

SEYCHELLES HOME CARE AGENCY BILL, 2022

(Bill No.41 of 2022)

EXPLANATORY STATEMENT ON OBJECTS AND REASONS OF THE BILL

The core objective of this Bill is to provide a legislative framework which modernises the existing Home Care Programme in pursuit of the objective of this Bill which seeks to establish the Seychelles Home Care Agency (the “Agency”), a body corporate that will administer and manage home care.

The Agency will, amongst other things—

- (a) receive and process all applications for home care and financial assistance;
- (b) receive and process all applications for the registration as home care givers;
- (c) maintain a register of persons who have applied for home care or to be registered as home care givers, persons who are eligible for home care and who have been granted financial assistance and persons who have been registered as home care givers;
- (d) appoint monitoring officers to monitor the provision of home care services by the registered home care givers; and
- (e) resolve disputes that may arise between beneficiaries and home care givers.

The Bill seeks to provide for a proper legislative framework for the assessment of an applicant’s eligibility for home care and the applicant’s eligibility for financial assistance to pay a home care giver to provide home care services to the applicant.

The Bill gives a person aggrieved by a decision of the Agency a right to appeal against the decision to an Appeals Board established under the Act.

The objective of the Bill is not solely to provide for a legislative framework but to also modernise the existing scheme of provision of home care and the level of financial assistance so as to ensure proper management and accountability.

Finally, the Bill takes into consideration the existing scheme that is managed by the Agency for Social Protection and provides for the continuation of their benefit and the provision of home care services subject that within a period of 12 months of the coming into operation of the Act, both the existing beneficiaries and home care givers submit their relevant applications which will be processed in accordance with the provisions of this Act.

Dated this 12th day of December, 2022

**MARIE-CELINE ZIALOR
MINISTER OF YOUTHS,
SPORTS AND FAMILY**

SEYCHELLES HOME CARE AGENCY BILL, 2022

(Bill No.41 of 2022)

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SEYCHELLES HOME CARE AGENCY BILL, 2022

(Bill No.41 of 2022)



A BILL

FOR

AN ACT TO ESTABLISH THE SEYCHELLES HOME CARE AGENCY THAT WILL REGISTER BENEFICIARIES OF HOME CARE SERVICES AND HOME CARE GIVERS AND ADMINISTER AND REGULATE THE PROVISION OF HOME CARE SERVICES AND FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Home Care Agency Act, 2022 and shall come into operation on such date as the Minister may by notice published in the Gazette, appoint.

Interpretation

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

“Appeals Board” means the Appeals Board established under section 27;

“Agency” means the Seychelles Home Care Agency established under section 3;

“beneficiary” means a person whose application for home care has been granted or who is receiving home care under this Act;

“Board” means the Board of the Agency established under section 21;

“certificate of competency” means a certificate evidencing competency in home care on an elementary, intermediate or advanced level;

“Chief Executive Officer” means the Chief Executive Officer appointed under section 18;

“familial arrangement” means an arrangement made for the care of a person based on a moral obligation to ensure the safety and wellbeing of that person and concerning which financial assistance under this Act is not provided;

“financial assistance” means financial assistance determined in accordance with section 13;

“home” means the place where a beneficiary resides, whether permanently or temporarily for the purpose of receiving home care;

“home care” means flexible and personal daily care and support provided by a home care giver to a beneficiary for varying lengths of time;

“home care giver” means a person who provides home care to a beneficiary;

“means assessment” means an assessment into the means of a person applying for financial assistance under this Act;

“Minister” means the minister responsible for family affairs;

“needs assessment” means an assessment made by a medical or health professional into the needs of an applicant under section 10 to determine if an he or she is eligible for home care and where the applicant is eligible, the level of home care that the applicant will require;

“needs assessment report” means a report of the needs assessment;

“prescribed” means prescribed by regulations made by the Minister;

“registered home care giver” means a home care giver registered under this Act;

PART II - SEYCHELLES HOME CARE AGENCY

Establishment of the Seychelles Home Care Agency

3.(1) There is established a body corporate to be known as the Seychelles Home Care Agency.

(2) The Agency shall administer and manage home care, and shall be accountable to the Board established under section 21.

