

AMENDMENTS TO MAINTENANCE OF PARENTS ACT PASSED IN PARLIAMENT - EMPHASIS ON CONCILIATION A KEY OBJECTIVE OF AMENDMENTS

1. The Maintenance of Parents (Amendment) Bill tabled by Mr Seah Kian Peng, Member of Parliament for Marine Parade GRC, has been passed in Parliament today. The Bill proposes amendments to the Maintenance of Parents Act (MPA), which first came into force in 1996.
2. In reviewing the MPA, Mr Seah and his Workgroup of 10 MPs sought to ensure that (i) sufficient space and emphasis are given to the conciliation process; (ii) the process for claiming maintenance should be simple and straightforward; (iii) that maintenance payments are timely received by the parent; (iv) that cases of default payment should be prevented or reduced; (v) the administrative process for initiating an action for enforcement of maintenance orders should be expeditious and efficient, should the need arise; and (vi) parties to a claim are given fair treatment.
3. During the Parliamentary debate, Mr Seah explained that the Workgroup received some public feedback calling for more deterrent measures to take recalcitrant children to task. However, the Workgroup decided to steer away from this. Mr Seah explained, "Instead we elected to strengthen conciliatory aspects of the Act. This reflects our collective belief that families must continue to be encouraged as far as possible to resolve differences on their own. We also maintain that this is the optimal solution given the complex nature of family relationships, and that all of us know our own families the best."
4. Dr Vivian Balakrishnan, Minister for Community Development, Youth and Sports, said his Ministry strongly supports the objectives of the proposed amendments which emphasise conciliation. Dr Balakrishnan added, "Family differences should be resolved within the privacy of the family as far as possible. Where they cannot be resolved privately, then mediation and conciliation will help. Legal action should be the last resort."
5. MCYS will also look into better resourcing the offices of the Tribunal and Commissioner for the Maintenance of Parents, to achieve the outcomes envisaged by the amendments. MCYS has appointed the former Principal District Judge of the Family Court, Mr Khoo Oon Soo, as the Commissioner for the Maintenance of Parents with effect from 3 May 2010. This post was previously held concurrently by another MCYS Director. The new Commissioner will have MCYS' full support in his work.

Key Amendments to the Act

6. The key amendments to the Act are categorised as follows, with selected amendments in the respective categories. Details to the amendments can be found in **Annex 1**.

I. Measures to Assist Applicants at Pre-filing and Filing of Maintenance Applications

a. *Enhancing Commissioner's role to assist applicants*

II. Measures to Encourage and Enhance Effectiveness of Conciliation

a. *Empowering the Tribunal and the Commissioner to access data from Government agencies*

b. *Commissioner empowered to refer and require parties to attend conciliation sessions at pre-filing*

III. Measures to Improve Payment and Enforcement of Maintenance Orders

a. *Preliminary dismissal of frivolous or vexatious claims*

IV. Measures to Streamline Processes

a. *Quorum of Tribunal*

b. *Processing fee for case records*

c. *Medical costs as a category for consideration for "basic needs"*

d. *Removal of prescribed forms*

V. Non-Legislative Amendments

a. *Case monitoring*

b. *Public Education*

MINISTRY OF COMMUNITY DEVELOPMENT, YOUTH AND SPORTS

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ANNEX 1

Key Amendments to the Act

Key amendments to the MPA are categorised into:-

I. Measures to Assist Applicants at Pre-filing and Filing of Maintenance Applications

II. Measures to Encourage and Enhance Effectiveness of Conciliation

III. Measures to Improve Payment and Enforcement of Maintenance Orders

- IV. Measures to Streamline Processes
- V. Non-legislative Recommendations

(I) Measures to Assist Applicants at Pre-filing and Filing of Maintenance Applications

a. Enhancing Commissioner's role to assist applicants

Today, the application process begins when parents approach the Tribunal to file their claims, which many elderly find is too drastic a step. Enhancing the Commissioner's role to deal with the parties at an earlier stage will help to facilitate a settlement between parents and their children without having to make a claim at the Tribunal.

