

CAYMAN ISLANDS



OLDER PERSONS (AMENDMENT) ACT, 2024

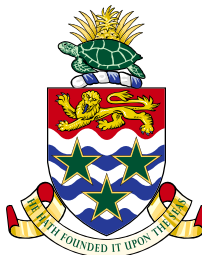
(Act 27 of 2024)

Supplement No. 4 published with Legislation Gazette No. 2 dated 10th January, 2025.

PUBLISHING DETAILS



CAYMAN ISLANDS



OLDER PERSONS (AMENDMENT) ACT, 2024

(Act 27 of 2024)

Arrangement of Sections

Section	Page
1. Short title and commencement	5
2. General amendments to the Older Persons Act, 2017 - references to "Law" and "Council of Older Persons".....	6
3. Amendment of section 2 - interpretation.....	6
4. Amendment of section 3 - the Council of Older Persons	9
5. Amendment of section 4 - functions of the Council.....	9
6. Amendment of section 5 - Chairperson and Deputy Chairperson	11
7. Repeal of section 6 - Executive Secretary.....	11
8. Insertion of section 7A - duty of confidentiality of the Council.....	11
9. Insertion of Part 2A - Departmental responsibility for the subject of Older Persons	12
10. Repeal of Part 3 - the Older Persons Register	15
11. Insertion of sections 17A and 17B - equal access; decision-making.....	15
12. Insertion of Parts 4A, 4B and 4C - notification and investigation of abuse or neglect; intervention orders; the Older Persons Tribunal	16
13. Substitution of section 18 - obstruction of authorised persons.....	27
14. Insertion of sections 18A and 18B - rules of court; appeals of court decisions.....	27
15. Amendment of Schedule - the Council of Older Persons.....	29
16. Insertion of Schedule 2 - the Older Persons Tribunal	32

CAYMAN ISLANDS

(Act 27 of 2024)

I Assent,



Jane Owen
Governor

Date: 9th January, 2025

OLDER PERSONS (AMENDMENT) ACT, 2024

(Act 27 of 2024)

AN ACT TO AMEND THE OLDER PERSONS ACT, 2017, IN ORDER TO REVISE THE DEFINITION OF THE TERM 'OLDER PERSON'; TO RE-NAME THE COUNCIL OF OLDER PERSONS, INCREASE ITS FUNCTIONS AND CHANGE ITS MEMBERSHIP; TO IDENTIFY A DEPARTMENT WITH RESPONSIBILITY FOR THE SUBJECT OF OLDER PERSONS; TO REMOVE THE REQUIREMENT FOR THE MAINTENANCE OF THE OLDER PERSONS REGISTER; TO INCREASE THE PROTECTION OF THE RIGHTS OF OLDER PERSONS; TO PROVIDE FOR THE NOTIFICATION AND INVESTIGATION OF ABUSE OR NEGLECT OF OLDER PERSONS; TO ENABLE THE ISSUE OF AN INTERVENTION ORDER IN A CASE WHERE AN OLDER PERSON LACKS CAPACITY TO MAKE CERTAIN DECISIONS; TO ESTABLISH THE OLDER PERSONS TRIBUNAL FOR THE PURPOSE OF DETERMINING COMPLAINTS RELATING TO ACCESS TO RIGHTS OF OLDER PERSONS AND REQUIREMENTS IMPOSED ON 'MANDATORY REPORTERS'; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Act may be cited as the Older Persons (Amendment) Act, 2024.
- (2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Act and in relation to different matters.



General amendments to the Older Persons Act, 2017 - references to “Law” and “Council of Older Persons”

2. The *Older Persons Act, 2017 (Act 14 of 2017)*, in this Act referred to as the “principal Act”, is amended as follows —
- (a) by deleting the word “Law” wherever it appears and substituting the word “Act”; and
 - (b) by deleting the words “Council of Older Persons” wherever they appear and substituting the words “Council for Older Persons”.

Amendment of section 2 - interpretation

3. The principal Act is amended in section 2 as follows —
- (a) by inserting, in the appropriate alphabetical sequence, the following definitions —
 - “**abandonment**” means the purposeful and permanent desertion of an older person;
 - “**abuse**”, in relation to an older person, means a single or repeated act, or lack of appropriate action, occurring within a relationship where there is an expectation of trust with the older person, which causes harm or distress to the older person, and includes physical abuse, sexual abuse, psychological or emotional abuse, economic abuse, abandonment, neglect, or serious loss of dignity and respect;
 - “**active ageing**” means the process of optimizing opportunities for health, security and participation in order to enhance quality of life as individuals age;
 - “**age-friendly communities**” means communities where age is not a barrier to living well and where the social and physical environments, activities and services encourage inter-generational relationships and support and enable all persons to —
 - (a) participate in society;
 - (b) live healthy, active and fulfilling lives; and
 - (c) be valued for their contribution;
 - “**autonomy**”, in relation to older persons, means their freedom to make choices and take control over a range of issues, including where to live, relationships to have, what to wear, how to spend time, and whether to embark on medical treatment;
 - “**civil servant**” has the meaning assigned by section 2(1) of the *Public Servant Management Act (2018 Revision)*;
 - “**civil servant members**” means the members of the Council named in paragraph 1(1)(f) of Schedule 1;



“**Commissioner of Police**” means the person appointed to that position under the *Police Act (2021 Revision)*;

“**community-based care**” means programmes and services which help older persons to live independently or in a facility that provides residential care;

“**complaint**” means a complaint filed with the Tribunal under section 17O;

“**consent**”, in relation to a person to whom an act relates, means any freely given, specific, informed and unambiguous indication of the person’s wishes by which the person, by a statement or by a clear affirmative action, signifies agreement to the act relating to that person;

“**Council Chairperson**” means the person appointed under section 5(1) as the Chairperson of the Council;

“**Department**” means the department of Government mentioned in section 9A and responsible for the subject of Older Persons;

“**Departmental Report**” means the report prepared by the Department under section 17J(1);

“**Deputy Council Chairperson**” means the person appointed under section 5(1) as the Deputy Chairperson of the Council;

“**Deputy Tribunal Chairperson**” means the person appointed under section 17P(1) as the Deputy Chairperson of the Tribunal;