Functions of Agency

4. The Agency shall—

- (a) regulate home care;
- (b) receive and process applications for home care and financial assistance;
- (c) receive and process applications for registration as home care givers;
- (d) issue certificates of registration pursuant to section 6;
- (e) establish and maintain registers in accordance with this Act;
- (f) monitor home care provided by home care givers;

- (g) recommend standards in relation to home care to the Minister;
- (h) approve training providers in home care for home care givers;
- (i) draw up contracts in accordance with section 12;
- (j) hear and determine any dispute between a beneficiary and his or her home care giver;
- (k) subject to other provisions of this Act or any other law, manage financial schemes provided under this Act;
- (l) perform such other functions as may be prescribed.

Directions by the Minister

5. The Minister may give written directions to the Agency on matters of policy which the Agency shall implement.

PART III - HOME CARE

Certificate of registration

6.(1) A home care giver, not being a person concerning which a familial or other arrangement outside of this Act is made, shall not provide home care without having applied for registration and been registered under this Act and accordingly issued a certificate of registration by the Agency.

(2) An application for registration under subsection (1) shall be made to the Agency in the prescribed form, accompanied by a certificate of competency.

(3) An application made under subsection (1) may be made through an agent.

(4) The Agency shall upon evaluation of the application and an assessment into the applicant's suitability —

- (a) grant the application and issue the applicant with a certificate of registration; or
- (b) reject the application where the Agency is satisfied that the applicant does not meet the requirements of this Act.

(5) A certificate of registration shall be valid for a period of three years and subject to section 7, may upon application to the Agency be renewed.

(6) Where the Agency refuses an application, it shall provide the applicant with reasons for such refusal.

(7) The Agency may charge such fees as may be prescribed for the registration and renewal of a certificate of registration.

(8) A person aggrieved by a decision of the Agency made under subsection (5) may appeal such decision to the Appeals Board.

(9) Notwithstanding subsection (1), a person shall be liable to the penalty under section 28 if he or she palpably provides home care which ought, according to the Agency, to be registered under this Act.

Renewal of certificate of registration

7.(1) A home care giver whose certificate of registration has expired and who intends to renew the certificate, shall no later than three months prior to the date of its expiry, lodge a renewal application to the Agency.

(2) A renewal application under subsection (1) shall be made to the Agency in the prescribed form.

Register

8.(1) The Agency shall establish and maintain a register of -

- (a) persons who have applied for home care;
- (b) persons who have applied to be registered as home care givers under this Act;
- (c) beneficiaries; and
- (d) registered home care givers.

(2) A person whose name does not appear in the register of registered home care givers may provide home care in accordance with a home care scheme that may be prescribed.

Responsibilities of a home care giver

9.(1) A home care giver in providing home care to a beneficiary shall ensure that the service is offered in such a way as to —

- (a) promote and maintain the beneficiary's health, function, integration in society, and independence; and
- (b) enable the beneficiary to lead the best life possible and to remain fit and active for a longer period.

(2) Standards may be prescribed for carrying into effect the purpose and provisions of subsection (1).

Application for home care

10.(1) A person wishing to apply for home care under this Act shall lodge an application to the Agency in the form and manner as may be prescribed, accompanied by a needs assessment report.

(2) An application pursuant to subsection (1) may be made by the person's guardian or anyone interested in his or her wellbeing

(3) The Agency may upon evaluation of the application—

- (a) grant the application subject to any condition;
- (b) attach conditions prior to granting the application; or
- (c) reject the application.

(4) Where the Agency grants an application pursuant to subsection (3), the Agency shall determine, based on a means assessment, if the applicant is eligible for financial assistance and where the applicant is eligible, the level of financial assistance required.

(5) An applicant aggrieved by a decision of the Agency in relation to an application under subsection (1) or a decision under subsection (4), may appeal against such decision to the Appeals Board.

Allocation of home care givers

11.(1) The Agency shall allocate home care givers to a beneficiary from the register of registered home care givers maintained under section 8.

(2) In allocating a home care giver to a beneficiary, the Agency shall have regard to the extent of the beneficiary's need and the home care giver's competency in home care in accordance with his or her certificate of competency.

Contract

12.(1) A home care giver and the beneficiary shall enter into a contract drawn up by the Agency for the provision of home care.

(2) Where a beneficiary is unable to enter into the contract, the contract may be entered into for and on behalf of the beneficiary, by his or her guardian or a close relative.

(3) The contract shall set out the obligations of the parties and the conditions under which it is to be performed based on the needs assessment report.

(4) A home care giver shall, for the purpose of this Act, be an independent service provider.

(5) The Minister may prescribe terms and conditions that will apply to the provision of home care and which terms and conditions shall be deemed to be part of every contract for provision of home care to which they relate, save where the contract provides for terms and conditions more favourable than those prescribed, those conditions more favourable shall apply unless otherwise prohibited under this Act.

