

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS
(AMENDMENT) DRAFT BILL, 2018

A

DRAFT

BILL

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

Preamble of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the principal Act), shall be substituted by the following, namely:-

‘An Act to provide for maintenance and welfare of parents and senior citizens for ensuring their basic needs; safety and security; establishment, management and regulation of institutions and services; and for the rights guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto’.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:-

Amendment of Title	1. This Act may be called the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Act, 2018.	Short title
Amendment of section 1	2. In section 1 of the principal Act, in sub-section (3) for the words ‘in a State on such date as the State Government’, the words ‘on such date as the Central Government’ shall be substituted.	Commencement
Amendment of section 2	3. In section 2 of the principal Act, definitions in the following sub-sections shall be substituted, namely:- (a) “children” includes son or daughter whether biological, adoptive or step, son-in-law, daughter-in-law, grandson, grand-daughter and also includes a minor through his/her legal Guardian as the case may be; (b) “maintenance” includes provision for food, clothing, housing, medical attendance, treatment, safety and security; (e) “prescribed” means prescribed by rules made by the Central/State Government under this Act; (g) “relative” means any legal heir of the childless senior citizen(s) who is not a minor and is in possession of or would inherit his/her property after his/her death; (h) “senior citizen” means any person being a citizen of India, who has attained the age of sixty years or above. This age	Definitions

shall be uniformly applicable for availing the facilities and benefits for senior citizens including health, housing, travel, insurance etc. extended by the Central and State Government, Semi-Government and Private Organisations;

- (k) "welfare" means provision for food, housing, clothing, safety and security, healthcare, recreation and other amenities necessary for the wellbeing of parents and senior citizens.

Insertion of new definitions in section 2

4. In section 2 of the principal Act, following definitions shall be inserted, namely:-

Definitions

'(d)Multi-Service Day Care Centre for Senior Citizens" means a registered Institution, established and maintained by the State Government, either by itself or through a voluntary /private/non-governmental organization or society/trust and providing day-care facilities such as healthcare, recreation, peer interaction and entertainment for senior citizens';

With insertion of a new definition at Sl. No. (d), definitions at Sl. No. (d) to (h) of the principal Act shall be re-numbered as Sl. No. (e) to (i).

'(j)Senior Citizens Care Home" means a registered Institution, established and/or maintained by the Central or State Government, either by itself or through a voluntary /private/non-governmental organization or society or trust and providing residential facilities for senior citizens for their care and welfare'.

With insertion of a new definition at Sl. No. (j), definitions at Sl. No. (i) to (k) of the principal Act shall be re-numbered as Sl. No. (k) to (m).

Amendment of section 4

5. In Section 4 of the principal Act, -

Maintenance of parents and senior citizens

- (i) words 'himself', 'his', 'he', 'senior citizen' and 'children', wherever they occur, shall be substituted by words 'himself/herself', 'his/her', 'he/she', 'senior citizen(s)/parent(s)' and 'child/children';

- (ii) In the sub-section (1), for the words 'from his own earning or out of the property owned by him', the word 'reasonably' shall be substituted;

- (iii) sub-section (2) and (3) shall be substituted by the following sub-section, namely:-

'(2) The obligation of the child/children or relative(s), as the case may be, to maintain a senior citizen(s)/parent(s), extends to the needs of such senior citizen(s)/parent(s) so

that he/she may lead a life of dignity’;

- (iv) For sub-section (4), the following sub-section shall be substituted, namely:-

‘(3) Any person whether a child in respect of parent or relative of a childless senior citizen and having sufficient means shall maintain such parent/senior citizen, as the case may be, provided he/she is in possession of the property of such parent/senior citizen or he/she would inherit the property thereof:

Provided that where more than one child/relative are entitled to inherit the property of parent/senior citizen, as the case may be, the maintenance shall be payable by them in the proportion in which they would inherit his/her property.’

