

# The Maintenance and Welfare of Parents and Senior Citizen Act 2007: Highlights

**Dr. Mansi Sharma**

Assistant Professor, School of Law, IGNOU, New Delhi

## **Abstract:**

In the world of technology and globalization we have moved from a joint family system to a new nuclear system. We know that the world's population is living longer and growing older every day. It is important that we address the issue of demographic transition, as we see a lot of people in their 70s and 80s. By 2030 1 in 6 people in the world will be aged 60 years or above. By 2050, the world's population of people aged 60 years and older will double. The number of persons aged 80 years or older is expected to triple between 2020 and 2050 to reach 426,000,000. It is expected that by 2050, two-thirds of the world population over 60 years will live in low- and middle-income countries. This paper delves into the Maintenance and Welfare of Parents and Senior Citizen Act 2007.

**KEYWORDS:** Senior citizen, silver lining, Human Rights, senior citizens programmes, old people, maintenance law related to elders, laws related to elderly people.

## **Objective:**

1. To discuss the Definition of Elderly People.
2. To discuss the objectives of the Maintenance and Welfare of Parents and Senior Citizens Act 2007.
3. To discuss the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act 2007.

## **INTRODUCTION:**

A key legislation for senior citizens, the Maintenance and Welfare of Senior Citizens Act, 2007, lays down measures for providing maintenance and support to elderly parents and senior citizens in India. This legislation has 7 chapters and 32 Sections. Phenomena of population aging is becoming a major concern for the governments and policymakers at international and National level. The changing demographic profile has seen many challenges in social, economic and political domains. Today, most of the people can expect to live into their 60s and 70s. Every country in the world is experiencing growth in size and proportion of elder people in the population. Nuclear family and live-in relationships have changed the social structure of the country. Urbanization and modernization has posed a serious security issue amongst the elderly population of the country who are forced to stay alone with house help or without house help and suffer from diseases related to old age and live a life in fear and isolation. Late marriages, single child and generation gap has widened the issues related to Social Security and integration of elderly population in the community.

Objectives of the Act: This Act provides more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution of India and for matters connected therewith or incidental thereto.

Chapter 1: Chapter 1 is divided into 3 sections. The first section deals with short title, extent, application and commencement of the Act. The second section talks about Definitions under the Act and the third section talks about overriding effect of this legislation.

Chapter 2: This is divided in 15 sections and deals with Maintenance of Parents and Senior Citizens.

Chapter 3: This chapter has one section which talks about establishment of old age homes.

Chapter 4: This chapter also has one section which deals with medical care of senior citizens.

Chapter 5: This chapter has three sections which deals with the Protection of Life and Property of Senior Citizens.

Chapter 6: This chapter has 2 sections which deals with Offences and Procedure for Trial.

Chapter 7.: This chapter has seven sections which deals with miscellaneous provisions.

### **Definition of Senior Citizen:**

An elderly person is defined by the United Nations as a person who is over 60 years of age. As per the definition given in Maintenance and Welfare of Parents and Senior Citizens Act, 2007, senior citizens mean any person being a citizen of India who has attained the age of 60 years or above.

As per the WHO most developed countries have accepted the chronological age of 65 years and above as definition of elderly or older persons. People between 65 and 74 years of age have been defined as “early elderly”, and those over 75 years of old are defined as “late elderly”.

As per the biological level, aging results from the impact of the accumulation of a wide variety of molecular and cellular damage over the years. This leads to a gradual decrease in physical and mental capacity which poses risk of diseases and ultimately results in death. We cannot say that these changes are linear or consistent and they are also not associated with the person's age in years. Beyond Biological changes, Aging is also associated with other life transition such as retirement, relocation to bigger house, and the death of friends and partners.

Selected definitions: Section 2 deals with definitions

2(a). This defines children and includes. Son, daughter, grandson and grand daughter, but it does not include a minor. Minor is not included in this definition as children because the minor cannot take care of Elderly people.

2(b). This defines maintenance, which includes provision for food, clothing, residence, medical attendance and treatment.

2(c). This defines minor. as a person who, under the provisions of the Majority Act, 1875, is deemed not to have attained the age of majority.

2(d). This defines parent, which means father or mother, whether biological, adoptive, or stepfather or stepmother, as the case may be, whether or not the father or the mother is a senior citizen.

2(f). This defines property, which means property of any kind, whether movable or immovable, ancestral or self-acquired, tangible or intangible, and includes rights or interest in such property.