Financial assistance

13.(1) Financial assistance shall be determined in accordance with the formula set out in the Schedule.

(2) The Agency shall provide financial assistance to a beneficiary who is eligible for financial assistance for the purpose of assisting the beneficiary with his or her payment obligations to a home care giver—

- (a) in terms of the contract entered into under section 12;
or
- (b) based on any other home care scheme that may be prescribed.

PART IV - MONITORING OF HOME CARE

Monitoring of home care

14.(1) The Agency shall cause monitoring officers appointed under this Act to perform home visits to a home —

- (a) on a regular basis;
- (b) whenever a complaint is lodged by a person against the home care giver; or
- (c) whenever the Agency deems it necessary.

(2) Home visits carried out under subsection (1) shall be conducted for the determination of the extent of adherence by a home care giver to this Act and to the standards that may be prescribed.

Appointment and powers of monitoring officers

15.(1) The Agency may appoint such number of monitoring officers as may be necessary for carrying out its monitoring functions under this Act.

(2) The Agency shall provide the monitoring officers with an identification card which the monitoring officers shall, upon request, produce before exercising powers under this Act.

(3) Monitoring officers and other staff of the Agency authorised by the Chief Executive Officer may, at all reasonable times, enter a home for the purpose of carrying out home visits under section 14.

(4) The monitoring officers may inquire into a complaint concerning, amongst other matters—

- (a) a person who provides home care in contravention of this Act; or
- (b) a contravention of the prescribed standards.

(5) A monitoring officer upon inquiring into a complaint under subsection (4), shall within 10 working days of such inquiry, report in writing his or her findings to the Chief Executive Officer.

Enforcement notice and suspension

16.(1) The Agency may issue the registered home care giver with an enforcement notice directing him or her to comply with the requirements of this Act or standards hereunder prescribed within the period specified in the notice where the Agency, upon report of a monitoring officer or a complaint, determines that—

- (a) a registered home care giver provides home care to a person other than a beneficiary allocated to him or her; or
- (b) a registered home care giver has not complied with the prescribed standards.

(2) Where the home care giver fails to comply with the enforcement notice issued under subsection (1), the Agency may, after giving him or her an opportunity to show cause as to why the certificate of registration should not be suspended, suspend the certificate of registration until such period as he or she complies with the enforcement notice.

(3) Notwithstanding subsection (2), a suspension period shall not exceed three months.

(4) Where the Agency is of the opinion that the non-compliance of a home care giver with the requirements or prescribed standards under this Act may result in a threat to the life, safety or health of a beneficiary, the Agency may suspend the certificate of registration at the time the notice under subsection (1) is issued until such period as the home care giver complies with the prescribed standards.

Revocation of certificate of registration

17.(1) The Agency may, after serving the home care giver with a show cause notice giving him or her an opportunity to show cause as to why his or her certificate of registration should not be revoked, revoke the certificate of registration, where —

- (a) non-compliance subsists 48 hours immediately following the elapsing of a suspension period;
- (b) the home care giver refuses a monitoring officer access to the home; or

- (c) the home care giver solicits, advertises, invites or offers to provide home care within the period his or her certificate of registration is suspended.

(2) The home care giver shall furnish reasons in response to a show cause notice within ten working days of being notified of the revocation.

(3) Where a home care giver fails to furnish a response within the time stipulated under subsection (2), the Agency may revoke his or her certificate of registration.

(4) A home care giver who is dissatisfied with the decision of the Agency to suspend or revoke a certificate of registration may, in such form and manner and accompanied by such fees as may be prescribed, appeal the decision to the Appeals Board.

PART V - APPOINTMENTS AND STAFF

Appointment of Chief Executive Officer

18.(1) The President may appoint, on such terms and conditions as he may determine, a person having experience and expertise in the field of home care as Chief Executive Officer of the Agency.

(2) The Chief Executive Officer, in addition to such other functions which the Board may from time to time assign, shall be responsible for the day to day affairs of the Agency.

(3) Subject to any direction of the Board, the Chief Executive Officer shall participate in the meetings of the Board but shall not have the right to vote.

Appointment of Deputy Chief Executive Officer

19.(1) The President may appoint a Deputy Chief Executive Officer on such terms and conditions as he may determine.