Amendment
of section 5

6. In section 5 of the principal Act,

- (i) for the ‘explanation of organisation’ following shall be substituted, namely:-

‘For the purposes of this section “organisation” means any Voluntary Association/Non-Governmental Organisation/Trust/Society/Company etc. registered under the law in force and working for the welfare of Senior Citizens’;

- (ii) sub-section (2) shall be omitted;

Inserted in
section 9(3) of
the Bill after
amendment.

- (iii) in sub-section (4), the words ‘from the date of the service of notice of the application to such person’ shall be substituted by ‘from the date of receipt of application by the Tribunal’;

- (iv) In sub-section (5), the words ‘senior citizen’, ‘children’ and ‘relative’ wherever they occur, shall be substituted by the words ‘senior citizen/parent’, ‘child/children’ and ‘relative(s)’;

- (v) sub-section (6) shall be omitted;

Inserted in
section 9(4) of
the Bill after
amendment.

- (vi) Sub-section (7) re-numbered as (6);

- (vii) sub-section (8) shall be omitted;

Inserted in
section 11(3) of
the Bill after
amendment.

Insertion of a new sub-section in section 5	<p>7. In section 5 of the principal Act, following sub-section shall be inserted, namely:-</p> <p>‘(2) The application for maintenance shall be submitted in person/registered post/online or any other means to the Maintenance Tribunal’.</p>	
Amendment of section 6	<p>8. In Section 6 of the principal Act, -</p> <p>(i) the words ‘children’ and ‘maintenance’, wherever occur, shall be substituted by the words ‘child/children’ and ‘maintenance allowance’;</p> <p>(ii) For sub-section (1), the following sub-section shall be substituted, namely:-</p> <p>‘The application under section 5 may be made by a Senior Citizen(s)/Parent(s) to the Tribunal—</p> <p>(i) where the Senior Citizen(s)/Parent(s) reside or last resided; or</p> <p>(ii) where child/children/relative(s) reside’;</p> <p>(iii) For sub-section (6), the following sub-section shall be substituted, namely:-</p> <p>‘The Tribunal, on hearing both the parties, may appoint a Conciliation Officer with their consent. Such officer shall submit the Report within 15 days and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.</p> <p>Explanation: “Conciliation Officer” means any person representing a Government or Non Governmental Organization or the maintenance officer designated by the State Government or any other person nominated by the Tribunal for this purpose’.</p>	Explanation of ‘Conciliation officer’
Insertion of a new sub-section in section 6	<p>9. In section 6 of the principal Act, following sub-section shall be inserted, namely:-</p> <p>‘(7) If amicable settlement could not be arrived at as per the Report submitted by the Conciliation Officer, the Tribunal shall hold further enquiry for determining the amount of maintenance allowance’.</p>	
Amendment of section 9	<p>10. In section 9 of the principal Act,</p> <p>(i) sub-section (1) shall be substituted, namely:-</p>	

	<p>'If the child/children or the relative(s), as the case may be, neglect or refuse to maintain parent(s) or senior citizen(s) being unable to maintain himself/herself, the Tribunal may, on being satisfied of such neglect or refusal, order such child/children or relative(s) the quantum of maintenance at such monthly rate for the maintenance of parent(s)/senior citizen(s), as it may deem fit'.</p>	Order for maintenance
	<p>(ii) sub-section (2) shall be substituted, namely:-</p> <p>'While determining the amount of Maintenance, the Tribunal may consider the reasonable standard of living of the senior citizen(s)/parent(s), source of income/earnings of both the parties; the requirement of the Senior Citizen(s)/Parent(s), as the case may be etc'.</p>	Amount of maintenance
Insertion in section 9	<p>11. In section 9 of the principal Act, following sub-sections shall be inserted after sub-section (2), namely:-</p> <p>'(3)The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance, order such child/children or relative(s) to make a monthly allowance for the interim maintenance of such parent(s)/senior citizen(s) and to pay the same to such parent(s) /senior citizen(s) as the Tribunal may from time to time direct';</p> <p>(4) Where a 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.</p>	<p>sub-section (2) of section 5 of the principal Act, after amendment, inserted as sub-section (3) of section 9.</p> <p>sub-section (6) of section 5 of the principal Act inserted as sub-section (4) of section 9.</p>
Insertion of a new sub-section in section 9	<p>12. In section 9 of the principal Act, a new sub-section shall be inserted, namely:-</p> <p>'(5) The copy of the Order of the Maintenance Tribunal shall be served to Senior Citizen(s)/parent(s) free of cost and put in the office of the Tribunal. Further, the same shall be available online in the website of the concerned Department and with the Maintenance Officer'.</p>	
Amendment in section 11	<p>13. In section 11 of the principal Act,</p> <p>(i) words 'parent' and 'senior citizen', wherever occur, shall be substituted by the words 'parent(s)' and 'senior citizen(s)';</p>	

