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AS INTRODUCED IN LOK SABHA

Bill No. 374 of 2019

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR
CITIZENS (AMENDMENT) BILL, 2019

A

BILL

further to amend the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2019.

Short title
and
Commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

56 of 2007.

2. In the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the principal Act), for the long line, the following long line shall be substituted, namely:—

Amendment of
long line.

"An Act to give effect to the provisions for the welfare of parents and senior citizens as guaranteed and recognised under the Constitution by providing for the maintenance and welfare of parents and senior citizens, ensuring their overall physical and mental well-being, establishment, management and regulation of institutions for senior citizens and services therefor and for other matters connected therewith or incidental thereto; 5

Amendment
of section 2..

3. In section 2 of the principal Act,—

(i) for clauses (a) and (b), the following clauses shall be substituted, namely:—

'(a) "children", in relation to a parent or a senior citizen, means his son or daughter, whether biological, adoptive or step-child and includes his son-in-law, daughter-in-law, grandson, grand-daughter and the legal guardian of minor children, if any; 10

(aa) "Code" means the Code of Criminal Procedure, 1973; 2 of 1974.

(ab) "Conciliation Officer" means the person referred to in sub-section (6) of section 6; 15

(ac) "local body" means the Municipality as defined in clause (e) of article 243P of the Constitution or, as the case may be, the Panchayat as defined in clause (d) of article 243 thereof;

(b) "maintenance" includes provision for food, clothing, housing, safety and security, medical attendance, healthcare and treatment necessary to lead a life of dignity;'; 20

(ii) after clause (b), the following clause shall be inserted, namely:—

'(ba) "Maintenance Officer" means an officer designated as such by the State Government under sub-section (1) of section 18;';

(iii) after clause (c), the following clauses shall be inserted, namely:— 25

'(ca) "Multi-Service Day Care Centre for Senior Citizens" means an institution registered as such under sub-section (2) of section 19, established or maintained by the Government or a local body or an organisation for providing day-care facilities, including healthcare, peer interaction, recreation and entertainment to senior citizens; 30

(cb) "Nodal Officer for Senior Citizens" means a police officer designated as such by the State Government under sub-section (2) of section 22;

(cc) "organisation" includes any voluntary or private or non-Governmental organisation or a society or trust registered under any law for the time being in force;'; 35

(iv) for clauses (d) and (e), the following clauses shall be substituted, namely:—

'(d) "parent" means father or mother, whether biological, adoptive or step-parent and includes father-in-law, mother-in-law and grandparents, whether or not a senior citizen;

(e) "prescribed" means prescribed by rules made under this Act;'; 40

(v) in clause (g), for the words "citizen who is not a minor and is", the words "citizen, including a minor through his legal guardian, who is" shall be substituted;

(vi) after clause (h), the following clause shall be inserted, namely:—

'(ha) "Senior Citizens' Care Home" means an institution registered as such under sub-section (2) of section 19, established or maintained by the Government 45

or a local body or an organisation for providing residential facilities to senior citizens for their care and welfare;';

(vii) for clause (k), the following clause shall be substituted, namely:—

5 '(k) "welfare" means provision for food, clothing, housing, safety and security, medical attendance, healthcare, treatment, recreation and other amenities necessary for the physical and mental well being of parents and senior citizens.'

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 4.

10 "4. (1) A parent or a senior citizen who is unable to maintain himself to lead a life of dignity from his own earning, including earning from any property owned by him, and is either not maintained by his children or relatives or is neglected by them, shall be entitled to make an application for maintenance under section 5.

Maintenance
of parents and
senior
citizens.

(2) The obligation of the children to maintain a parent extends to such needs of the parent as are necessary for him to lead a life of dignity.

15 (3) The obligation of a relative to maintain a childless senior citizen extends to such needs of the senior citizen as are necessary for him to lead a life of dignity provided such relative has sufficient means to do so and is either in possession of, or shall inherit, the property of such senior citizen after his death:

20 Provided that where more than one relative is in possession of, or shall inherit, the property of a childless senior citizen, the obligation of such relatives shall be in proportion in which they are in possession of, or shall inherit, the property."