“**economic abuse**” means —

- (a) the deprivation of economic and financial resources of an older person or to which an older person is entitled under any law;
- (b) the unreasonable deprivation of economic and financial resources which an older person requires out of necessity;
- (c) behaviour which is intended to exercise coercive control over, exploit or limit an older person’s economic and financial resources;
- (d) the disposal of household effects or other property that belongs to an older person without the older person’s consent; or
- (e) the deceiving of an older person in order to access the older person’s economic or financial resources;

“**functional ability**” means ability that is determined by an individual’s physical and mental capacities as displayed in the physical, social and other environments in which the individual lives;

“**health care**” has the meaning assigned by section 2 of the *Health Care Decisions Act (2022 Revision)*;

“**healthy ageing**” means developing and maintaining the functional ability that enables well-being in older age;

“**intervention order**” means an order made by the Grand Court under section 17L;

“**mandatory reporter**” means a person so specified in section 17F(3);

“**Ministry**” means the Ministry responsible for social development;

“**Council for Older Persons**” or “**Council**” means the entity established under section 3;

“**neglect**”, in relation to an older person, means the lack of provision to the older person of essential care (such as food, clothing, medical aid, lodging and other necessities of life) to the extent of causing or being reasonably likely to cause personal injury or physical pain to, or injury to the mental or physical health of, the older person;

“**non-profit organisation**” includes a company or body of persons, whether incorporated or unincorporated, or a trust —

- (a) established or which identifies itself as established primarily for the promotion of charitable, philanthropic, religious, cultural, educational, social or fraternal purposes, or other activities or programmes for the public benefit or a section of the public within the Islands or elsewhere; and
- (b) which solicits contributions or raises funds from the public or a section of the public within the Islands or elsewhere;

“**notifier**” means a person who notifies the Department that the person suspects that an older person has been or is being abused or neglected;

“**Older Persons Tribunal**” or “**Tribunal**” means the entity established under section 17M;

“**physical abuse**” means any act or omission which causes or threatens physical injury;

“**police officer**” has the meaning assigned by section 2 of the *Police Act (2021 Revision)*;

“**private entity**” means a natural or legal person that is not a public authority;

“**psychological or emotional abuse**”, in relation to an older person, includes any verbal or non-verbal act that undermines the older person’s sense of dignity or self-worth and threatens the older person’s psychological well-being;



“**public authority**” has the meaning assigned by section 2 of the *Data Protection Act (2021 Revision)*;

“**registered practitioner**” has the meaning assigned by section 2 of the *Health Practice Act (2021 Revision)*;

“**safeguarding**” means reducing the risk of abuse or neglect in relation to older persons;

“**self-neglect**” means the failure of an older person to provide for the older person’s own basic needs and personal hygiene because of an inability to do so;

“**sexual abuse**” means sexual contact of any kind in which force or threat is used to obtain participation in non-consensual sexual activity or coercing an older person to engage in sexual activity against the older person’s will;

“**Tribunal Chairperson**” means the person appointed under section 17P(1) as the Chairperson of the Tribunal;

“**well-being**” means how older persons are faring in all domains of life, including economic, health, social, personal and local environment domains.”;

- (b) by deleting the respective definitions of the words “**access to services**” and “**Council of Older Persons**”; and
- (c) by deleting the definition of the words “**older person**” and substituting the following definition —

“ “**older person**” means a person who is sixty-five years of age or older, except where the law provides for a person who is less than sixty-five years of age to be treated as an “**older person**” for the purpose of receiving a pension;”.

Amendment of section 3 - the Council of Older Persons

- 4. The principal Act is amended in section 3(2) by deleting the words “The Schedule” and substituting the words “Schedule 1”.

Amendment of section 4 - functions of the Council

- 5. The principal Act is amended in section 4 as follows —
 - (a) in subsection (1) —
 - (i) by repealing paragraphs (b) and (c) and substituting the following paragraphs —
 - “(b) advocating for full and effective participation of older persons on an equal basis with persons who are not older persons in the Islands;

- (c) acting as an advisor and advocate with Government agencies to influence policy and planning towards healthy ageing and age-friendly communities;”;
- (ii) in paragraph (d), by deleting the word “and” appearing after the semicolon; and
- (iii) by repealing paragraph (e) and substituting the following paragraphs —
 - “(e) promoting the dignity, independence and autonomy of older persons;
 - (f) promoting active ageing for older persons;
 - (g) advocating for and championing services, programmes and projects that promote healthy ageing and age-friendly communities; and
 - (h) promoting a better understanding of healthy ageing and raising awareness about the issues and concerns of older persons in the community.”; and
- (b) by repealing subsection (2) and substituting the following subsections —
 - “(2) The Council shall, in carrying out its functions —
 - (a) adopt a consultative approach with the Ministry, older persons in the community, the private sector, civil society partners and other stakeholders;
 - (b) serve as a consultative group with which multisector groups may liaise;
 - (c) promote the advancement of the well-being of older persons;
 - (d) develop partnerships in each district in the Islands with groups that will provide support for advancing the well-being of older persons;
 - (e) provide an annual report to the Cabinet on the achievement of the Council (in following through its identified functions and mandate), and such other reports as may be requested by the Ministry; and
 - (f) engage with international and regional bodies on matters regarding older persons.
 - (3) The Council Chairperson or the Deputy Council Chairperson may, on behalf of the Council, delegate to any member of the Council (other than a civil servant) any of the functions conferred upon the Council under this Act.”.



Amendment of section 5 - Chairperson and Deputy Chairperson

6. The principal Act is amended in section 5(2) as follows —
- (a) by repealing paragraph (a) and substituting the following paragraphs —
 - “(a) managing the affairs of the Council in accordance with this Act and other relevant legislation and policy;
 - (aa) chairing meetings of the Council;
 - (ab) setting the agendas for meetings of the Council;” and
 - (b) by repealing paragraph (e) and substituting the following paragraphs —
 - “(e) ensuring the Council complies with prescribed Terms of Reference for the Council, and with prescribed policy and procedural guidelines for the management of the Council;
 - (ea) developing an annual strategic plan;”.

