

AS INTRODUCED IN LOK SABHA

Bill No. 254 of 2017

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR
CITIZENS (AMENDMENT) BILL, 2017

By

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BILL

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

BE it enacted by Parliament in the Sixty-eighth 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, 2017. Short title and commencement.

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

Insertion of
new Chapters
IIA and IIB.

2. After Chapter II of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the following Chapters shall be inserted, namely:—

56 of 2007.

“CHAPTER IIA

RIGHTS OF SENIOR CITIZENS

“18A. The National Commission for Senior Citizens Constituted under section 18B shall endeavor to protect and enforce the following rights of the senior citizen:—

(a) Right to life with Dignity and Non-Discrimination: No senior citizen shall be denied the right to equality guaranteed by article 15 of the Constitution and be discriminated against on the ground of his age creating any social or economic disability;

(b) Right to Legal Aid: Every senior citizen shall have access to an empanelment of lawyers for the exclusive purpose of providing free legal aid to senior citizens including taking up of court cases and providing any legal opinion;

(c) Right to Individual Autonomy: Every senior citizen as per the constitutional mandate of the right to a dignified life shall have his privacy and individual autonomy protected; and

(d) Right to Healthcare: Every senior citizen as a part of their right to life guaranteed by article 21 of the Constitution shall be provided access to life saving medicines, healthcare clinic in each district, health insurance policy and institutions for ageing to promote geriatric healthcare for senior citizens with a special focus on dementia and alzheimer's disease.

CHAPTER IIB

THE NATIONAL COMMISSION FOR SENIOR CITIZENS

Constitution of
the National
Commission
for Senior
Citizens.

18B. (1) The Central Government shall, by notification in the Official Gazette, constitute a National Commission for Senior Citizens to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Commission shall consist of—

(a) a Chairperson, committed to the cause of senior citizens, to be nominated by the Central Government;

(b) five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, geriatric medicine, psychology, urban design specialists, sociology, management of an industry or organization committed to increasing the employment potential of senior citizens, senior citizens voluntary organizations, administration, economic development, health, education or social welfare:

Provided that at least two members of the Commission shall be senior citizens.

(c) a Member-Secretary to be nominated by the Central Government, who shall be—

(i) an expert in the field of management, organizational structure, sociological movement or Geriatric Medicine Specialist; or

(ii) an officer who is a member of a civil service of the Union or of an All-India service or holds a civil post under the Union with appropriate experience.

Term of office
and conditions
of service of
Chairperson
and Members.

18C. (1) The Chairperson and every member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.

(2) The Chairperson or a member (other than the Member-Secretary who is a member of a civil service of the Union or of an All-India service or holds a civil post under the Union) may, by writing and addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the member at any time.

(3) The Central Government shall remove a person from the office of Chairperson or a member referred to in sub-section (2) if that person—

(a) becomes an undischarged insolvent;

5 (b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

10 (f) in the opinion of the Central Government has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

15 (4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and members shall be such as may be prescribed.

20 **18D. (1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of its functions under this Act.**

Officers and other employees of the Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

25 18E. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and persons payable to the officers and other employees referred to in section 18C, shall be paid out of the grants referred to in sub-section (1) of section 18J.

Salaries and allowances to be paid out of grants.

30 18F. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of the Commission.

18G. (1) The Commission may, for efficient discharge of its functions, appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission, from time to time.

Committees of the Commission.

35 (2) The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such member of persons, who are not members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

40 **(3) The salary and allowances payable to member appointed to the Committees shall be such as may be prescribed.**

18H. (1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

Procedure to be regulated by the Commission.

45 (2) The Commission shall regulate its own procedure and the procedure of the committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorized by the Member-Secretary in this behalf.

Functions of
the
Commission.