(2) The Deputy Chief Executive may act in the office of the Chief Executive Officer —

- (a) during the vacancy in the office of the Chief Executive Officer; or

- (b) during any period in which the Chief Executive Officer holding that office is absent from duty or from Seychelles or is, for any reason, unable to perform the functions of that office.

(3) While the Deputy Chief Executive is acting in the Office of the Chief Executive Officer, the Deputy Chief Executive Officer has and may exercise all the powers and perform all duties of the Chief Executive Officer under this Act.

(4) Where a power or function of the Chief Executive Officer under this Act is exercised or performed by the Deputy Chief Executive Officer, the power or function shall, for the purposes of this Act be deemed to have been exercised or performed by the Chief Executive Officer.

(5) The validity of anything done by the Deputy Chief Executive Officer shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or with the appointment, that the appointment had ceased to have effect or the ground that the occasion for the Deputy Chief Executive Officer to act had not arisen or had ceased.

Staff of the Agency

20. The Agency may employ, on such terms and conditions as may be determined by the Agency, such officers and staff as are necessary for the performance of its functions.

PART VI - BOARD OF THE AGENCY

Establishment and composition of the Board

21.(1) There is established a Board of the Agency to be appointed by the President in consultation with the Minister.

(2) The Board shall comprise five members who shall hold office for a period of three years and who shall be eligible for reappointment for two consecutive terms.

(3) In appointing members to the Board, the President may as far as possible give due consideration to representation by persons of good character whose experiences, expertise and contributions are deemed valuable to home care.

(4) The President shall from among the members appoint a Chairperson and a Vice-chairperson.

(5) The President shall cause a notice of the names of the members to be published in the *Gazette*.

(6) The Vice- chairperson, in the absence of the Chairperson, shall assume the responsibilities of the Chairperson and in the Vice-chairperson's absence, the members present shall nominate from among themselves a member as Chairperson.

(7) Every member of the Board shall be remunerated in accordance with government policy.

Functions of the Board

22. The Board shall —

- (a) govern and oversee the management of the affairs of the Agency;
- (b) assign functions to the Chief Executive Officer; and
- (c) make recommendations to the government on guidelines and policies.

Termination of appointment of members

23.(1) The President may at any time terminate the appointment of a member who —

- (a) has been found guilty of misconduct, default or breach of trust in the discharge of a duty;
- (b) has been convicted of an offence relating to dishonesty;
- (c) has in any way demonstrated incompetency or an inability to effectively carry out his or her functions as a member of the Board; or
- (d) has been absent from three consecutive meetings of the Board without prior permission of —
 - (i) the Chairperson;

- (ii) the Vice-chairperson, in the absence of the Chairperson; or
- (iii) the person so appointed by the members in the absence of the Vice-chairperson.

(2) A member whose appointment has been terminated under subsection (1) is not eligible for re-appointment.

Resignation from the Board

24.(1) A member may, at any time, resign from office by a letter addressed to the President and such member shall cease to be a member on the date the President accepts the resignation.

(2) Notwithstanding section 23(d), a member is deemed to have vacated office if he or she is absent without leave from the Board for three consecutive meetings of the Board.

(3) Where a member resigns or vacates office, the President may appoint another person to hold office for the remaining period which the member would have otherwise held office.

Meetings of the Board

25.(1) The Board shall meet at such time and place as the Chairperson may determine provided that at least four meetings are held in a year.

(2) The Chairperson may, by a written 14 days' notice to the members, convene a special meeting of the Board for the purpose specified in the notice.

(3) Notwithstanding subsection (2), a special meeting may, where the circumstances so warrant, be convened following a shorter notification period.

(4) Where 4 members, by written notice to the Chairperson, request a meeting of the Board for any purpose specified in the notice, the Chairperson shall, within 10 working days from receiving the notice, convene a meeting for that purpose.

(5) In a meeting of the Board, 3 members present shall constitute a quorum.

(6) A decision of the Board shall be taken by a majority of the votes of the members present and voting.

(7) In the event of an equality of votes, the Chairperson shall have a casting vote.

(8) A member who has a direct or indirect financial, personal or other interest in a matter before the Board, shall —

- (a) prior to the date of the meeting or at the commencement of the meeting, disclose the nature of his or her interest in the matter; and
- (b) recuse himself or herself from deliberations in respect of that matter and abstain from voting on it.

(9) The Board shall regulate its own proceedings.

PART VII - DISPUTE RESOLUTION

Dispute resolution

26.(1) A home care giver who is aggrieved by the manner in which he or she is treated by a beneficiary or a member of the beneficiary's family may file a written complaint to the Agency.