5. In section 5 of the principal Act, for sub-sections (1) to (5), the following sub-sections shall be substituted, namely:—

Amendment
of section 5.

25 "(1) An application for maintenance under section 4 may be made to the Tribunal in person or by registered post or online or by any other means, by—

(a) a parent or senior citizen, as the case may be, against one or more children as defined in clause (a) of section 2; or

(b) a childless senior citizen, against one or more relatives as defined in clause (g) of section 2,

30 and if such parent or senior citizen is incapable so to do, he may authorise any other person or organisation to make such application on his behalf or the Tribunal may also take *suo motu* cognizance of such matter.

35 (2) On receipt of an application for maintenance under sub-section (1), the Tribunal may, after giving notice of the application to the children or relative, as the case may be, and after giving the parties an opportunity of being heard, hold an inquiry for determining the maintenance in accordance with the provisions of section 6.

40 (3) During the pendency of the proceeding for maintenance, the Tribunal may, by order, direct the children or relative to pay such monthly allowance towards the interim maintenance of such parent or senior citizen, as may be determined by it from time to time.

(4) Every application under sub-section (1) shall be disposed of by the Tribunal within a period of ninety days from the date of receipt of such application:

45 Provided that in case of senior citizens who are eighty years or above, such application shall be disposed of within a period of sixty days:

Provided further that in exceptional circumstances and for reasons to be recorded in writing, the Tribunal may extend such period only once for a maximum period of thirty days.

(5) Where an application under sub-section (1) is filed against one or more children or relatives, such children or relative may implead any other person who is liable to maintain the parent or senior citizen, as the case may be." 5

Amendment
of section 6.

6. In section 6 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The proceedings referred to in section 5 may be taken against the children or relatives in the district where—

(a) the parent or senior citizen resides or has last resided; or 10

(b) any of the children or relatives reside.";

(ii) in sub-section (3), for the words and figures "as provided under the Code of Criminal Procedure, 1973", the words "as provided under the Code" shall be substituted; 2 of 1974.

(iii) in sub-section (4),—

(a) in the opening portion, for the words "an order for payment of maintenance is proposed to be made", the words and figure "the application under section 5 has been filed" shall be substituted; 15

(b) in the proviso, for the words "an order for payment of maintenance is proposed to be made is", the words, brackets and figure "process has been issued under sub-section (2), are" shall be substituted; 20

(iv) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) The Tribunal may, for assisting and persuading the parties to arrive at amicable settlement, refer the proceedings under section 5 to a Conciliation Officer, nominated by the Tribunal in such manner as may be prescribed, and such Conciliation Officer shall submit his findings within fifteen days from the date of his nomination and in case of any amicable settlement, the Tribunal shall pass an order to that effect." 25

Amendment
of section 7.

7. In section 7 of the principal Act, in sub-section (1), for the words "order for maintenance", the words "application filed" shall be substituted.

Amendment
of section 8.

8. In section 8 of the principal Act, in sub-section (2), for the words and figures "the Code of Criminal Procedure, 1973", the words "the Code" shall be substituted. 30
2 of 1974.

Substitution of
new section
for section 9.

9. For section 9 of the principal Act, the following section shall be substituted, namely:—

Order for
maintenance.

"9. (1) The Tribunal may, on being satisfied of the neglect or refusal on part of the children or the relative, as the case may be, to maintain a parent or senior citizen who is unable to maintain himself to lead a life of dignity, pass an order for maintenance directing such children or relative to provide such monthly allowance, other resources and care for the maintenance of the parent or senior citizen, as it may, from time to time, determine. 35

(2) While determining the maintenance, the Tribunal may take into consideration the standard of living of the parent or senior citizen and the earnings of such parent or senior citizen and of the children or relative. 40

(3) The order for maintenance shall be enforceable from the date of such order or, if so ordered by the Tribunal, from the date of the application.

(4) A copy of the order for maintenance shall be—

(i) made available free of cost to the parent or senior citizen, as the case may be;

(ii) posted on the Notice Board of the Tribunal;

(iii) made available online on the website of the concerned Department of the State; and

(iv) provided to the Maintenance Officer.

(5) Where an order for maintenance is made against more than one person, the death of one of them shall not affect the liability of the others to continue providing the maintenance."

10. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 10.