<p>Insertion in section 11</p>	<p>14. In section 11 of the principal Act, following sub-section shall be inserted as sub-section(3) namely:-</p> <p>‘(3) If child/children or relative(s) so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person(s) for the whole or any part of each month’s allowance for the maintenance and expenses of proceeding as the case may be remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:</p> <p>Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount by the parent(s) or senior citizen(s), as the case may be.</p> <p>Provided further that the Tribunal may refer the same to the District Magistrate for summary trial if the order of the Maintenance Tribunal is not adhered to’.</p>	<p>sub-section (8) of section 5 of the principal Act inserted as sub-section (3) of section 11 after amendment.</p>
<p>Insertion of a new sub-section in section 11</p>	<p>15. In section 11 of the principal Act, a new sub-section shall be inserted, namely:-</p> <p>‘(4) The Maintenance Officer shall ensure that the order of the Maintenance Tribunal is enforced’.</p>	<p>Enforcement of order of maintenance</p>
<p>Amendment in section 12</p>	<p>16. In section 12 of the principal Act,</p> <p>(i) the word ‘parent’ and ‘senior citizen’, wherever occur, shall be substituted by the word ‘parent(s)’ and ‘senior citizen(s)’;</p>	
<p>Amendment in section 13</p>	<p>17. In section 13 of the principal Act, the words, ‘order is made under this Chapter, the children or relative’ shall be substituted namely:-</p> <p>‘order for maintenance and/or expenses for proceedings is made under this Chapter, the child/children or relative(s)’</p>	<p>Deposit of maintenance amount</p>
<p>Amendment in section 14</p>	<p>18. In section 14 of the principal Act,</p> <p>the word ‘parent’, wherever occurs, shall be substituted by the words ‘parent(s) or senior citizen(s)’;</p>	

Amendment in section 16	19. In section 16 of the principal Act,	Appeals
	<p>(i) Sub-section (1) shall be substituted namely:-</p> <p>‘Any parent(s) or a senior citizen(s) or the child/children or relative(s), as the case may be, aggrieved by an order of a Tribunal may, within 60 days from the date of the order, prefer an appeal to the Appellate Tribunal :</p> <p>Provided that no such appeal by the child/children or relative(s), who has been ordered to pay any amount in terms of the maintenance order, shall be entertained by the Appellate Tribunal unless the appellant has commenced paying the maintenance allowance and continue to pay to such parent(s) or senior citizen(s), as the case may be, the amount so ordered, in the manner directed by the Maintenance Tribunal:</p> <p>Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of 60 days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time’;</p>	
	<p>(ii) Sub-section (3), the words ‘proceedings from the Tribunal’ shall be substituted by ‘proceedings from the Maintenance Tribunal’.</p>	
Amendment in section 18	20. In section 18 of the principal Act,	
	<p>(i) For sub-section (1), the following sub-section shall be substituted, namely:-</p> <p>‘The State Government shall designate one or more Officer(s) in the rank of District Social Welfare Officer or equivalent from related Departments/Block level Officer/Tehsildar, as Maintenance Officer(s) for the proceedings related under this Act’.</p>	<p>Role of Maintenance Officer</p>
	<p>(ii) In sub-section (2), the word ‘shall’ shall be substituted by ‘can’;</p>	
	<p>(iii) In sub-section (2), the word ‘a parent if he so desires’ shall be substituted by ‘a parent(s) or senior citizen(s) if he/she so desires’.</p>	
Insertion of new sub-section in section 18	21. In Section 18 of the principal Act, after sub-section (2), following sub-sections shall be inserted, namely:-	
	<p>‘(3) The Maintenance Officer shall ensure that the Order of the Maintenance Tribunal is adhered to and on non-compliance of the same, the Maintenance Officer shall</p>	