2(g). This defines relative, which means any legal hier of the childless senior citizen who is not a minor and is in position or would inherit his property after death. So, in case where there are no children then the major relatives will be responsible to take care of the senior citizen.

2(h). This defines senior citizens which means any person who being a citizen of India has attained the age of 60 years or above.

2(k). This defines welfare, which means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

Chapter 2. Section 4. Maintenance of Parents and Senior Citizens.: A senior citizen, including parent, who is unable to maintain himself or herself from his own earning or out of property owned by him can claim maintenance under this section. The obligation of the children to maintain his or her parents extends to the need of such parents, either father or mother or both as the case may be, so that such parent may lead a normal life which is guaranteed under Article 21 of the Constitution of India.

Under Section 4, a senior citizen can claim maintenance from his or her major child. They can also claim maintenance from a major relative if the relative will be inheriting their property or is in possession of their property. If there are more than one relatives who are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit the property.

Section 5. This deals with application for maintenance. An application for maintenance under Section 4 can be made by a senior citizen or a parent. If the senior citizen or parent is incapable, then the application can be made by any other person or organization authorized by him. The tribunal may also take suo moto cognizance of such cases. For the purpose of this section organization means any voluntary association registered under the Societies Registration Act 1860 or any other law for the time being in force.

During the pendency of the case, the tribunal may award monthly allowance for maintenance under this section.

Procedure: After receiving application for maintenance from the senior citizen or on his behalf by organization the tribunal will give notice of the application to the children or relative. To this, the tribunal will hear both the parties. After hearing the parties, it will hold an inquiry for determining the amount of maintenance. An application for monthly allowance for the maintenance and expenses for proceedings shall be disposed of within 90 days from the date of service of notice of the application to such person. Provided that the Tribunal may extend this once for a maximum period of 30 days in exceptional circumstances for reasons to be recorded in writing. So in normal cases within 90 days you have to dispose of the case and in exceptional condition a maximum period of 30 days can be given by the tribunal.

Maintenance order can be issued against more than one person. Where our maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

The maintenance and expenses for proceedings shall be payable from the date of the order or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

If the children or relatives fail to comply with the order then the Tribunal for every breach of the order can issue a warrant for levying the amount due in the manner provided for levying fines and may sentence such person for the whole or any part of each month's allowance for the maintenance and expenses of proceeding as the case may be. It can also award imprisonment for a term which may extend to one month or until payment if sooner made, whichever is earlier.

Section 6 deals with jurisdiction and procedure. The proceedings under Section 5 may be taken against any children or relative in any district where he resides or last resided or where children or relatives resides. All evidence to the proceeding shall be taken in the presence of the children or relative against whom order for payment of maintenance is proposed to be made and shall be recorded in the manner prescribed for summon's case.

If the children or relative avoid the proceedings or willfully avoid service and neglect the tribunal proceedings, then the tribunal may proceed to hear and determine the case ex party.

If the children or relatives are residing out of India, then the summon can be served by their tribunal through any such authority as the central government may by notification in the official gazette specify. The Tribunal before hearing an application under Section 5 may refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

Section 7 talks about constitution of Maintenance Tribunal: The State Government within a period of six months from the date of commencement of this Act by notification in the official gazette constitute each subdivision one or more tribunals, as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under Section 5.

The tribunal shall be presided over by an officer not below the rank of subdivisional officer of a state. Where two or more tribunals are constituted for any area, the state government, by general or special order, regulate the distribution of business among them.

Section 9 talks about Order for maintenance: If the children or relatives, do not maintain the senior citizens, then the tribunal can order for a Maintenance Allowance at a monthly rate for the senior citizen. The maintenance amount shall not exceed ₹10,000 per month.

Section 10 talks about Alteration in Allowance: In case of misrepresentation or mistake of fact or a change in circumstance of a person receiving a monthly allowance for maintenance. The tribunal may make such alterations as it thinks fit in the allowance for the maintenance. Section 11 talks about Enforcement of Order of Maintenance: The Maintenance Order will be provided to the senior citizen free of cost.

Section 13 talks about Deposit of Maintenance Amount: Within 30 days of the order, the children or relative who are required to pay the Maintenance amount shall deposit the entire amount to the tribunal.

Section 14 makes provision for award of interest where the claim is allowed.

Section 15 talks about Constitution of Appellate Tribunal. The state government may by notification in the official gazette constitute 1 Appellate Tribunal for each district to hear the appeal against the order of the Tribunal.