"(1) On proof of misrepresentation or mistake of fact or any change in the circumstances of the parent or senior citizen receiving maintenance under section 9, the Tribunal may make such alteration in the order for maintenance, as it deems fit."

11. In section 11 of the principal Act,—

Amendment
of section 11.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) An order for maintenance may be enforced by the Tribunal in any place where the person against whom it is made resides, on being satisfied as to the identity of the parties and non-compliance of such order.";

(ii) in sub-section (2), for the words and figures, "Code of Criminal Procedure, 1973 and shall be executed in the manner prescribed for the execution of such order by that Code", the words "the Code and shall be executed in the manner prescribed by the Code for the execution of such order" shall be substituted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) If the children or relative against whom an order for maintenance is passed under section 9 fails to comply with such order without sufficient cause, the Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application is made by the parent or the senior citizen to the Tribunal to levy such amount.

(4) If the children or relatives, as the case may be, fails to pay the fine levied under sub-section (3), the Tribunal may sentence him to imprisonment for a term which may extend to one month or until the payment is made, whichever is earlier."

12. In section 12 of the principal Act, the following provisos shall be inserted, namely:—

Amendment
of section 12.

"Provided that where any application for maintenance under Chapter IX of the Code is pending before any Court prior to the date of commencement of the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2019, the Court may, on the request of the parent or senior citizen, allow withdrawal of such application and such parent or senior citizen shall be entitled to file an application for maintenance before the Tribunal under this Act:

Provided further that such application filed before the Tribunal shall be deemed to have been filed from the date when such application was filed before the Court."

Amendment
of section 13.

13. In section 13 of the principal Act, for the words "within thirty days", the words "within fifteen days" shall be substituted.

Amendment
of section 16.

14. In section 16 of the principal Act,—

(i) in sub-section (1),—

(a) in the opening portion, after the words "senior citizen or a parent", the words "or any of the children or relatives" shall be inserted; 5

(b) in the first proviso, after the word "parent", the words "senior citizen" shall be inserted;

(ii) in sub-section (6), after the words "receipt of an appeal", the words "and in exceptional circumstances and for reasons to be recorded in writing, within a further period of thirty days" shall be inserted. 10

Amendment-
of section 18.

15. In section 18 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The State Government shall designate an officer in the rank of District Social Welfare Officer or an officer of equivalent rank from any related Department of the State or the Block level Officer or the Tehsildar as Maintenance Officer for the purposes of this Act."; 15

(ii) in sub-section (2), for the words "shall represent a parent", the words "may represent a parent or a senior citizen" shall be substituted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) It shall be the duty of the Maintenance Officer to ensure that the order for maintenance passed under section 9 is complied with, and in case of its non-compliance, he may take such steps as may be necessary for the compliance of such order. 20

(4) The Maintenance Officer shall be a point of contact for the parent or senior citizen to liaison and co-ordinate with them." 25

Amendment of
heading of
CHAPTER III.

16. In the principal Act, for the heading of CHAPTER III, the following heading shall be substituted, namely:—

"ESTABLISHMENT AND MANAGEMENT OF SENIOR CITIZENS' CARE HOMES AND MULTI-SERVICE DAY CARE CENTRES FOR SENIOR CITIZENS".

Substitution of
new section
for section 19.

17. For section 19 of the principal Act, the following section shall be substituted, namely:— 30

Senior
Citizens' Care
Homes and
Multi-Service
Day Care
Centre for
Senior
Citizens.

"19. (1) The Government or an organisation may establish or maintain Senior Citizens' Care Homes for providing residential facilities for the care of senior citizens or Multi-Service Day Care Centre for Senior Citizens for providing day care facilities for senior citizens. 35

(2) Notwithstanding anything contained in any other law for the time being in force, all such institutions established and maintained as Senior Citizens' Care Homes or as Multi-Service Day Care Centre for Senior Citizens shall be registered with the Registration Authority referred to in sub-section (3).

(3) The State Government shall designate a Registration Authority for registration of institutions under this Act in such manner as may be prescribed. 40

(4) Every institution registered under this Act shall provide necessary amenities specified under sub-section (5) and if it fails to do so, the State Government may cancel or withhold registration of such institution, after following such procedure as may be prescribed.

