

## THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007 — AN OVERVIEW

By

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The Act of 2007 provides for maintenance of senior citizens, especially those abandoned by their children. The section of the Act reads “Any senior citizen who is unable to maintain himself from his own earning” is entitled to make an application under this Act and it would thereby the Obligation of the children or relative as the case may be to maintain the senior citizen and ensure that he/she leads a normal life. The purpose the Act is to secure financial stability for parents who are unable to maintain themselves. The Constitution through its Directive Principles directs the state not private citizens to make effective provision for maintenance of the senior citizens. Additionally while the Act allows state Governments to establish old age homes, it does not make it mandatory. Also this Act does not address the needs of senior citizens who do not have either children or property.

This Act places an obligation on children and relatives to maintain a senior citizen (anyone above the age of 60 years) or a parent to the extent that they can live a ‘normal life’. This obligation applies to all Indian citizens including those residing abroad. A senior citizen who is unable to maintain himself based on his own earnings or property shall have the right to apply to a maintenance tribunal for a monthly allowance from their child or relative. If he is incapable of filing the application on his own, he may authorize any other person or registered voluntary association to apply on his behalf. The maintenance tribunal may also, on its own, initiate the process for maintenance.

The Act defines ‘children’ as sons, daughters, grandsons and granddaughters and

‘relative’ as any legal heir of a childless senior citizen who is in possession of or would inherit his property upon death. Minors are excluded from both definitions. ‘Parents’ include biological, adoptive or step parents. In cases in which more than one relative will inherit the property of a senior citizen, each relative will be responsible to pay the maintenance amount in proportion to the property they will inherit.

### ***Benefits, concessions and Schemes for Senior Citizens in India :***

*Government of India has earmarked special benefits and concessions for Senior Citizens of India*

1. *Court cases involving senior citizens :* The Chief Justice of India has advised Chief Justices of all High Courts to accord priority to cases involving older persons and ensure their expeditious disposal [Lr.No.GOI, Ministry of Social Justice and Empowerment (SD Section) New Delhi, F.No.20-76/99-SD dated 3.11.1999]
2. *Right to Information Act (RTI) :* Second appeals filed by Senior citizens and differently abled persons under the Right to Information Act (RTI) are taken on a high priority basis, according to a directive of the Central Information Commission (CIC) For senior citizens and physically challenged if appeals are already pending with the CIC/SCIC they should write to the CIC/SCIC about their status.
3. *Health Care :* There is provision for separate queues for senior citizens at

Hospitals and health care centres when they visit for any health related concerns or clinical examinations. In Government Hospitals and associated hospitals separate registration counters/windows/rows are provided for senior citizens in OPDs to avoid standing in long queue. Assistance like wheelchairs /trolleys are also provided for senior citizens in various hospitals.

4. *Finance and Taxation* : AS per recent finance budget 2010-2011 the threshold income when start paying tax stands at Rs.2.40 lakh per annum for senior citizens. In this case the qualifying age as specified by Income Tax Department is 65 years. The benefit of *Section 80C* of the Income Tax Act, 1961 has been extended to the investments made under 5 – year post office time deposits account and Senior Citizens Savings Scheme, *w.e.f.* 1.4.2007.
5. *Banking* : Government also gives a higher rate of interest to senior citizens on certain savings schemes which it runs through its large network of Post Offices (Senior Citizens Savings Scheme) and Public Sector Banks. For further details one can contact at nearest Bank or local post office.

Some Banks like State Bank of India charge only 50% of the applicable prescribed charges in respect of the following services :

Issue of duplicate passbook/statement of account, Issue of Cheque Books, Noting of standing instructions, Stop payment instructions, Charges of non maintenance of minimum balance, Issue of balance certificate, Signature verification, Ledger folio Charges, Minimum balance requirement is also 50% for these class of customers, *etc.*

6. *Telecommunications* : Department of Telecommunications has made special

provisions for senior citizens who apply for a new telephone connection. The department has earmarked separate priority category for senior citizens wherein they can apply for registration. In case of any complaint or fault with the telephone a senior citizen's complaint is redressed on a priority basis.