advise the Maintenance Tribunal.

(4) The Maintenance Officer shall be the point of contact for the senior citizen(s) or parent(s)'.

Amendment of section 19

22. In Section 19 of the principal Act,

(i) For the word 'oldage home' wherever it occurs, the word 'Senior Citizen Care Home' shall be substituted;

(ii) For sub-section (1), the following sub-section shall be substituted, namely:-

'The State Government shall set up and maintain such number of Senior Citizen Care Homes at accessible places, beginning with at least one in each district as per need, for senior citizens';

(iii) sub-section (2) shall be omitted;

(iv) in sub-section (2), explanation of 'indigent' shall be omitted;

Inserted in section 19(4) of the Bill after amendment

Insertion of new sub-sections in section 19

23. In Section 19 of the principal Act, after sub-section (1), following sub-sections (2) to (5) shall be inserted, namely:-

'(2) Notwithstanding anything contained in any other law for the time being in force, all institutions, whether run by a Government/Non-Governmental/Voluntary/Private Organisations or Society/Trust and providing residential/Multi-Service Day-Care facilities for senior citizens for their care and welfare, shall be registered as a service provider with the designated Registration Authority in the State under this Act.

Registration of Senior Citizens Care Homes

(3) If such registered institution fails to provide the necessary amenities as defined under section 19(4), the State Government may after following the due procedure, cancel or withhold registration as the case may be.

(4) The Central Government shall prescribe Minimum standards required for the establishment of Senior Citizens Care Homes and running and maintaining of Multi-Service Day Care Centres. The standard should provide for Infrastructure, medical facilities, physical aids, food, recreation, hygiene & sanitation, appropriate staff, safety and security etc.

Management and monitoring of Senior Citizens Care Homes

(5) The State Government/UT Administration shall designate a Government or Quasi-Government regulatory body to monitor the functioning of such registered Institutions through regular inspections to ensure that the minimum standards are adhered to.

Amendment
of section 20

24. In section 20 of the principal Act,

(i) Section 20 shall be substituted by 20(a), and the words 'The State Government shall ensure that' shall be substituted by 'The Central and the State Government shall ensure that';

(ii) For sub-section (i), the following sub-section shall be substituted, namely:-

'All hospitals, whether funded fully or partially by the Government or Private Healthcare institutions shall provide beds for all senior citizens';

(iii) For sub-section (ii), the following sub-section shall be substituted, namely:-

'Separate queues shall be earmarked for senior citizens in all healthcare and other public dealing institutions';

(iv) For sub-section (iii), the following sub-section shall be substituted, namely:-

'Facilities for treatment of chronic, terminal and degenerative diseases shall be expanded for senior citizens';

(v) For sub-section (iv), the following sub-section shall be substituted, namely:-

'Research activities for chronic elderly diseases and ageing shall be expanded for understanding and providing better medical interventions';

(vi) For sub-section (v), the following sub-section shall be substituted, namely:-

'The objectives and outcomes of National Programme for Health Care of Elderly (NPHCE) such as setting up of Geriatric OPD and wards for senior citizens at District level hospitals, strengthening of the Regional Medical Institutions, in-service training to medical and para-medical staff etc. are achieved at all levels'.