(5) The Central Government shall prescribe minimum standards for establishment and maintenance of Senior Citizens' Care Homes and Multi-Service Day Care Centres and for the food, infrastructure, medical facilities, recreation, staff, safety and security and such other matters as may be necessary.

(6) The State Government shall designate such authority, as it deems fit, as the Regulatory Authority to monitor the functioning of the institutions registered under this Act through regular inspections or social audit to ensure that the Minimum Standards are adhered to."

18. In the principal Act, in the heading of CHAPTER IV, for the word "MEDICAL", the word "HEALTHCARE" shall be substituted.

Amendment of heading of CHAPTER IV.

19. For section 20 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections 20 and 20A for section 20. Healthcare for senior citizens.

"20. The Government shall ensure that,—

(i) all hospitals, whether fully or partially funded by the Government or private healthcare institutions, provide beds for senior citizens as far as possible;

(ii) separate queues are earmarked for senior citizens in all healthcare and allied institutions;

(iii) facilities for treatment of chronic, terminal and degenerative diseases are expanded for senior citizens;

(iv) research and development in geriatric sciences is undertaken;

(v) facilities are earmarked for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care and other objectives and outcomes of National and State level programmes for geriatric healthcare are monitored and achieved;

(vi) necessary measures are taken to provide barrier-free access for senior citizens in all healthcare and allied institutions.

20A. (1) The Government or an organisation may provide homecare services for such senior citizens who suffer from difficulties in performing activities of daily life due to any physical or mental impairment.

Homecare services for senior citizens.

(2) The institutions providing such homecare services shall engage trained and certified attendants or caregivers for the senior citizens as per their needs.

(3) Institutions providing training, certification and homecare services shall be registered as service provider with the Registration Authority referred to in section (3) of section 19."

20. In the principal Act, for the heading of CHAPTER V, the following heading shall be substituted, namely:—

Amendment of heading of CHAPTER V.

"PROTECTION OF LIFE AND PROPERTY OF SENIOR CITIZENS AND OTHER WELFARE MEASURES".

21. In section 21 of the principal Act, for clauses (i), (ii) and (iii), the following clauses shall be substituted, namely:—

Amendment of section 21.

(i) the provisions of the Act and measures for the well-being of senior citizens are given wide publicity through various means;

(ii) the officers of the Central Government and of the State Government, including the members of Civil Defence Corps and Home Guards, police officers and members of judicial service are given periodic sensitisation and awareness training on the provisions of this Act and the issues relating thereto."

Insertion of
new section
21A.

22. After section 21 of the principal Act, the following section shall be inserted, 5
namely:—

Action plan
for senior
citizens.

"21A. (1) The State Government shall prepare and implement a comprehensive action plan for the welfare of senior citizens including for protection of their life and property.

(2) The State Government shall take all measure to ensure effective co-ordination 10
between the services provided by the concerned Ministries or Departments, non-Governmental organisations and other stakeholders to address the issues relating to the welfare of the senior citizens and that periodical review of the same is conducted."

Amendment
of section 22.

23. In section 22 of the principal Act, for sub-section (2), the following sub-sections 15
shall be inserted, namely:—

"(2) In every police station, at least one officer, not below the rank of Assistant Sub-Inspector possessing aptitude, appropriate training and orientation shall be designated as the Nodal Officer for senior citizens to deal with issues relating to parents and senior citizens.

(3) The State Government shall constitute a Special Police Unit for senior citizens 20
in each district to co-ordinate the functions of police in respect of parents and senior citizens and such Unit shall be headed by a police officer not below the rank of Deputy Superintendent of Police and consist of the Nodal Officers for senior citizens designated under sub-section (2) and two social workers having experience of working in the field of senior citizens, of whom one shall preferably be a woman." 25

Amendment
of section 23.

24. In section 23 of the principal Act, for the words "senior citizen", wherever they occur, the words "parent or senior citizen" shall be substituted.

Insertion of
new section
23A.

25. After section 23 of the principal Act, the following section shall be inserted, namely:—

Other welfare
measures for
senior
citizens.

"23A. (1) The Central Government and the State Government shall take suitable 30
measures to create more accessible and age-friendly environment, transportation, information and communications and other public facilities including separate queues for senior citizens.

