

The Maintenance and Welfare of Parents and Senior Citizens Act 2007

Frequently Asked Questions

➤ **What are the important features of the Maintenance and Welfare of Parents and Senior Citizens Act 2007?**

The Maintenance and Welfare of Parents and Senior Citizens Act 2007 envisage providing need-based maintenance to the parents/grandparents from their children. Tribunals will be set up for the purpose of settling the maintenance claims of the parents in a time bound manner. Lawyers are barred from participating in the proceedings of the Tribunals at any stage.

The Maintenance and Welfare of Parents and Senior Citizens Act 2007 also contains enabling provisions like protection of life and property of senior citizens, better medical facilities, setting up of old age homes in every district, etc.

➤ **What is the applicability of the Act?**

The Act extends to the whole of India except the State of Jammu and Kashmir and it applies also to citizens of India outside India (Section 1(2)).

➤ **When will the Act come into force in the States?**

The Act come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint (Section 1(3)).

➤ **What is the definition of Child/children under the Act?**

The Act defines "children" as son, daughter, grandson and granddaughter who are not minor.

➤ **What is the definition of Maintenance under the Act?**

The "Maintenance" includes provision for food, clothing, residence and medical attendance and treatment.

➤ **What is the definition of a Senior Citizen under the Act?**

A "senior citizen" means any person being a citizen of India, who has attained the age of sixty years or above.

➤ **Who are eligible for claiming maintenance under the provisions of the Act?**

The Act provides that 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 for claiming maintenance.

➤ **Whether a person other the claimant can file application on his/her behalf?**

An application for maintenance 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 organization authorized by him; or
- c. the Tribunal may take cognizance suo motu.

➤ **Whether there is any provision for the Tribunal to order subsistence allowance to the claimant during the proceedings?**

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.

➤ **What is the time limit for disposing an application for claiming maintenance?**

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. However, 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.

➤ **What is the monitoring mechanism for implementation of the Act by the States?**

The Act has been enacted in pursuance of the provisions of Article 41 read with Entry 23 of the Concurrent List (Schedule VII) of the Constitution of India. State Governments are required to notify the Act and frame Rules for implementing the provisions of the Act.

However, Section 30 of the Act enables the Central Government to give directions to State Governments for carrying into execution of the provisions of the Act. Further, Section 31 of the Act provides for periodic review and monitoring of the progress of implementation of the Act by the State Governments. The Ministry will act in accordance with these provisions to ensure effective implementation of the provisions of the Act by the States.

➤ **Has any timeframe has been prescribed for setting up of Tribunals by the States?**

The State Government is required to constitute for each Subdivision one or more Tribunals as per the need within a period of six months from the date of the commencement of this Act.

➤ **What is the effect of the order of maintenance?**

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.

➤ **Who can appeal to the appellate Authority under the Act?**

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.

➤ **What is the time limit for an appellate authority to dispose of the appeal?**

The Appellate Tribunal is required to make endeavours to pronounce its order in writing within one month of the receipt of an appeal.

➤ **Is there any penal provision for enforcement of maintenance order of the Tribunal?**

Yes, the Maintenance Order given by the Tribunal will have the same effect as the maintenance order passed under Section 125 of Cr. PC. This will include imprisonment upto One month and also issue a warrant for levying the amount due in the manner provided for levying fines.

➤ **What are the provisions about revocation of will?**

As per the provision of Act, a senior citizen can seek to revoke any property, which has been transferred in favour of children/relative on the condition that such children/relative would provide maintenance to him but are not providing the same. The tribunals are empowered to declare such transfers as void on the applications of such parent.

➤ **Is any penalty/imprisonment is for the children who abandon their parents?**

Yes, the Maintenance and Welfare of Parents and Senior Citizens Act 2007 contains penal provisions to discourage abandonment of parents by their children by imprisonment for a term of 3 months and a fine up to Rs. 5000/- or both on the children.

➤ **What are the similarities between Cr. PC 125 and the Maintenance and Welfare of Parents and Senior Citizens Act 2007?**

A parent can claim maintenance in the prescribed manner either from the Court under Cr. PC 125 or from the Tribunal set up under the Maintenance and Welfare of Parents and Senior Citizens Act 2007, if he or she is unable to maintain himself or herself. The penal provisions for enforcement of orders of maintenance under Cr.PC /Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 are similar.

➤ **What are the provisions for medical care of senior citizens provided in the Act?**

The Act provides that State Government shall ensure that, -

- the Government hospitals or hospitals funded fully or partially by the Government shall
- provide beds for all senior citizens as far as possible;
- separate queues be arranged for senior citizens;
- facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;
- research activities for chronic elderly diseases and ageing is expanded;
- there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

➤ **What are the provisions for protection of life and property of senior citizen provided in the Act?**

The Act requires the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act. Further, the State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

➤ **What are the provisions for prevention of abandonment of senior citizen provided in the Act?**

The Act provides that 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.

➤ **What is the monitoring mechanism for implementation of the provisions of the Act by the States?**

The Central Government may make periodic review and monitor the progress of the implementation of the provisions of this Act by the State Governments.