(2) Subsection (1) shall apply *mutatis mutandis* to a beneficiary who wishes to reach an amicable resolution before lodging a complaint under section 16.

(3) The Agency shall within 3 days of receipt of the complaint inquire into the matter.

(4) An inquiry under subsection (2) may necessitate a hearing held by the Chief Executive Officer accompanied by those monitoring officers who may have conducted visits at the relevant home.

(5) Where the Agency hears a case brought before it, it shall afford each party a fair hearing and an opportunity to respond to evidence brought against it.

(6) The Agency shall make a decision based on the facts presented before it and the parties shall comply.

(7) A person aggrieved by the decision of the Agency may appeal such decision to the Appeals Board.

(8) The Agency may —

- (a) delegate any of its powers under this section to a person or committee subject to such terms and conditions that it may itself impose; or
- (b) appoint a person or a committee to hear the complaint and make recommendation to the Agency.

PART VIII - APPEALS BOARD

Appeals Board

27.(1) There is established an Appeals Board appointed by the President, in consultation with the Minister.

(2) The Appeals Board shall comprise —

- (a) a Chairperson with qualifications and experience in law; and
- (b) two individuals with experience in health and social care and who are experienced in recognised civic work.

(3) The President shall cause the names of the appointees to be published in the *Gazette*.

(4) The Chairperson and other members of the Appeals Board shall hold office for a period two years and are eligible for reappointment.

(5) The President may at any time terminate the appointment of the Chairperson or a member of the Appeals Board who has been found guilty of—

- (a) misconduct, default or breach of trust in the discharge of his or her functions; or
- (b) an offence which warrants termination of his or her appointment.

(6) The Appeals Board may co-opt a person, who has specialised knowledge or experience in the field of health care, as advisor for a specific appeal to assist the Appeals Board in its deliberations.

- (7) The Appeals Board may, after considering an appeal —
- (a) confirm the decision of the Agency;
 - (b) vary the decision of the Agency;
 - (c) quash the decision of the Agency; or
 - (d) order the Agency to reconsider the decision.
- (8) The Chairperson and other members of the Appeals Board shall be remunerated in accordance with government policy.
- (9) The Appeals Board shall regulate its own proceedings.

PART IX - OFFENCES AND PENALTIES

Offences

- 28.** A person commits an offence and is liable on conviction to a term of imprisonment not exceeding two years or to a fine of level 3 on the standard scale or to both such fine and imprisonment if he or she —
- (a) provides home care without having been registered under section 6;
 - (b) being a home care giver, carries on providing home care despite a revoked certificate of registration; or
 - (c) being a home care giver registered with the Agency for Social Protection, provides home care beyond the period of 12 months stipulated under section 38 without being registered with the Agency.
 - (d) communicates information in contravention of section 31.

PARTX - FUNDS, FINANCES, ACCOUNTS AND REPORTS

Funds of the Agency

- 29.(1)** The Funds of the Agency shall consist of —

- (a) moneys appropriated by an Appropriation Act approved by the National Assembly for the purpose of the Agency;
 - (b) moneys accruing to the Agency from its operations or other payments; and
 - (c) moneys received by the Agency by way of donations, gifts or grants.
- (2) The Funds of the Agency shall be applied for —
- (a) the discharge of expenses, debts and other obligations incurred in the performance of the functions of the Agency;
 - (b) the remuneration of members of the Board, the Appeals Board, officers and other employees of the Agency;
 - (c) the disbursement of financial assistance in accordance with section 13; and
 - (d) other expenses, as may be authorised by the Board, for the purpose of carrying out the provisions of this Act.

Accounts, audit and annual report

30.(1) The Agency shall prepare an income and expenditure statement and maintain throughout the year proper accounts and records.

(2) Notwithstanding subsection (1), the accounts of the Agency shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(3) Where the accounts and statement of accounts of the Agency in respect of any financial year have been audited, the Agency shall furnish the Minister with a copy of the statement of accounts together with a copy of the report by the Auditor General on the statement of accounts of the Agency.

(4) The Agency shall after the expiration of each financial year submit to the Minister —

- (a) an annual report giving details of its activities from the previous year; and

- (b) not later than three months from the start of the financial year, copies together with the audited statement of accounts referred to under subsection (3).

(5) The Minister shall cause the documents referred to under subsection (4) to be tabled before the National Assembly.