(2) The State Government shall establish and maintain helpline for safety and security of senior citizens having one common number across the nation and it shall 35
be linked to healthcare facilities, police department and other related agencies.

(3) The Government may undertake welfare measures for the benefit of senior citizens and any benefit for elderly persons made available by the Government or semi-Government or organisation shall also be available to senior citizens who are 40
sixty years and above:

Provided that the provisions of this section shall not have any effect on any benefits extended by the Government or semi-Government or organisations to any person below sixty years."

Substitution of
new section
for section 24.

26. For section 24 of the principal Act, the following section shall be substituted, 45
namely:—

Abuses and
abandonment
of senior
citizen.

"24. Whoever, having the care or protection of a parent or senior citizen, intentionally abuses or abandons such parent or senior citizen, shall be punishable

with imprisonment for a term which shall not be less than three months, but which may extend to six months or with fine up to ten thousand rupees or with both.

Explanation.—For the purposes of this section, the term "abuse" includes physical abuse, verbal and emotional abuse and economic abuse, neglect and abandonment causing assault, injury, physical or mental suffering."

27. After section 28 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 28A and 28B.

"28A. The details of the institutions registered under sub-section (3) of section 19 or, as the case may be, under sub-section (3) of section 20A shall be made available by the State Government by placing it on the website of concerned Department of that State.

Obligation of State Government to place details of registered institutions on website.

28B. The institutions registered under sub-section (3) of section 20A shall be accredited for quality of services by accreditation agencies authorised under any law for the time being in force."

Accreditation of institutions.

28. For section 29 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 29.

"29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2019.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament."

29. In section 32 of the principal Act,—

Amendment of section 32.

(a) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the Central Government may frame model rules in respect of all or any of the matters with respect to which the State Government is required to make rules and where any such model rules have been framed in respect of any such matter, they shall apply to the State *mutatis mutandis* until the rules in respect of that matter are made by the State Government and while making any such rules, they conform to such model rules."

(b) in sub-section (2),—

(i) for clause (a), the following clauses shall be substituted, namely:—

"(a) the manner of nominating Conciliation Officer under sub-section (6) of section 6;

(aa) the manner of holding inquiry under section 5 subject to such rules as may be prescribed under sub-section (1) of section 8;"

(ii) after clause (d), the following clauses shall be inserted, namely:—

"(da) the manner of designating Registration Authority under sub-section (3) of section 19;

(db) the procedure for cancellation or withholding of registration of institutions under sub-section (4) of section 19;

(dc) the minimum standards for the establishment and maintenance of Senior Citizens' Care Homes and Multi-Service Day Care Centres and for the food, infrastructure, medical facilities, recreation, staff, safety and security and other matters under sub-section (5) of section 19;"

STATEMENT OF OBJECTS AND REASONS

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted on 29th December, 2007 to ensure need based maintenance for parents and senior citizens and their welfare. It's been more than a decade now that the Act is in place, serving the needy parents and senior citizens, with the active co-operation of the State Governments and Union territory Administrations.

2. However, with the gradual breakdown of joint family system in the society, number of cases of neglect, crime, exploitation and abandonment of parents and senior citizens are in the rise. Various High Courts have also issued orders directing the Government to review provisions of the Act.

3. After examining various provisions of the Act, the Group of Secretaries have made recommendations to extend all the benefits to senior citizens of uniform age, to enhance maintenance amount for senior citizens and standardisation of homecare services. Besides, petitions and representations have been received from individuals and institutions requesting to make certain modifications in the Act, including to bring daughter-in-law and son-in-law within the ambit of the definition of 'children', to provide punishment for abuse of parents and senior citizens. It is, therefore, decided to revise various provisions of the said Act and to incorporate new provisions therein to make the Act more comprehensive and helpful to the greying population.