Insertion of new sub-sections in section 20	<p>25. In Section 20 of the principal Act,</p> <p>(i) after sub-section (v), following sub-section (vi) shall be inserted, namely:-</p> <p style="padding-left: 40px;">‘(vi) Necessary measures shall be taken to provide barrier-free access for Senior Citizens in healthcare institutions and other public places’;</p> <p>(ii) after section 20(a) and its sub-sections (i) to (vi), section 20(b) shall be inserted, with the following sub-sections (i) to (v) namely:-</p> <p style="padding-left: 40px;">‘(i)A senior citizen or the parent who suffers difficulty in performing activities of daily life due to any physical or mental impairment can avail the services of Homecare agencies;</p> <p style="padding-left: 40px;">(ii) The agencies providing such homecare services shall engage trained and certified attendants or caregivers for the senior citizens or parents as per his/her need;</p> <p style="padding-left: 40px;">(iii) Such institutions or agencies providing training, certification and home care services shall be registered as a service provider with the designated Registration Authority in the State Government.</p> <p style="padding-left: 40px;">(iv)The details of such registered institutions as mentioned in section 19(2) and 20(b)(3) shall also be available in the concerned State Department’s website.</p> <p style="padding-left: 40px;">(v)Further, such registered agencies shall also be accredited by Accreditation Agencies such as Quality Council of India (QCI) based on their range of healthcare services, quality in delivery of services etc.’</p>	Homecare services for senior citizens
Amendment of section 21	<p>26. In section 21 of the principal Act,</p> <p>(i) word ‘the State Government’ shall be substituted by the word ‘the Central and the State Government’;</p> <p>(ii) For sub-section (i), the following sub-section shall be substituted, namely:-</p> <p style="padding-left: 40px;">‘the provisions of this Act are given wide publicity through public media including the television, radio, internet and print, at regular intervals’;</p>	

(iii) For sub-section (ii), the following sub-section shall be substituted, namely:-

‘the Central Government and State Government Officers, including the newly recruited civil service officers, police officers and members of the judicial services are given periodic sensitization and awareness training on the issues relating to this Act’;

(iv) For sub-section (iii), the following sub-section shall be substituted, namely:-

‘effective co-ordination between the services provided by the concerned Ministries or Departments dealing with Law, Home Affairs, Health and Family Welfare, Panchayati Raj, Rural Development, Non-Governmental Organisations and other stakeholders to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted’;

Insertion of new sub-section in section 21

27. In Section 21 of the principal Act, after sub-section (iii), following sub-section (iv) shall be inserted, namely:-

‘for awareness at the grassroot level, Panchayati Raj Institutions, Self-help Groups, local Councils, para-legal volunteers of District Legal Service Authority etc. shall be engaged by the State Government’;

Amendment of section 22

28. In section 22 of the principal Act,

(i) In sub-section (1), the word ‘him’ shall be substituted by ‘him/her’;

(ii) For sub-section (2), the following sub-section shall be substituted, namely:-

‘The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens which shall include community policing in conjunction with Residents Welfare Associations, verification of antecedents of domestic servants and others, provisioning for distress alarm at malls, theatres etc. to provide secured environment to senior citizens’.

Insertion of new sub-sections in section 22

29. In section 22 of the principal Act, after sub-section (2), following sub-sections (3) and (4) shall be inserted, namely:-

‘(3) The Centre and the State Government shall take suitable measures to create more age-friendly environment, transportation, Information and communications including appropriate systems and

other public facilities;

(4) The State Government shall set up and run Helpline for safety and security of senior citizens. Such Helpline shall be linked to the Healthcare facilities, Police Department and other related agencies and shall have one common number across the nation’.