With this amendment, parents who approach the Tribunal for the first time will have their case referred to the Commissioner, who will explore non-legal options with parties through conciliation. For cases that reach an agreement facilitated by the Commissioner, the Commissioner will contract an agreement in writing, with the consent of the parent and children. Such a contract will be endorsed by either the Tribunal President or Deputy President, and have the same force and effect as if it is a maintenance order made by the Tribunal.

(II) Measures to Encourage and Enhance Effectiveness of Conciliation

a. Empowering the Tribunal and the Commissioner to access data from Government agencies

The conciliation process is an important step for parties to reach a settlement. To facilitate its conciliation efforts, the Commissioner should be empowered to investigate the merits of the case. In this respect, the personal data and financial status of the parent and children are important information that the Commissioner requires.

The Act is amended to enable the Commissioner and the Tribunal to obtain any information, record, document or article from such Government agency or statutory body as the Commissioner considers necessary. The information should be used for the purposes specified below:

- (a) identifying and locating the children of the parent;
- (b) assessing the veracity of or supplementing the information provided by the parent, applicant, respondent and children of the parent; and

(c) assessing the ability of the parent to maintain himself and each of the children of the parent to maintain him, including but not limited to their respective incomes, earning capacity, property and other financial resources, expenses and liabilities.

The list of agencies from which the Commissioner may request information will be approved by the Minister in charge. There will be safeguards on the confidentiality and use of the information.

b. *Commissioner empowered to refer and require parties to attend conciliation sessions at pre-filing:*

Today, a party may not attend the conciliation session referred by the Commissioner at pre-filing stage, as these sessions are voluntary.

Conciliation is an important step as it allows the parent and his children to attempt to resolve their issues and possibly reach an amicable settlement without resorting to legal action. For this reason, the Commissioner is empowered to refer and to require any party to a claim to attend the conciliation sessions at pre-filing stage. Failure by that party to appear may be taken into consideration by the Tribunal, when the maintenance application is heard.

(III) Measures to Improve Payment and Enforcement of Maintenance Orders

a. *Preliminary dismissal of frivolous or vexatious claims*

The Act does not restrict the number of times that the same person can make a maintenance or variation application. There are cases of abuse where an applicant makes multiple applications even though the previous application was dismissed or where there is no substantial change to the parties' circumstances.

To address such abuse, the President of the Tribunal or a Deputy President is now empowered to independently dismiss any frivolous or vexatious application, with valid reasons. As an avenue for recourse, the aggrieved party who deems his or her case as having been unfairly dismissed may appeal to the full Tribunal against a decision of the President or Deputy President.

(IV) Measure to Streamline Processes

Measures have also been put in place to streamline the processes under the Act. These are summarised below:

a. Quorum of Tribunal

Currently, the President of the Tribunal must be one of three members to form a quorum for a Tribunal hearing. This amendment provides that up to four Deputy Presidents be appointed and that Tribunal hearings can be presided over either by the President or Deputy President.

b. Processing fee for case records

This amendment to the Rules removes the fee of \$10 that a party has to pay for a copy of the record proceedings.

c. Medical costs as a category for consideration for “basic needs”

Medical cost is a common expense incurred by parents. For clarity, medical cost is now included as a category for consideration when deciding whether or not maintenance should be awarded and the quantum of maintenance.

d. Removal of prescribed forms

All the prescribed forms will be removed from the Maintenance of Parents Rules. The TMP secretariat will streamline the forms and regularly review and update them administratively.

(V) Non-legislative Recommendations

These are some recommendations that do not require legislative amendments but are being pursued to enhance the effectiveness of the Act.

a. Case monitoring

It is important that needy parents actually receive the payments after a settlement has been reached or an order made. It is proposed that an effective administrative system for monitoring of the cases be introduced. Such a system should help ensure that payments are made on time and if not, that prompt and adequate assistance is given to the parent to enforce the payments. It is suggested that the offices of the Commissioner and the Tribunal can work together to put in place such a system. The offices will be adequately resourced for the system to be effective.

b. Public Education

The review of the Act has raised public awareness on the original intent of the

Act. The values expounded in the Act should continue to be inculcated through public education. Teaching of filial piety should begin at home. It is something which children learn by example. Education in schools can also complement this, with school education playing a role in inculcating these values to our young. It is proposed that schools should continue to emphasize these values in their curriculum.