4. The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019 seeks to —

(a) expand the scope of the Act by modifying the definitions of 'children', 'parents', 'maintenance', 'welfare' and 'senior citizens', to enable parents and senior citizens to lead a life of dignity;

(b) enlarge the mode of submission of application for maintenance by the parents or senior citizens;

(c) provide for expeditious disposal of maintenance applications with special preference to the applications of senior citizens above eighty years of age, so as to enable parents or senior citizens to receive necessary relief;

(d) remove the upper limit of rupees ten thousand as monthly maintenance amount that may be awarded by the Tribunal;

(e) extend the right to file appeal to children and relatives also who are aggrieved by the order of the Maintenance Tribunal, if they continue to pay the maintenance amount as ordered by the Maintenance Tribunal;

(f) provide for registration of Senior Citizens' Care Homes, Multi-Service Day Care Centre for Senior Citizens and Institutions providing Homecare Services for Senior Citizens and their minimum standards;

(g) constitute Special Police Unit for Senior Citizens in each district and appoint Nodal Officers for Senior Citizens in every Police Station;

(h) maintain Helpline for senior citizens; and

(i) provide stringent punishment to those who abuse or abandon parents or senior citizens.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 6th December, 2019.

THAAWARCHAND GEHLOT.

Notes on clauses

Clause 3 of the Bill provides for definitions of certain expressions including "children", "maintenance", "parent", etc.

Clause 4 of the Bill seeks to substitute a new section for section 4 which provides for maintenance of parents and senior citizens and obligation of children and relatives to maintain them.

Clause 5 of the Bill seeks to amend section 5 to expand the mode of filing application before the Tribunal for maintenance.

Clause 6 of the Bill seeks to amend section 6 *inter alia* to empower the Tribunal to refer the proceedings to the Conciliation Officers.

Clause 7 of the Bill seeks to amend section 7 to substitute the words 'order for maintenance' with the words 'application filed'.

Clause 8 of the Bill seeks to amend section 8 to substitute the words 'the Code' with the words 'the Code of Criminal Procedure, 1973'.

Clause 9 of the Bill proposes to substitute a new section for section 9 which provides manner of determining maintenance by the Tribunal.

Clause 10 of the Bill seeks to substitute sub-section (1) of section 10 to provide for making alteration in the order for maintenance passed by the Tribunal.

Clause 11 of the Bill seeks to amend section 11 to provide for the enforcement of order of maintenance.

Clause 12 of the Bill seeks to amend section 12 so as to insert a proviso therein to enable the parent or senior citizen to withdraw the application pending before any court and to file the same before the Tribunal and such application shall be deemed to have been filed from the date when such application was filed before the court.

Clause 13 of the Bill seeks to amend section 13 to substitute the words 'within fifteen days' with the words 'within thirty days'.

Clause 14 of the Bill seeks to amend section 16 to enable the children or relatives of parent or senior citizens to file appeal against the order of the Tribunal.

Clause 15 of the Bill seeks to amend section 18 to provide for appointment of the Maintenance Officer.

Clause 16 of the Bill seeks to amend heading of chapter III as 'Establishment and Management of Senior Citizens' Care Homes and Multi Service day Care Centres for Senior Citizens'.

Clause 17 of the Bill seeks to substitute section 19 with a new section to provide for setting up and management of Senior Citizens' Care Homes and Multi Service day Care Centres for Senior Citizens'.

Clause 18 of the Bill seeks to amend heading of chapter IV to substitute the word 'Medical' with the word 'Healthcare'.

Clause 19 of the Bill seeks to substitute section 20 with a new section to provide for the healthcare of senior citizens and for homecare services for senior citizens.

Clause 20 of the Bill seeks to amend heading of Chapter V as 'Protection of Life and Property of senior citizens and other welfare measures'.

Clause 21 of the Bill seeks to amend section 21 to provide for giving wide publicity to the provisions of the Act and measures for the well-being of the senior citizens and also to sensitise the officers of the Central Government and the State Government.

Clause 22 of the Bill seeks to insert a new section 21A to provide for Action Plan for Senior Citizens.

Clause 23 of the Bill seeks to amend section 22 to provide for designation of Nodal Officer for senior citizens to deal with issues relating to parents and senior citizens in every police stations and to constitute a Special Police Unit for senior citizens in each district to coordinate the functions of police in respect of parents and senior citizens.

Clause 24 of the Bill seeks to amend section 23 to substitute the words 'senior citizens', wherever they occur, with the words 'parent or senior citizen'.