Amendment
of section 23

30. In section 23 of the principal Act,

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

‘Where any parent(s) or senior citizen(s) who has transferred by way of gift or otherwise, his/her property, subject to the condition, that the transferee shall provide basic amenities and physical needs such as food, clothing, residence, medical attendance, treatment, recreation etc. to the transferor to lead a life of dignity and that the transferee shall not further transfer or sell the said property without the consent of senior citizen(s)/ parent(s), and if such transferee refuses or fails to provide such amenities, 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’;

(ii) the word ‘senior citizens’ wherever they occur, shall be substituted by ‘parent(s) or senior citizen(s)’;

(iii) in sub-section (3), for the words ‘incapable of enforcing the rights’ the words ‘deprived of the rights’ shall be substituted; and word ‘his’ shall be substituted by ‘his/her’.

Amendment
in section 24

31. In section 24 of the principal Act, the following sub-section shall be substituted, namely:-

‘Whoever, having the care or protection of parent(s) or senior citizen(s) intentionally abuses or abandons, such parent(s) or senior citizen(s) shall be punishable with imprisonment of not less than three months which may be extended to six months or fine up to Rupees Ten Thousand or both’.

Insertion of a
new
explanation
in section 24

32. In section 24 of the principal Act, following explanation shall be inserted, namely:-

‘Explanation: “Abuse” in context of this Act means an intentional or negligence in such a manner which causes

Explanation of
‘abuse’

physical or mental suffering, assault or injury to a parent(s) or senior citizen(s) by his/her child/children or relative(s), who are obliged to take care of them, leading to a decreased quality of life’.

Amendment
in section 29

33. In section 29 of the principal Act, the following shall be substituted, namely:-

‘If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty’.

Amendment
in section 31

34. Section 31 of the principal Act, shall be re-numbered as section 31(1), and the words ‘Central Government may make periodic review’ shall be substituted by ‘Central Government shall make periodic review’.

Insertion of
new sub-
sections in
section 31

35. In section 31 of the principal Act, following sub-sections (2) and (3) shall be inserted, namely:-

‘(2) The Central Government shall, by notification in the Official Gazette, prescribe Minimum Standards for the establishment of Senior Citizens Care Homes and running and Multi-Service Day Care Centres as under sub-section (4) of Section 19;

(3) The Central Government shall make Model Rules for carrying out purpose of this Act’.

Central
Government to
make Model
Rules

Amendment
in section 32

36. In section 32 of the principal Act,

(i) In sub-section(1), word ‘may’ shall be substituted by ‘shall’;

(ii) sub-section (2) shall be substituted, namely:-

‘In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:’

(iii) sub-section (2)(c) shall be omitted;

(iv) sub-section (2)(d) shall be re-numbered as (2)(c) and substituted, namely:-

‘the management and monitoring of Senior Citizens Care Homes/Multi-Service Day Care Centres including the minimum standards prescribed by the Central Government and other services to be provided for care

Order for
maximum
allowance

With the
omission of the
sub-section
(2)(c) of the
principal Act, Sl.

and welfare of senior citizens as under sub-section (4) of Section 19'.

No. (2)(d) to (2)(f) re-numbered as (2)(c) to (2)(e).

(v) sub-section (2)(g) shall be re-numbered as 2(i);

(vi) sub-section (3) shall be substituted, namely:-

'Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislation'.

With the insertion of 3 new clauses in the section 32(2), before sl.no. (g), the sl.no. (g) re-numbered as (i)

Insertion of new sub-sections in section 32

37. In sub-section (2) of section 32 of the principal Act, following clauses (f) to (h) shall be inserted, namely:-

(f) the manner in which all Senior Citizens Care Homes/Multi-Service Day Care Centres under this Act shall be registered under sub-section(2) of section 19.

(g) the powers and duties of the designated Government/Quasi-Government Regulatory Body as stated under sub-section (5) of section 19.

(h) the manner in which the institutions providing training and Homecare services to the senior citizens or parents are regulated under section 20 (b) and rating thereof'.
