Government may issue from time to time, for the protections of. life and property of Senior Citizens.(2)Without prejudice to the generally of sub-rule (1) -i. Each police station shall maintain an up-to-date list of senior citizen living within its jurisdiction, especially those who are living by themselves (i.e. without there being any member in their household who is not a senior citizen),ii. A representative of the 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 of assistance from them;iii. Complaints /problems of senior citizens shall be promptly attended to, by the local Police.iv. One or more Volunteer' Committee (s) shall be formed for each Police Station which shall ensure regular contact between the senior citizens, especially those living by themselves, on the one hand, and the police end the district administration on the other.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 Station, at regular intervals, the steps being taken for the protection of life and property of Senior Citizens.vi. Each Police Station shall maintain a separate register containing all important particulars relating to offences committed against Senior Citizens, in such form as the State Government may, by order, specify.vii. The register referred to in clause (VI) shall be kept available for Police Inspection, and every officer inspecting a Police Station shall invariably review the status as reflected in the register.viii. The Police Station shall send a monthly report of such crimes to the District Superintendent of Police by the 10th of every month.ix. List of DO's and Don'ts to be followed by Senior Citizens in the interest of their safety will be widely publicized.x. Antecedent of domestic servants and others working for Senior Citizens shall be promptly verified, on the request of such citizens.xi. Community policing for the security of senior citizens will be undertaken in conjunction with citizens living in the neighbourhood, Residents' welfare Associations, Youth Volunteers, Non-Government Organisations, etc.xii. 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.xiii. the District Magistrate shall cause the report to be placed before the District-level Coordination-cum-Monitoring Committee constituted under rule 22.xiv. The Director General of Police shall cause the reports submitted under clause (Xii) to be compiled, once a quarter, and shall submit them to the State Government every quarter as well as every year for, interells, being placed before the State Council of Senior Citizens constituted under rule 21.

Chapter VII

State Committee and District Committees of Senior Citizens

21. State Committee of Senior Citizens.

(1)The State Government may, by order Established a State Committee of Senior Citizen to advise the State Government on effective implementation of the Act, and to perform such other functions in relation to Senior Citizen as the State Government may specify.(2)The State Committee shall consist of the following members namely :-

- | | |
|---|-----------------------------------|
| i. Minister of the State Government In charge ofWelfare of Senior Citizens | Chairman
Ex-officio |
| Secretaries of Departments of the StateGovernment dealing with Disabilities,
ii. Senior Citizens, Welfare.,Health, Home, Publicity, Pensions and other subjects
of concern to the Senior Citizens | Member
Ex-officio |
| Such number of specialists and activists In thefield of Welfare of Senior
iii. Citizens, as the State Government maydetermine to be nominated by the State
Government | Member |
| Such number or eminent Senior Citizens, as theState Government may
iv. determine, but not less in number than theex-officio members in the Council,
to be nominated by the StateGovernment. | Member |
| v. Director in-charge of Senior Citizens Welfare Inthe State | Member
Secretary
Ex-officio |

(3)The State Committee shall meet at least once in six months.(4)Tenure of the members of the State Committee other than Ex-officio members, rules of procedure of the Council and other ancillary matters shall be such as the State Government may, by order, specify.

22. District Committee of Senior Citizens.

(1)The State Government may, by order, establish a District Committee of Senior Citizens for each District to advise in effective and co-ordinated Implementation of. the Act at the District level and to perform such other functions in relation to Senior Citizen at the District level, as the State Government may specify.(2)The District Committee shall meet in once every quarter.(3)Composition of the District Committee, tenure of members (other than ex officio Members), rules of procedure and other ancillary matters shall be such as the State Government may, by order specify.

Schedule

(See Rule 18)Norms of physical facilities and operational standards for and old age home for idigent senior citizens established under/section 19 of the Act

1. Physical Facilities

1. Land. - The land for the old age home should be adequate to comply with the Floor-Area Ratio(FAR) as prescribed by the relevant urban body/ state Government. In the case of semi-urban/rural areas, the State Government shall provide adequate land for setting up of an old age home of requisite capacity such that 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 7.5 sq. meters per inmate (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.

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 arrangement 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 adequate collection of books ; and(viii)first aid, sick bay, and primary healthcare facilities.(2)The old age home should be barrier-free with provision of ramps and handrails, and where necessary, lifts etc.

2. 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 Government hospital for emergency medical care, and, with the nearest Police Station for security requirements.