Section 16 deals with appeals. Any citizen or a parent, as the case may be, aggrieved by an order of tribunal may, within 60 days from the date of the order, prefer an appeal to the Appellate Tribunal.

The Appellate Tribunal may entertain the appeal after the expiry of the period of 60 days if it is satisfied that the appellant was prevented by sufficient cause for preferring the Appeal in time. Every order made under subsection 5 shall be sent to both the parties free of cost.

The Chapter 3 deals with establishment of old age homes. Section 19 says that, the state government may establish and maintain such number of old age homes at accessible places as it may deem necessary in a phased manner in every district. The old age home should be able to accommodate 150 senior citizens who are indigent. The state government is also required to prescribe a scheme for management of old age home, including standards and various types of services to be provided to them. Chapter 4 deals with provision for medical care of senior citizens. Section 20 talks about the duty of the state government to ensure that the government hospitals, or hospitals funded fully or partially funded by the government provide beds to all senior citizens as far as possible. Separate queues be

arranged for senior citizens in hospitals. Facility for treatment of chronic terminal and degenerative diseases should be expanded for senior citizens in government hospitals and hospitals fully or partially funded by government. Research activities for chronic elderly diseases and aging should be expanded in these hospitals. The hospitals should have earmarked facilities for Geriatric patients in every District Hospital duly headed by medical officer with experience in geriatric care.

Chapter 5 talks about protection of life and property of senior citizens. Under Section 22, the state government can prescribe a Comprehensive Action Plan for providing protection of life and property of senior citizens. If any senior citizen is incapable of enforcing the right, then action may be taken on his behalf by any of the organizations.

Chapter 6 talks about Offences and Procedure for Trial. If any person who is duty bound to take care of senior citizen intentionally abandons such senior citizen, then he shall be punishable with imprisonment of either description for a term which may extend to three months, or fine which may extend to ₹5000, or with both.

Section 25 says that very offence under this Act shall be cognizable and bailable.

Chapter 7 deals with miscellaneous provisions.

### **Conclusion and Suggestions:**

1. The law must be amended as per the present need of the time.
2. It is important that we include the senior citizens while drafting and formulating laws related to senior citizens.
3. The maintenance amount should also be enhanced keeping in view the medical and other expenditure involved on case-to-case basis.
4. Monitoring of the old age homes is a mandatory requirement which should be done by the stakeholders in a very transparent manner.
5. All efforts should be done to bring the senior citizens in the mainstream so that they do not feel dejected and lonely.
6. The retirement age should also be reconsidered in case where people are able to contribute in the society.
7. The programs and policies of the Government of India should be advertised, and Awareness programs should be conducted so that the elderly people are aware about the schemes and programs of Government of India.
8. Involving elderly people in Community Service and Social integration of senior citizens will bring a very positive change in the society.
9. Elderly People should feel that they are wanted in the society and family.
10. Special schemes and programs should be launched to educate elderly people about digital technology so that they are able to use it for their benefit and are not cheated or hacked by the hackers.
11. In Every society, Funds should be created to take care of the needs of elderly people in the society.
12. Community should take the benefit of their experiences and knowledge and share it with the future generations.
13. The local community should also come forward and record and make documents of their traditions and practices and conserve and share it with future generations.
14. Accountability and transparency should be included in all the policies and programs for elderly people.
15. Safety and security of the elderly people should be monitored and ensured by using technology at all levels.
16. Frequent Visits of doctors and Psychologist should be provided to the senior citizens in the society.
17. Physiotherapy and other services should also be provided as per the need basis.

18. Assistive devices should be provided to the poor elderly people free of cost.
19. Senior Citizens should be engaged in different activities as per their capabilities and knowledge in the society.
20. All the stakeholders should come forward and work together for the benefit of Senior Citizens.
21. Stronger partnership between civil society, community and families are necessary to complement the actions taken by the Government of India for senior citizens.
22. Appropriate social and economic policies need to be implemented at all levels for elderly people.

**References:**

1. The Maintenance and Welfare of Parents and Senior Citizen Act 2007.
2. The Constitution of India, 1950. The maintenance and welfare of parents.
3. Rajan SI (2006) "Population Ageing and Health in India", Centre for Enquiry into Health and Allied Themes, Mumbai. (Accessed on January 2022)
4. Hiremath SS (2012) "The Health Status of Rural Elderly Women in India: A Case Study." International Journal of Criminology and Sociological Theory 5: 960-963. (Accessed on January 2022)