Repeal of section 6 - Executive Secretary

7. The principal Act is amended by repealing section 6 and substituting the following section —
- “Appointment of secretary**
6. The Cabinet shall appoint a secretary to the Council who shall conduct administrative duties, including recording and keeping minutes of the meetings and proceedings of the Council, but who shall have no right to vote.”.

Insertion of section 7A - duty of confidentiality of the Council

8. The principal Act is amended by inserting after section 7 the following section —
- “Duty of confidentiality of the Council**
- 7A. (1) The facts and particulars of, or relating to, any matter before the Council shall be treated as confidential by each member of, and the secretary to, the Council and any such facts or particulars shall not be disclosed otherwise than in the proper performance of duties under this Act or in compliance with an order of a court or tribunal of competent jurisdiction, or where required by law.
- (2) The failure of a member of, or the secretary to, the Council to comply with subsection (1) constitutes sufficient ground for the termination of the appointment of the member or the secretary.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.

- (4) An allegation of a breach of subsection (1) shall be fully investigated by a police officer.
- (5) In this section —
“**court**” includes any tribunal, authority or person having power to require the production of documents or the answering of questions; and
“**production**” includes permitting access to.”

Insertion of Part 2A - Departmental responsibility for the subject of Older Persons

9. The principal Act is amended by inserting after Part 2 the following Part —

“PART 2A - DEPARTMENTAL RESPONSIBILITY FOR THE SUBJECT OF OLDER PERSONS

Departmental responsibility for the subject of Older Persons

- 9A.** (1) There shall be a department of Government which shall be maintained by such moneys as shall be paid out of the general revenue of the Islands and which shall be responsible for the subject of Older Persons.
- (2) Notwithstanding subsection (1), the Director of the Department may, in the Director’s discretion, extend services to an individual who is fifty-five years of age or older but less than sixty-five years of age.

Functions of the Department

- 9B.** (1) The Department shall —
- (a) identify the changing needs of older persons and make representation to the Ministry on recommendations to address those needs;
 - (b) develop and implement programmes, including those aimed at —
 - (i) the economic empowerment of older persons;
 - (ii) the establishment of recreational opportunities for older persons; and
 - (iii) fostering age-friendly communities and enhancing healthy ageing of older persons; and
 - (c) safeguard and promote the well-being of older persons by providing a range and level of programmes and services appropriate to the needs of the older person.



- (2) In performing any function or exercising any power under this Act in relation to an older person, the Department shall have regard to the following matters in particular —
 - (a) the importance of beginning with the assumption that the older person is best-placed to judge the older person’s well-being; and
 - (b) the need to ensure that any restriction on the older person’s rights or freedom of action that is involved in the exercise of the Department’s function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.

Duty and powers of the Department to investigate

- 9C.** (1) Where the Department has reasonable cause to suspect that an older person who lives, or is found, in the Islands may be experiencing abuse, neglect or self-neglect the Department shall make, or cause to be made, such enquiries of any person, public authority, non-profit organisation, private entity or mandatory reporter as it considers necessary to enable it to decide whether it should take any action to safeguard the older person.
- (2) The enquiries shall, in particular, be directed towards establishing whether the Department should exercise any of its powers under this Act, with respect to the older person.
 - (3) For the purposes of making a determination under this section as to the action to be taken with respect to an older person, the Department shall be guided by the wishes of the older person.
 - (4) Where enquiries are being made under subsection (1) with respect to an older person, the Department shall (with a view to enabling it to determine what action, if any, to take with respect to the older person) take such steps as are reasonably practicable —
 - (a) to obtain access to the older person; or
 - (b) to ensure that access to the older person is obtained, on its behalf, by a person authorised by it for the purpose,unless the Department is satisfied that it already has sufficient information with respect to the older person.
 - (5) Where the Department makes, or causes to be made, any enquiries under subsection (1), a person, public authority, non-profit organisation, private entity or mandatory reporter shall disclose information when requested to do so by the Department but may refuse to disclose the information on the grounds that the information requested would be privileged from production in legal proceedings

on the ground of legal professional privilege or that the disclosure would be in contempt of court.

- (6) Where a person, public authority, non-profit organisation, private entity or mandatory reporter refuses to disclose the information requested by the Department, the person, public authority, non-profit organisation, private entity or mandatory reporter shall, within such period as may be specified by the Department, notify the Department in writing of the refusal, and the reasons for the refusal.

Costs

9D. The Department may —

- (a) charge fees, prescribed by regulations, for providing care and support to older persons or for putting in place arrangements for providing care and support to older persons; and
- (b) recover from persons prescribed by regulations any expenses reasonably incurred by the Department in the exercise of a power conferred under paragraph (a).

Co-operation with Department

- 9E.** (1) Where it appears to the Department that any person, public authority, non-profit organisation or private entity could, by taking any specified action, assist in the exercise of any of the Department's duties under this Act, the Department may request, from that person, public authority, non-profit organisation or private entity, the provision of specified information or the taking of specified action within the time and in the manner specified.
- (2) A person, public authority, non-profit organisation or private entity may refuse a request under subsection (1) on the grounds that the information requested would be privileged from production in legal proceedings on the ground of legal professional privilege or that the disclosure would be in contempt of court.

Confidentiality by Department

- 9F.** (1) An officer of the Department or a person acting for or under the direction of the head of the Department shall not disclose data or information which —
- (a) was obtained by, or furnished to, the officer or the person acting for or under the direction of the head of the Department, for the purposes of the performance of their duties and functions under this Act, or in the exercise of their powers under this Act; and



- (b) is not at the time of the disclosure available to the public through lawful means,
unless the disclosure is made with lawful authority.
- (2) For the purposes of subsection (1), a disclosure of data or information is made with lawful authority where —
 - (a) the disclosure is for the purposes of an enquiry, investigation or other function of the Department under this Act; or
 - (b) the disclosure relates to a serious threat to the life, health or safety of a person and the disclosure is made to a police officer.
- (3) Where an officer or a person acting for or under the direction of the head of the Department knowingly or recklessly discloses data or information in contravention of subsection (1), that person commits an offence and is liable —
 - (a) on summary conviction, to a fine of ten thousand dollars; or
 - (b) on conviction on indictment, to a fine of twenty thousand dollars.