(6) The financial year of the Agency shall be the period of 12 months ending on 31st of December.

PART XI - MISCELLANEOUS

Confidentiality

31. A person shall not without lawful authority or reasonable excuse communicate to another person information which the person has acquired while acting as a member or staff of the Agency.

Protection against legal proceedings

32. A civil or criminal liability shall not lie against the Agency, the Chairperson, the Vice-chairperson, a member of the Board, a committee, staff or officer of the Agency in respect of an act done or omitted to be done in good faith in the exercise or performance or purported exercise or performance of a power or function or duty conferred by or under this Act or regulations made under this Act.

Employment in public service

33. A member of the Board, Appeals Board, the Chief Executive Officer, a monitoring officer or any other member or staff or person acting under the direction of the Agency shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Regulations

34.(1) The Minister may, in consultation with the Agency make regulations for carrying into effect the purpose and provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations pertaining to—

- (a) the procedure by which a monitoring officer is to carry out monitoring exercises under this Act;

- (b) fees and charges payable under this Act, the payment procedures associated therewith and the exemption of fees and charges ;
- (c) standards of care;
- (d) conditions for the granting of a certificate of registration;
- (e) the compounding of offences;
- (f) amendment of the Schedule;
- (g) any matter relating to the Appeals Board;
- (h) matters relating to the setting up and operation of home care as a business activity;
- (i) any matter which, under this Act, is to be or is required to be prescribed.

Compounding of offences

35. Where the Agency or any other person agrees in writing to the compounding of an offence under this Act, which is an offence punishable on conviction by a fine, the Agency, in consultation with the Attorney General, may compound the offence in the manner which may be prescribed.

Committees

36. The Agency may, establish committees comprising persons having special or technical knowledge to assist the Agency in the performance of its functions under this Act.

Information sharing

37.(1) In the exercise of its functions under this Act, the Agency may—

- (a) require any person or public authority to furnish any information on matters relating to an application under this Act;
- (b) call upon a person to appear before the Agency to answer questions and to produce such documents as the Agency may specify;

- (c) nominate, appoint or authorise any person or any public authority to enquire and report on any matter relating to —
 - (i) an application under this Act;
 - (ii) an alleged breach of a condition of home care;
 - (iii) a renewal, revocation or suspension of financial assistance; or
 - (iv) a complaint against an applicant or beneficiary;

(2) The Agency shall consult any person or public authority where it deems it fit to consult before exercising its powers under subsection (1).

Transitional provisions

38.(1) This section applies to a person who was registered as a home care giver with the Agency for Social Protection immediately prior to the commencement of this Act.

(2) A person who falls within subsection (1) shall, subject to the condition specified in subsection (3), be deemed to be a registered home care giver under this Act.

(3) The condition referred to in subsection (2) is that the person must apply for registration, and be registered, under section 6 of this Act within a period of 6 months from the commencement date to be specified in Section 1.

(4) Subject to subsections (5) and (6), the provisions of this Act shall apply to a person who is deemed to be a registered home care giver under subsection (2) as they would otherwise apply to a home care giver registered under this Act.

(5) Any means test undertaken by the Agency for Social Protection prior to the commencement of this Act in relation to a beneficiary shall continue to be valid for a period of 12 months from the commencement date to be specified under Section 1.

(6) Where a person is deemed to be registered as a home care giver under subsection (2), the beneficiary shall be entitled to financial assistance under section 13 for a period of 12 months whether or not a contract has been entered into between the home care giver and the beneficiary under section 12.

SCHEDULE

Formula determining financial aid

- (1) **HHI=Household income of immediate family members dwelling in the home + 20% income from other household members**

“Immediate family member” means father, mother, husband, wife, domestic partners and living in children.

“Other household member” means brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law and other family relatives and their partners.

- (2) **HHE = Household Expenditure = Utility Bills + Transport + Rental**

Whereby:

- (a) utility bills is considered if the bill bears the name of, and is paid by, one of the household members featured on the application;
- (b) transport expenditures are considered only for those immediate household members whose full income has been fully considered;
- (c) rental expenditures are considered only for those immediate household members whose full income has been fully considered;
- (d) loans are considered only for those immediate household members whose full income has been fully consider.

- (3) **SL = Subsistence level = 3945 *(b) + 1972.5*(c)**

Whereby:

B = number of adults earning an income

C = children below 18 years

Therefore, amount of financial assistance payable = ***Household Income (HHI) – HH expenditures (HHE) – Subsistence Level (SL)***