Clause 25 of the Bill seeks to insert a new section 23A to provide for other welfare measures for senior citizens.

Clause 26 of the Bill seeks to substitute section 24 with a new section to provide punishment for the abuse or abandonment of the senior citizen.

Clause 27 of the Bill seeks to insert new sections 28A and 28B to provide for obligation of State Governments to place details of registered institutions on website and accreditation of institutions, respectively.

Clause 28 of the Bill seeks to substitute a new section for section 29 to provide for power to remove difficulties.

Clause 29 of the Bill seeks to amend section 32 to empower the Central Government to frame model rules and to empower the State Government to make rules in respect of certain matters.

FINANCIAL MEMORANDUM

Clause 17 of the Bill seeks to substitute a new section for section 19 which provides for establishment or maintenance of Senior Citizens' Care Homes for providing residential facilities for the care of senior citizens or Multi-Service Day Care Centre for Senior Citizens for providing day care facilities for senior citizens.

Clause 19 of the Bill seeks to substitute new sections 20 and 20A for section 20 section 20A provides for provisioning of homecare services to senior citizens who suffer from difficulties in performing activities of daily life due to any physical or mental impairment.

Clause 25 of the Bill seeks to insert a new section 23A which provides for creating more accessible and age-friendly environment, transportation, information and communications and other public facilities for senior citizens and for establishing and maintaining Helpline for safety and security of senior citizens.

Since these provisions will be implemented in a phased manner mostly by the State Government, it is not possible at this stage to estimate the full financial burden likely to be incurred. Further, there would be no additional requirement of fund from the Consolidated Fund of India at present. The Bill does not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 29 of the Bill seeks to insert a provisions in sub-section (1) of section 32 to empower the Central Government to frame model rules in respect of all or any of the matters with respect to which the State Government is required to make rules and where any such model rules have been framed in respect of any such matter, they shall apply to the State *mutatis mutandis* until the rules in respect of that matter are made by the State Government and while making any such rules, they conform to such model rules.

Sub-clause (b) of clause 29 of the Bill seeks to amend sub-section (2) of section 32 to empower the State Government to make rules to provide for (i) the manner of nominating Conciliation Officer under sub-section (6) of section 6; (ii) the manner of designating Registration Authority under sub-section (3) of section 19; (iii) the procedure for cancellation or withholding of registration of institutions under sub-section (4) of section 19; (iv) the minimum standards for the establishment and maintenance of Senior Citizens' Care Homes and Multi-Service Day Care Centres for senior citizens for the food, infrastructure, medical facilities, recreation, staff, safety and security and other matters under sub-section (5) of section 19.

The matters in respect of which rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

(56 OF 2007)

An Act to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto.

* * * * *

Definitions.

2. (1) In this Part, unless the context otherwise requires,—

(a) "children" includes son, daughter, grandson and grand-daughter but does not include a minor;

(b) "maintenance" includes provisions for food, clothing, residence and medical attendance and treatment;

* * * * *

(d) "parent" means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen;

(e) "prescribed" means prescribed by rules made by the State Government under this Act;

* * * * *

(g) "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;

* * * * *

(k) "welfare" means provision for food, healthcare, recreation centres and other amenities necessary for the senior citizens.

* * * * *

CHAPTER II

MAINTENANCE OF PARENTS AND SENIOR CITIZENS

Maintenance
of parents and
senior
citizens.

4. (1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of—

(i) parent or grand-parent, against one or more of his children not being a minor;

(ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2.

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such citizen or he would inherit the property of such senior citizen:

Provided that where more than one relatives 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 his property.

5. (1) An application for maintenance under section 4, may be made—

- (a) by a senior citizen or a parent, as the case may be; or
- (b) if he is incapable, by any other person or organisation authorised by him; or
- (c) the Tribunal may take cognizance *suo motu*.

Application
for
maintenance.

21 of 1860.

Explanation.—For the purposes of this section "organisation" means any voluntary association registered under the Societies Registration Act, 1860 or any other law for the time being in force.

(2) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

(3) On receipt of an application for maintenance under sub-section (1), after giving notice of the application to the children or relative and after giving the parties an opportunity of being heard, hold an inquiry for determining the amount of maintenance.