Disclosure of interest

- 9G.** If an officer of the Department has any personal or pecuniary interest, direct or indirect, in any matter that arises in carrying out the officer’s functions under this Act —
- (a) the officer shall disclose the fact as soon as possible after the relevant circumstances have come to the officer’s knowledge; and
 - (b) at the discretion of the Director, the officer may be excluded from taking part in any consideration or discussion in regard to the matter.”.

Repeal of Part 3 - the Older Persons Register

- 10.** The principal Act is amended by repealing Part 3.

Insertion of sections 17A and 17B - equal access; decision-making

- 11.** The principal Act is amended by inserting after section 17 the following sections —

“Equal access

- 17A.**(1) Subject to the provisions of any other Act, an older person shall have access to goods, services and programmes promoting social inclusion on an equal basis with a person who is not an older person.
- (2) For the purposes of this Act, a person discriminates against another person on grounds of being an older person if the first-mentioned

person makes any distinction, exclusion or preference, the intent or effect of which is to nullify or impair equality of access.

- (3) Any practice or policy that directly or indirectly results in discrimination against a person on the grounds of being an older person, is an act of discrimination and is prohibited, regardless of whether the person responsible for the practice or policy intended to discriminate.

Decision-making

- 17B.**(1) An older person has a right to make decisions and, in relation to that right, the following principles apply —
- (a) an older person shall be assumed to have capacity unless it is established that the older person lacks capacity;
 - (b) an older person is not to be treated as unable to make a decision unless all practicable steps to help the older person to do so have been taken without success; and
 - (c) an older person is not to be treated as unable to make a decision merely because the older person makes an unwise decision.
- (2) For the purposes of subsection (1), an older person lacks capacity in relation to a matter if at the material time the older person is unable to make a decision for himself or herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain, whether or not the impairment or disturbance is permanent or temporary.
- (3) A lack of capacity cannot be established merely by reference to —
- (a) the older person's age or appearance; or
 - (b) a condition of the older person, or an aspect of the older person's behaviour, which might lead others to make unjustified assumptions about the older person's capacity.”.

Insertion of Parts 4A, 4B and 4C - notification and investigation of abuse or neglect; intervention orders; the Older Persons Tribunal

- 12.** The principal Act is amended by inserting after Part 4 the following Part —



“PART 4A - NOTIFICATION AND INVESTIGATION OF ABUSE OR NEGLECT

Application of the Protection from Domestic Violence Act (2021 Revision)

17C. The provisions of this Act shall not be construed as limiting, amending, repealing or otherwise altering any provision of the *Protection from Domestic Violence Act (2021 Revision)*, or as exempting any person from any duty or obligation imposed by that Act or prohibiting any person from complying with any provision of that Act.

Prohibition of abuse or neglect of older person

- 17D.**(1) A person shall not abuse or neglect an older person.
- (2) A person commits an offence if that person is in a position of trust in relation to an older person and engages in abuse or neglect against the older person.
 - (3) A person who contravenes subsection (2) is liable on —
 - (a) summary conviction; or
 - (b) conviction on indictment,to imprisonment for a term of twelve years.
 - (4) Notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2021 Revision)*, the court of summary jurisdiction or the Grand Court before which an individual pleads guilty or is convicted, shall —
 - (a) in a case where the individual pleads guilty, impose a sentence of imprisonment for a term of at least five years; or
 - (b) in any other case, impose a sentence of imprisonment for a term of at least seven years,unless the relevant court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so and such exceptional circumstances shall be stated by the relevant court.
 - (5) For the purposes of this section, a “**position of trust**” in relation to an older person includes any position which involves —
 - (a) a family relationship with the older person;
 - (b) a mandatory reporter; or
 - (c) any other similar special relationship with the older person.

Restriction of employment of a mandatory reporter

- 17E.**(1) Before a person is appointed to, is employed in or otherwise assumes a position as a mandatory reporter, paid or unpaid, the person shall be subjected to a screening process in accordance with regulations made by the Cabinet.
- (2) After the screening process referred to in subsection (1), where it is discovered that a person has been convicted of, or served a sentence for, a prescribed offence, the person shall not be appointed to, employed in or otherwise assume a position as a mandatory reporter.
- (3) Where the circumstances of a person change following the screening process referred to in subsection (1) and those circumstances would, or are likely to, result in the person not being or remaining appointed to, employed in or otherwise in a position as a mandatory reporter, the person shall notify the employer or any other person prescribed by regulations of the relevant change in circumstances.
- (4) Where an employer or any other relevant person does not conduct the screening process in accordance with the regulations, any person may make a complaint to the Older Persons Tribunal.
- (5) Where a person is required to make a declaration or provide information under this Act and the person makes a false declaration or provides false or misleading information, the person commits an offence and is liable on summary conviction to a fine of three thousand dollars or to imprisonment for a term of six months, or to both.

Notification of abuse or neglect of older person

- 17F.**(1) If a mandatory reporter —
- (a) has a reasonable suspicion that an older person —
- (i) has been or is being abused or neglected; or
- (ii) was or is the subject of self-neglect; and
- (b) the suspicion is formed in the course of the mandatory reporter's work,
- the mandatory reporter shall notify the Department of the suspicion as soon as practicable, but no later than twenty-four hours, after the mandatory reporter forms the suspicion.
- (2) If a person, other than a mandatory reporter, has a reasonable suspicion that an older person —
- (a) has been or is being abused or neglected; or
- (b) was or is the subject of self-neglect,



he or she may notify the Department of the suspicion as soon as practicable after he or she forms the suspicion.

- (3) The following persons are mandatory reporters —
- (a) a member of the Parliament;
 - (b) a registered practitioner;
 - (c) the administrative staff of medical facilities;
 - (d) the staff of financial institutions and insurance companies;
 - (e) a police officer;
 - (f) a probation officer;
 - (g) an officer of the Department;
 - (h) a social worker;
 - (i) a minister of religion;
 - (j) a person who is an employee of an organisation formed for religious or spiritual purposes;
 - (k) the Council for Older Persons;
 - (l) the Older Persons Tribunal;
 - (m) a Justice of the Peace;
 - (n) a prison officer appointed under the *Prisons Act (2021 Revision)*;
 - (o) the department of Government with responsibility for the land registry;
 - (p) any person who is an employee of an entity as defined in the *Public Management and Finance Act (2020 Revision)* and being a person who —
 - (i) is engaged in the actual delivery of services to older persons; or
 - (ii) holds a management position in the relevant entity, the duties of which include direct responsibility for, or direct supervision of, the provision of services to older persons; and
 - (q) any other person who, by virtue of that person's employment, occupation or voluntary role (paid or unpaid), has a responsibility to discharge a duty of care towards an older person.
- (4) A notification under this section shall be accompanied by a statement of the observations, information and opinions on which the suspicion is based.

