

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted by the Parliament of India in 2007. It came into force in the State of Sikkim on 1st February, 2012 (vide Notification No. 01/SJE & WD dated 3rd May, 2012).

1. Who is a senior citizen?

➤ A Senior Citizen as per this Act is any person being a citizen of India, who has attained the age of sixty years or above.

2. Who is a parent?

➤ Parent means father or mother whether biological, adoptive or step father/step mother irrespective of whether the father or mother is a senior citizen.

3. What amounts to maintenance?

➤ Maintenance includes provision for food, clothing, residence and medical attendance & treatment.

4. Who are children?

➤ Children includes son, daughter, grandson and grand-daughter but does not include a minor.

5. Who is entitled to maintenance?

A senior citizen including parent who is unable to maintain himself/herself from his/her own earning or out of the property owned by him/her, shall be entitled to make an application for maintenance.

6. Against whom is the application for maintenance made?

➤ Such maintenance applications can be made 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 (any legal heir) who is not a minor and who is in possession of or would inherit his property after his death.

7. Who can make such application for maintenance?

➤ An application for maintenance may be made—

(i) by a senior citizen or a parent, as the case may be; or

(ii) if he/she is incapable, by any other person or organization authorized by him/her; or

(iii) the Tribunal may take cognizance by itself.

8. What is a Tribunal?

➤ Tribunal under this Act means a "Maintenance Tribunal" constituted for each sub-division for the purpose of deciding application on maintenance of parents and senior citizens. The tribunal is to be presided over by an officer not below the rank of Sub-Divisional Magistrate (SDM).

➤ In the State of Sikkim, Maintenance Tribunal has been constituted by the State Government for each sub-division vide Notification No. 3/SJE&WD dated 18.12.2011. It consist of the following members, namely:

(i) Sub-Divisional Officer/Sub-Divisional Magistrate of respective sub-division as President,

(ii) Sub-Divisional Police Officer (SDPO) as Member, and

(iii) One NGO representative to be nominated by concerned District Collector.

9. Who would represent a parent or senior citizen before the Tribunal?

➤ The State Government has to designate the District Social Welfare Officer as Maintenance Officer, who shall represent a parent or senior citizen before the Tribunal, if he/she so desires.

➤ In the State of Sikkim, District Social Welfare Officer has been designated as Maintenance Officer vide Notification No. 3/SJE&WD dated 27.06.2012.

10. Where can such maintenance applications be filed?

➤ Such applications are to be filed before the Maintenance Tribunal of the concerned sub-division, where:

(a) the parent or senior citizen resides or last resided, or

(b) the children or relative resides.

11. What orders can be obtained from the Tribunal?

➤ If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen or parent being unable to maintain themselves, the Tribunal may, order such children or relatives to make a monthly allowance at such rate, as the Tribunal may deem fit.

➤ 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.

12. How can the order of maintenance be enforced?

➤ 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.

➤ 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 (order for maintenance of wives, children and parents).

➤ It shall be executed in the manner prescribed for the execution of such order by that Code. The maintenance could be recovered as if it were a fine under Section 431 of that Code.

13. What is the time limit under which the maintenance amount is to be deposited?

➤ 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 in such manner as the Tribunal may direct.

14. Is there a provision for appeal, if a senior citizen or parent is not satisfied with the order of the Tribunal?

➤ 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.

15. Where does the appeal lie?

➤ In Sikkim, an Appellate Tribunal to hear the appeals against the order of the Tribunal has been constituted for each District. The Appellate Tribunal consists of the District Collector as President, Superintendent of Police, Non-Governmental Organization representative and the Social Welfare Officer of the Social Welfare Department.

16. Can any party to the proceeding be represented by a lawyer?

➤ Notwithstanding anything contained in any law, no party to a proceeding before a Tribunal or Appellate Tribunal shall be represented by a legal practitioner.

17. Is there any provision for establishment of Old Age Home under this law?

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

18. Is there any provision for Medical Care of Senior Citizens?

➤ 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 are to be arranged for the senior citizens.

➤ Facility for treatment for chronic, terminal and degenerative diseases is expanded for senior citizens;

➤ There should be earmarked facilities for geriatric patients in every district hospital duly headed by a Medical Officer with experience in geriatric care.

19. Is there any punishment for abandonment of senior citizens?

➤ 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 for a term which may extend to three months or fine which may extend to five thousand rupees or with both.

➤ Every offence under this Act is cognizable.

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