7. *Travel by Indian Railways* : Travel by Indian Railways is 30% cheaper for all senior citizens who are 60 years in age or above while women aged 60 years or above are entitled to 50% concession in fare. Indian Railways provides this fare concession to elder lies in all its trains including Shatabdi, Rajdhani and Jan Shatabdi Trains.
8. *Travel by Airlines* : Senior Citizens are entitled to 50% discount on Economy Class fares on all flights of Indian Airlines subject to certain conditions. Air India gives 45% discount in economy class on domestic sectors to senior citizens (women aged 63 + and men aged 65 +) Other Airlines operating in India also offer discounts to senior citizens.
9. *Travel by Roadways (State Road Transport)*: State Road Transport Undertakings have made provision for senior citizen for reservation of 2 seats in the front row of all buses. Some state governments also give concessions (in fare) to senior citizens, while some also have specially modeled buses for the elder lies.

### ***Maintenance of Tribunals :***

The State Government may establish one or more maintenance Tribunals per sub-division to decide upon the order for maintenance. The tribunal will be presided over by an officer not below the rank of sub-divisional officer. The tribunal shall have

all the powers of a civil court. No civil court shall have jurisdiction in respect of any matter dealing with any provisions of this Act. The Tribunal enjoys the power of a first class magistrate for enforcing and summoning the attendance of persons against whom the petition has been filed. The Tribunal follows the same procedure of a Civil Court to adduce evidence from the Petitioner and the respondent. The Tribunals can also pass orders granting interim orders of maintenance. [Section 5(2)].

If the Tribunal is satisfied that the Senior citizen is unable to take care of himself and that there is neglect or refusal of maintenance on the part of the children or relative, it may order children or relatives to give a monthly maintenance allowance to the senior citizen. The maximum maintenance allowance shall be prescribed by the State Government and shall not exceed Rs.10,000 per month.

Before hearing an application the tribunal may refer the case to a conciliation officer to reach amicable settlement within one month. If such agreement is reached, the tribunal may pass that order. The Tribunal may order children or relative to make a monthly allowance as interim maintenance while the application is pending. The application shall, as far as possible, be disposed of within 90 days.

The Maintenance allowance shall be payable from either the date of order or the application to be deposited within 30 days of the order. A simple interest payment between 5% and 18% on the monthly allowance from the date of the application may also be required. The tribunal may alter the allowance for maintenance on proof of misrepresentation or mistake of fact or a change in the circumstance of the senior citizen or parent receiving the monthly payment. The person against whom an order for maintenance has

been passed has to comply with the order within one month, failing which the Tribunal can imprison him or her up to a period of one month.

Any maintenance order made by the tribunal shall have the same force as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (Cr.PC), which also provides for maintenance of senior citizens. If a senior citizen is entitled for maintenance under both Acts, he can claim maintenance under only one Act.

### *Other Provisions for Elderly Care:*

The State Government may establish and maintain at least one old age home per district with a minimum capacity of 150 senior citizens per home. The State Government may also prescribe a scheme for the management of such homes. The scheme shall specify standards and services to be provided including those required for medical care and entertainment of residents of these old age homes.

An uncared for or a childless senior citizen though he or she possess property but does not derive any income from it, can seek maintenance from *his son or daughter* or from his *relative or relatives* who will inherit his or her property after his or her death.

The State Government is responsible for publicizing the provisions as well as ensuring that Government Officers undergo periodic sensitizations and awareness training on issues relating to the Act. The District Magistrate shall be responsible for implementing the provisions of the Act. *In order to implement the Act more effectively and render justice speedily the Government should come forward to remove the drawbacks. Otherwise the real purpose of enacting the above act to rescue the senior citizens may not be fulfilled.*