- (5) A person does not exhaust the person's duty of care to an older person by giving a notification under this section.
- (6) A person, public authority, non-profit organisation or private entity which appoints persons in positions by virtue of which they are mandatory reporters, paid or unpaid, shall ensure that an appointed mandatory reporter undergoes training in relation to safeguarding within twelve months of the date of commencement of the *Older Persons (Amendment) Act, 2024* or within six months following his or her appointment in the role of mandatory reporter, whichever is sooner.
- (7) A private entity, non-profit organisation or public authority that employs mandatory reporters shall have, and shall provide to every mandatory reporter, a written policy which complies with this Act regarding its safeguarding procedures and its procedures for reporting abuse and neglect of older persons.
- (8) A person who contravenes this section (other than subsection (6) or (7)) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of three years or both.
- (9) The Cabinet may by Order amend the list of persons set out in subsection (3).

Protection from liability for voluntary or mandatory notification

17G. A person who, whether voluntarily or pursuant to a requirement of this Act, notifies the Department of a suspicion that an older person has been or is being abused or neglected or provides any information to the Department in respect of such a notification —

- (a) shall not, by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct; and
- (b) insofar as the person has acted in good faith, incurs no civil or criminal liability in respect of the notification or the provision of the information.

Confidentiality of notification of abuse or neglect

17H.(1) Subject to this section, a person who receives from a notifier a notification of abuse or neglect of an older person, or who otherwise becomes aware of the identity of a notifier, shall not disclose the identity of the notifier to any other person unless the disclosure is made —



- (a) in the course of official duties to another person acting in the course of official duties;
 - (b) with the consent of the notifier; or
 - (c) by way of evidence adduced in accordance with subsections (2) and (3).
- (2) Subject to subsection (3) —
- (a) no evidence as to the identity of a notifier, or from which the identity of the notifier could be deduced, may be adduced in proceedings before a court without the permission of the court; and
 - (b) unless such permission is granted, a party or witness in those proceedings shall not be asked, and, if asked, shall not be required to answer, any question that cannot be answered without disclosing the identity of, or leading to the identification of, the notifier.
- (3) A court shall not grant permission under subsection (2) unless —
- (a) the court is satisfied that the evidence is of critical importance in the proceedings and that failure to admit it would prejudice the proper administration of justice; or
 - (b) the notifier consents to the admission of the evidence in the proceedings.
- (4) An application for permission to adduce evidence under subsection (2) —
- (a) shall not, except as authorised by the court, be heard and determined in public; and
 - (b) shall be conducted in such a manner as to protect, so far as may be practicable, the identity of the notifier pending the determination of the application.

Department not obliged to take action

- 171.** Subject to section 17J, nothing in this Act requires the Department to take or initiate any action under this Act in relation to a notification of suspected abuse or neglect of an older person, if the Department is satisfied —
- (a) that the information or observations on which the notifier formed a suspicion were not, in the opinion of the Department, sufficient to constitute reasonable grounds for the suspicion; or
 - (b) that, while there are reasonable grounds for such a suspicion, proper arrangements exist for the care and protection of the older person and the matter of the apparent abuse or neglect has been or is being adequately dealt with.

Assessment and investigation of notification by Department

- 17J.(1)** Within three working days of receiving a notification accompanied by a statement under section 17F, the Department shall assess the information in the notification and statement and prepare a Departmental Report about the alleged abuse, neglect or self-neglect of the older person and, after the assessment, the Department may —
- (a) refer the notification and the Departmental Report to the Commissioner of Police for such further investigation as the case may require; and
 - (b) inform the older person of the Departmental Report unless, in the opinion of the Department, the information would cause physical or emotional harm to any person, endanger the safety of the older person or prejudice an investigation under paragraph (a).
- (2) A Departmental Report shall not, so far as practicable, directly or indirectly identify a notifier, unless it is necessary in order for the report to be considered complete.

Sharing of Departmental Report by Department

- 17K.(1)** Subject to subsections (3) and (4), the Department may, if it is necessary in the interests of the older person to whom a Departmental Report relates, disclose the Departmental Report, or a portion of the Departmental Report, to a person to whom this section applies.
- (2) This section applies to —
- (a) the older person to whom the Departmental Report relates;
 - (b) a legal guardian of, or a person with power of attorney for, the older person;
 - (c) a person authorised under an intervention order to act or make decisions in relation to the older person;
 - (d) a registered practitioner who is providing care to the older person;
 - (e) an agency responsible for, or authorised to undertake, the care or treatment of the older person or the actual delivery of programmes, services or community-based care to the older person;
 - (f) an attorney-at-law who requires the Departmental Report in connection with a legal matter relating to the older person;
 - (g) a court which has determined that public disclosure of the Departmental Report is necessary for the determination of an issue before it;



- (h) if the older person is deceased, the executor or administrator of the older person's estate; and
 - (i) a person designated by the older person.
- (3) Where the Department discloses the Departmental Report, or a portion of the Departmental Report, the older person to whom the Departmental Report relates shall be notified of the disclosure, unless the older person is legally incapacitated or, in the opinion of the Department, the disclosure of the Departmental Report would prejudice an investigation under section 17J(a).
- (4) A person who receives a Departmental Report, or a portion of a Departmental Report, shall not disclose the identity of the person who notified the Department of the suspected abuse or neglect of the older person to whom the Departmental Report relates, unless the disclosure is made —
- (a) in the course of official duties, to another person acting in the course of official duties; or
 - (b) with the consent of the person who notified the Department.