(4) An application filed under sub-section (2), for the monthly allowance for the maintenance and expenses for proceeding shall be disposed of within ninety days from the date of the service of notice of the application to such person:

Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

* * * * *

6. (1) The proceedings under section 5 may be taken against any children or relative in any district—

- (a) where he resides or last resided; or
- (b) where children or relative resides.

Jurisdiction
and
procedure.

* * * * *

2 of 1974.

(3) For securing the attendance of children or relative the Tribunal shall have the power of a Judicial Magistrate of first class as provided under the Code of Criminal Procedure, 1973.

(4) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case *ex parte*.

* * * * *

(6) 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.

Explanation.—For the purposes of this sub-section "Conciliation Officer" means any person or representative of an organisation referred to in *Explanation* to sub-section (1) of

section 5 or the Maintenance Officers designated by the State Government under sub-section (1) of section 18 or any other person nominated by the Tribunal for this purpose.

Constitution
of
Maintenance
Tribunal.

7. (1) The State Government shall within a period of six months from the date of the commencement of this Act, by notification in Official Gazette, constitute for each Sub-division 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.

* * * *

Summary
procedure in
case of
inquiry.

8. (1) *

(2) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

* * * *

Order for
maintenance.

9. (1) If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.

(2) The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month.

Alteration in
allowance.

10. (1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under section 9, for the maintenance ordered under that section to pay a monthly allowance for the maintenance, the Tribunal may make such alteration, as it thinks fit, in the allowance for the maintenance.

* * * *

Enforcement
of order of
maintenance.

11. (1) A copy of the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

(2) A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 and shall be executed in the manner prescribed for the execution of such order by that Code.

2 of 1974.

* * * *

Deposit of
maintenance
amount.

13. When an order is made under this Chapter, the children or relative who is required to pay any amount in terms of such order shall within thirty days of the date of announcing the order by the Tribunal, deposit the entire amount ordered in such manner as the Tribunal may direct.

* * * *

Appeals.

16. (1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

* * * * *

(6) The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

* * * * *

18. (1) The State Government shall designate the District Social Welfare or an officer not below the rank of a District Social Welfare Officer, by whatever name called as Maintenance Officer. Maintenance Officer.

(2) The Maintenance Officer referred to in sub-section (1), shall represent a parent if he so desires, during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

* * * * *

CHAPTER III

ESTABLISHMENT OF OLDAGE HOMES

19. (1) The State Government may establish and maintain such number of oldage homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent. Establishment of oldage homes.

(2) The State Government may, prescribe a scheme for management of oldage homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.

Explanation.—For the purposes of this section, "indigent" means any senior citizen who is not having sufficient means, as determined by the State Government, from time to time, to maintain himself.

CHAPTER IV

PROVISIONS FOR MEDICAL CARE OF SENIOR CITIZEN

20. The State Government shall ensure that,—

(i) the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible; Medical support for senior citizens.

(ii) separate queues be arranged for senior citizens;

(iii) facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;

(iv) research activities for chronic elderly diseases and ageing expanded;

(v) there are earmarked facilities for geriatric patients in every district hospital dully headed by a medical officer with experience in geriatric care.

CHAPTER V

PROTECTION OF LIFE AND PROPERTY OF SENIOR CITIZEN

21. The State Government shall, take all measures to ensure that—

(i) the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals; Measures for publicity, awareness, etc., for welfare of senior citizens.

(ii) the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitisation and awareness training on the issues relating to this Act;

(iii) effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.

* * * * *

Transfer of property to be void in certain circumstances.

23. (1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in *Explanation* to sub-section (1) of section 5.

CHAPTER VI

OFFENCES AND PROCEDURE FOR TRIAL

Exposure and abandonment of senior citizen.

24. Whoever, having the care or protection of senior citizen leaves, such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both.

* * * * *

Power to remove difficulties.

29. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

* * * * *

Power of State Government to make rules.

32. (1) *

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of holding inquiry under section 5 subject to such rules as may be prescribed under sub-section (1) of section 8;

* * * * *

LOK SABHA

A
BILL

further to amend the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

(Shri Thaawarchand Gehlot, Minister of Social Justice and Empowerment)

MGIPMRND—4172LS(S3)—06-12-2019.