PART 4B - INTERVENTION ORDERS

Intervention orders

- 17L.** (1) Any person or the Department may make an application to the Grand Court for an intervention order regarding the property, financial affairs or personal well-being (other than health care) of an older person, where it appears that the older person lacks capacity in accordance with section 17B(2) —
- (a) to take the action to which the application relates; or
 - (b) to make the decision about the property, financial affairs or personal well-being (other than health care) to which the application relates,
- and any person or the Department may apply for an intervention order where it appears that an intervention order is necessary for the protection of the property, financial affairs or personal well-being (other than health care) of the older person.
- (2) An intervention order may —
- (a) direct the taking of any action specified in the order;
 - (b) authorise an individual nominated in the application to take such action or make such decision in relation to the property,

- financial affairs or personal well-being (other than health care) of the older person as is specified in the order; and
- (c) authorise the Department —
- (i) to provide such accommodation for an older person; and
 - (ii) to take such action or make such decision in relation to the personal well-being (other than health care) of the older person,
- as is specified in the order.
- (3) Anything done under an intervention order shall have the same effect as if done by the older person if the older person had the capacity to do so.
- (4) An older person who lacks capacity may bring, or make claim in, any proceedings by that older person's next friend and may defend, make counterclaim or intervene in any proceedings, or appear in any proceedings under a judgment or order, notice of which has been served on that older person, by that older person's guardian ad litem.

PART 4C - THE OLDER PERSONS TRIBUNAL

The Older Persons Tribunal

- 17M.**(1) There is established a body to be called the Older Persons Tribunal having the functions, responsibilities, powers and duties conferred or imposed upon it by this and any other Act.
- (2) Schedule 2 has effect with respect to the constitution and procedure of the Tribunal.
- (3) Subject to this Act and any Regulations, the Tribunal may determine its procedure.

Functions and powers of the Tribunal

- 17N.**(1) The Tribunal shall hear and determine complaints filed with the Tribunal under this Act, in accordance with the procedure set out in the regulations.
- (2) For the purpose of discharging its functions under this Act, the Tribunal shall have the power to —
- (a) compel the production of documents or any other matter or thing from any person, public authority, non-profit organisation or private entity that the Tribunal has reasonable grounds to believe is breaching any relevant provision of this Act;



- (b) issue summonses to compel the attendance of witnesses at the hearing; and
 - (c) examine witnesses on oath, affirmation or otherwise at the hearing.
- (3) A summons issued by the Tribunal under this section shall be under the hand of the Tribunal Chairperson.
- (4) A person who —
- (a) fails without reasonable excuse to comply with a requirement or a summons under subsection (2);
 - (b) destroys or alters, or causes to be destroyed or altered, any document, or other matter or thing required to be produced under subsection (2); or
 - (c) hinders, obstructs, prevents or interferes with the Tribunal in the exercise of a power under this section,
- commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Complaints

- 170.**(1) A person may file a complaint with the Tribunal in accordance with the prescribed procedure if the person has reasonable grounds for believing that —
- (a) another person, a private entity, a non-profit organisation or a public authority is contravening or has contravened Part 4;
 - (b) another person, a private entity, a non-profit organisation or a public authority is contravening or has contravened section 17E;
 - (c) another person, a private entity, a non-profit organisation or a public authority is contravening or has contravened section 17F(6); or
 - (d) another person, a private entity, a non-profit organisation or a public authority is contravening or has contravened section 17F(7).
- (2) Where, after a hearing of a complaint, the Tribunal finds that —
- (a) the complainant's allegations or suspicions are substantiated, the Tribunal may, in accordance with the regulations —
 - (i) issue directions requiring the person, private entity, non-profit organisation or public authority against whom the complaint was made to take remedial action within a

- specific period, having regard to this Act and any other legislation; and
- (ii) make an award for costs; or
- (b) the complaint is frivolous or vexatious or that the complainant's allegations or suspicions are incorrect or unsubstantiated, the Tribunal may order the complainant to pay the costs incurred by the Tribunal and the person, private entity, non-profit organisation or public authority against whom the complaint was made.
- (3) A person who fails to comply with a direction, award for costs or order of the Tribunal given pursuant to subsection (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Chairperson and deputy chairperson of the Tribunal

- 17P.**(1) The Chairperson of the Tribunal and the Deputy Chairperson of the Tribunal shall be appointed by the Cabinet.
- (2) The duties of the Tribunal Chairperson include chairing meetings of the Tribunal.
- (3) In the case of the absence or inability of the Tribunal Chairperson to act, the Deputy Tribunal Chairperson shall perform the duties of the Tribunal Chairperson.

Secretary of the Tribunal

- 17Q.**(1) The Cabinet shall appoint an individual who is a civil servant to be the secretary of the Tribunal but the secretary shall not be a member of the Tribunal and shall have no right to vote at meetings of the Tribunal.
- (2) The secretary shall carry out administrative duties, including recording and keeping minutes of the meetings and proceedings of the Tribunal.

Remuneration of members of the Tribunal

- 17R.**Each of the members of the Tribunal (if they are not civil servants) may receive such remuneration in respect of each meeting attended, and the Tribunal Chairperson and Deputy Tribunal Chairperson may receive such additional remuneration, as may be determined by the Cabinet.



Protection from liability

- 17S.** (1) A member of the Tribunal shall not be liable in damages for anything done or omitted in the discharge or purported discharge of the member's functions, responsibilities, powers and duties under this Act unless it is shown that the act or omission was negligent or in bad faith.
- (2) The Government shall indemnify a member of the Tribunal against all claims, damages, costs, charges or expenses incurred by the member in the discharge or purported discharge of the member's functions, responsibilities, powers and duties under this Act, except claims, damages, costs, charges or expenses caused by the negligence or bad faith of that member.”.

Substitution of section 18 - obstruction of authorised persons

- 13.** The principal Act is amended by repealing section 18 and substituting the following section —

“Obstruction of authorised persons

- 18.** (1) A person who assaults, obstructs, or knowingly gives false or misleading information to, an authorised person, commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months, or to both.
- (2) In this section “authorised person”, in relation to any act, means a person acting in the performance of that person's lawful functions under this Act.”.

Insertion of sections 18A and 18B - rules of court; appeals of court decisions

- 14.** The principal Act is amended by inserting after section 18 the following sections —

“Rules of court

- 18A.**(1) The Rules Committee of the Grand Court may make such rules for giving effect to —
- (a) this Act; or
- (b) the provisions of any statutory instrument made under this Act, as appears to the Rules Committee to be necessary or expedient.
- (2) The rules may, in particular, make provision —
- (a) with respect to the procedure to be followed in any relevant proceedings (including the manner in which any application is to be made or other proceedings commenced);

- (b) as to the persons entitled to participate in any relevant proceedings, whether as parties to the proceedings or by being given the opportunity to make representations to the court;
 - (c) with respect to the documents and information to be furnished, and notices to be given, in connection with any relevant proceedings;
 - (d) applying (with or without modification) enactments which govern the procedure to be followed with respect to proceedings brought on a complaint made to a summary court to relevant proceedings in such a court brought otherwise than on a complaint;
 - (e) for the service outside the Islands, in such circumstances and in such manner as may be prescribed, of any notice of proceedings in a summary court;
 - (f) for the exercise by summary courts, in such circumstances as may be prescribed, of such powers as may be prescribed (even though a party to the proceedings in question is or resides outside the Islands);
 - (g) enabling the court, in such circumstances as may be prescribed, to proceed on any application even though the respondent has not been given notice of the proceedings; and
 - (h) authorising a summary court to order any of the parties to such relevant proceedings as may be prescribed, in such circumstances as may be prescribed, to pay the whole or part of the costs of all or any of the other parties.
- (3) In subsection (2) —
- “**notice of proceedings**” means a summons or such other notice of proceedings as is required; and
 - “**given**”, in relation to a summons, means “served”;
 - “**prescribed**” means prescribed by the rules; and
 - “**relevant proceedings**” means any application made, or proceedings brought, under any of the provisions mentioned in subsection (1)(a) and (b) and any part of such proceedings.
- (4) This section is not to be taken as in any way limiting any other power of the Rules Committee of the Grand Court.

Appeals of court decisions

- 18B.**(1) Subject to any express provisions to the contrary made by or under this Act, an appeal shall lie to the Grand Court against —
- (a) the making by a summary court of any order under this Act; or



- (b) any refusal by a summary court to make such an order.
- (2) Where a summary court has power, in relation to any proceedings under this Act, to decline jurisdiction because it considers that the case can more conveniently be dealt with by the Grand Court, no appeal shall lie against any exercise by that summary court of that power.
 - (3) On an appeal under this section, the Grand Court may make such orders as may be necessary to give effect to its determination of the appeal.
 - (4) Where an order is made under subsection (3), the Grand Court may also make such incidental or consequential orders as appears to it to be just.
 - (5) Where an appeal from a summary court relates to an order for the making of periodical payments, the Grand Court may order that its determination of the appeal shall have effect from such date as it thinks fit to specify in the order.
 - (6) The date specified under subsection (5) shall not be earlier than the earliest date allowed in accordance with rules of court made for the purposes of this section.
 - (7) Where, on an appeal under this section in respect of an order requiring a person to make periodical payments, the Grand Court reduces the amount of those payments or discharges the order —
 - (a) it may order the person entitled to the payments to pay to the person making them such sum in respect of payments already made as the Grand Court thinks fit; and
 - (b) if any arrears are due under the order for periodical payments, it may remit payment of the whole, or part, of those arrears.
 - (8) Any order of the Grand Court made on an appeal under this section (other than one directing that an application be re-heard by a summary court) shall, for the purposes —
 - (a) of the enforcement of the order; and
 - (b) of any power to vary, revive or discharge orders,be treated as if it were an order of the summary court from which the appeal was brought and not an order of the Grand Court.
 - (9) An appeal of any decision made by the Grand Court shall be made to the Court of Appeal.”.

Amendment of Schedule - the Council of Older Persons

15. The principal Act is amended in the Schedule as follows —



- (a) by renumbering the Schedule as Schedule 1;
- (b) by repealing paragraph 1 and substituting the following paragraph —

“Composition of Council

- 1. (1) The Council shall consist of —
 - (a) the Council Chairperson, who shall be Caymanian as defined in the *Immigration (Transition) Act (2022 Revision)*;
 - (b) the Deputy Council Chairperson;
 - (c) six members each of whom, at the date of appointment, is fifty-five years of age or older and representative of each of the following districts in the Cayman Islands —
 - (i) West Bay;
 - (ii) George Town;
 - (iii) Bodden Town;
 - (iv) North Side;
 - (v) East End; and
 - (vi) Cayman Brac or Little Cayman;
 - (d) a registered practitioner;
 - (e) an attorney-at-law; and
 - (f) six members who are civil servants, being —
 - (i) the chief officer of the ministry with responsibility for social development or the chief officer’s designate in that ministry;
 - (ii) the chief officer of the ministry with responsibility for health or the chief officer’s designate in that ministry;
 - (iii) the chief officer of the ministry with responsibility for labour or the chief officer’s designate in that ministry;
 - (iv) the chief officer of the ministry with responsibility for gender affairs or the chief officer’s designate in that ministry;
 - (v) the chief officer of the ministry with responsibility for education or the chief officer’s designate in that ministry; and
 - (vi) the Director of the Department or the Director’s designate in the Department.



- (2) The Cabinet shall appoint the members of the Council named in subparagraph (1)(a) to (e).
- (3) The civil servant members are *ex officio* members of the Council and have no right to vote.”;
- (c) in paragraph 2(2) by inserting after the words “of the Council” the words “, other than the civil servant members,”;
- (d) in paragraph 3(3) by inserting after the words “would have expired” the words “or for a four-year term”;
- (e) in paragraph 4 as follows —
 - (i) by repealing subparagraph (1) and substituting the following subparagraph —

“(1) The Cabinet may terminate the appointment of a member of the Council where the member —

 - (a) becomes of unsound mind or incapable of carrying out that member’s duties;
 - (b) becomes bankrupt, suspends payment to or compounds with that member’s creditors;
 - (c) is convicted in the Islands or in any other jurisdiction of an indictable offence or an offence involving dishonesty or fraud;
 - (d) commits serious misconduct in relation to that member’s duties;
 - (e) is absent —
 - (i) in the case of the Deputy Council Chairperson or other member, without leave of the Council Chairperson; or
 - (ii) in the case of the Council Chairperson, without leave of the Ministry,

from three consecutive meetings of the Council;

 - (f) fails, without reasonable excuse, to carry out that member’s duties in a reasonable or timely manner;
 - (g) fails to make a disclosure in accordance with paragraph 5(6); or
 - (h) behaves in a manner likely to bring the Council into disrepute.”; and
- (ii) by repealing subparagraph (2) and substituting the following subparagraph —

- “(2) Where any member of the Council, other than the civil servant members, ceases to be a member before the normal expiration of the member’s office, the Cabinet, in accordance with this Act, may appoint another person to hold that office until the time that the member’s office would have expired or for a four-year term.”; and
- (f) in paragraph 5 as follows —
- (i) in subparagraph (1), by deleting the word “twelve” and substituting the word “six”;
 - (ii) in subparagraph (2), by deleting the words “paragraph 1(1)(a) or (b)” and substituting the words “paragraph 1(1)(a), (b), (c), (d) or (e)” and by inserting after the words “to his” the words “or her”;
 - (iii) in subparagraph (3), by deleting the words “eight members” and substituting the words “members other than the civil servant members”; and
 - (iv) by repealing subparagraph (5).

Insertion of Schedule 2 - the Older Persons Tribunal

- 16.** The principal Act is amended by inserting after the Schedule, the following Schedule —

“SCHEDULE 2

(section 17M(2))

THE OLDER PERSONS TRIBUNAL

Composition of the Tribunal

- 1.** (1) The Tribunal shall consist of the following members, each of whom shall be appointed by the Cabinet —
- (a) a chairperson, who shall be Caymanian as defined in the *Immigration (Transition) Act (2022 Revision)* and an attorney-at-law of at least five years’ experience;
 - (b) a deputy chairperson, who shall be an attorney-at-law of at least three years’ experience;
 - (c) a person with at least three years’ experience in finance;
 - (d) a person who is a member of the Council for Older Persons; and
 - (e) one other person who shall be a person with at least three years’ experience in the disciplines or fields of counselling, psychiatry, psychology, social work or therapy.



- (2) A person shall be disqualified from being a member and is not eligible to be appointed as a member, or having been appointed, is not eligible to continue as a member, if that person is a civil servant.
- (3) Each member of the Tribunal shall be appointed by Cabinet for a term of not less than three years and shall be eligible for re-appointment and the Cabinet shall cause notice of such appointment or reappointment to be published in the *Gazette*.
- (4) Where a vacancy exists in the membership of the Tribunal, the Cabinet shall appoint a person to fill the vacancy in accordance with this paragraph.

Tenure of office

2. The members of the Tribunal shall hold and vacate office in accordance with this Schedule and the terms of their appointment.

Decisions of the Tribunal

3. (1) A decision of the Tribunal shall be by a majority of votes of members present and voting, but the chairperson or the person presiding as such shall not have an original vote, and shall only exercise a casting vote in any case in which the votes are equally divided.
- (2) At every meeting of the Tribunal, a quorum shall consist of a simple majority of three members.

Declaration of interest

4. (1) A member of the Tribunal who is in any way, either directly or indirectly, interested in a matter before the Tribunal shall declare the nature of the member's interest to the Tribunal at the first instance where it is practicable to do so.
- (2) Where a member declares an interest under subparagraph (1), the Tribunal shall determine whether or not the member's interest in the matter, is material and where the Tribunal determines the member's interest is material, the member shall not sit to hear that particular matter.

Revocation

5. The Cabinet shall at any time, in writing, revoke the appointment of a member if, upon evidence, the Cabinet is satisfied —
 - (a) that the member is disqualified from being a member;
 - (b) that the member is unable to perform the functions of his or her office;
 - (c) that the member is guilty of misconduct;

- (d) that the member has been disqualified or suspended on grounds of misconduct, by a competent authority, from practising a profession;
- (e) that the member is disqualified on grounds of national security; or
- (f) that there is any other sufficient cause.

Vacation of office

- 6.** (1) The office of a member of the Tribunal is vacated upon the death of the member or if the member is or becomes disqualified.
- (2) The Cabinet may terminate the appointment of a member of the Tribunal where the member —
- (a) becomes of unsound mind or incapable of carrying out that member's duties;
 - (b) becomes bankrupt, suspends payment to or compounds with that member's creditors;
 - (c) is convicted in the Islands or in any other jurisdiction of an indictable offence or an offence involving dishonesty or fraud;
 - (d) commits serious misconduct in relation to that member's duties;
 - (e) is absent from three consecutive meetings of the Tribunal —
 - (i) in the case of the Deputy Tribunal Chairperson or other member, without leave of the Tribunal Chairperson ; or
 - (ii) in the case of the Tribunal Chairperson, without leave of the Ministry;
 - (f) fails, without reasonable excuse, to carry out that member's duties in a reasonable or timely manner;
 - (g) fails to make a disclosure of interest; or
 - (h) behaves in a manner likely to bring the Tribunal into disrepute.
- (3) A member of the Tribunal may resign the office by instrument in writing addressed to the Cabinet.
- (4) A decision of the Tribunal taken at a hearing is not invalidated merely because there is a vacancy in membership.



Confidentiality of the Tribunal

7. (1) The facts and particulars of, or relating to, any matter falling for consideration by the Tribunal or any decision of the Tribunal shall be treated as confidential by each member of, and the secretary to, the Tribunal and any such facts or particulars shall not be disclosed otherwise than in the proper performance of duties under this Act or in compliance with an order of a court or tribunal of competent jurisdiction, or where required by law.
- (2) The failure of a member of, or the secretary to, the Tribunal to comply with subparagraph (1) constitutes sufficient ground for the termination of the appointment of the member or the secretary.
- (3) A person who contravenes subparagraph (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.
- (4) An allegation of a breach of subparagraph (1) shall be fully investigated by a police officer.
- (5) In this paragraph —
“**court**” includes any tribunal, authority or person having power to require the production of documents or the answering of questions; and
“**production**” includes permitting access to.”.

Passed by the Parliament the 16th day of December, 2024.

Hon. Sir Alden McLaughlin
Speaker

Zena Merren-Chin
Clerk of the Parliament