18I. (1) The Commission shall perform all or any of the following functions, namely:—

(a) investigate and examine all matters relating to the safeguards provided for senior citizens under the law except on issues of maintenance and welfare as provided under this Act; 5

(b) present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(c) make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of senior citizens by the Union or any State; 10

(d) a universal and non-contributory old age pension to be established with a minimum amount of monthly pension for senior citizens as to be prescribed by the Central Government: 15

Provided that no senior citizen shall be forced to compulsorily retire from work on attaining the eligibility for universal old age pension;

(e) recommend to the Central Government post retirement opportunities through which senior citizens can generate income;

(f) look into complaints and take *suo-moto* notice of matters relating to— 20

(i) deprivation of rights of senior citizens;

(ii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to senior citizens and take up the issues arising out of such matters with appropriate authorities;

(iii) income or assets having been taken away against senior citizen's will through coercive means; 25

(iv) abandonment of senior citizen without any visible form of support;

(v) vulnerability of senior citizen to any form of violence or sexual abuse;

(vi) cases of senior citizen living on the street or resorting to begging;

(vii) addition of senior citizen to any substance detrimental to personal health; 30

(g) call for special studies or investigations into specific problems or situations arising out of discrimination against senior citizens and identify the constraints so as to recommend strategies for their removal;

(h) evaluate the progress of the welfare and development of senior citizens under the Union and any State; 35

(i) fund litigation involving issues affecting a large body of senior citizens;

(j) make periodical reports to the parliament on any matter pertaining to senior citizens and in particular various socio-economic activities; and

(k) any other matter which may be referred to it by the Central Government. 40

(2) The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(4) The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

18J. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants by the Central Government.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

18K. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

18L. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report.

18M. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

Annual report and audit report to be laid before Parliament.

Central Government to constitute fund.

18N. The Central Government shall, after the appropriation made by Parliament by law in this behalf, constitute a Fund from which capitals may be released to the State Governments for executing the provisions of the Act to—

(a) fulfil the mandate of providing free and subsidised life saving medicines for senior citizens; 5

(b) provide financial security for widows by allocating funds for their socio-economic welfare;

(c) provide loans for purchase of houses and repair with repayment schedules with minimal interest.

Power of Central Government to review.

18-O. The Central Government shall make a periodic review and monitor the progress of the implementation of the progress of the Act by the State Governments. 10

Chairperson, Members and Staff of the Commission to be public servants.

18P. The Chairperson, the Members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

Central Government to consult Commission.

18Q. The Central Government shall consult the Commission on all major policy matters affecting women. 15

Power to make rules.

18R. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of Chapter IIB.

(2) 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:— 20

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 18B and of officers and other employees under sub-section (2) of section 18C;

(b) allowances for attending the meetings of the Committee by the co-opted persons under sub-section (3) of section 18F; 25

(c) other matters under clause (f) of sub-section (4) of section 18H;

(d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 18J;

(e) the form in, and the time at, which the annual report shall be prepared under section 18K; and 30

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule." 35

STATEMENT OF OBJECTS AND REASONS

The Madrid Plan of Action and the United Nations Principles for Senior Citizens adopted by the United Nations General Assembly in 2002, the Proclamation on Ageing and the global targets on ageing for the Year 2001 adopted by the General Assembly in 1992, the Shanghai Plan of Action 2002 and the Macau Outcome document 2007 adopted by United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) form the basis for the global policy guidelines to encourage governments to design and implement their own policies, from time to time to which India is a signatory.

Pursuant to the above international efforts, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted which provides for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution. Despite of India's global commitments and given the increasing number of senior citizens it is estimated that India will have over 240 million senior citizens by the year 2050 who will face challenges and needs that are different from those faced by previous generations, the reasons being decline of the joint family, increased life spans and productivity, etc. The need is to raise their concerns and to help create a more inclusive society that supports and benefits from our senior citizens. It is also required to deal effectively with the plight of senior citizens and fulfil the Constitutional mandate of improving the quality of life of senior citizens without any discrimination and to protect and safeguard their right to dignity, equality and security.

The Bill, therefore, seeks to amend the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 with a view to constitute a National Commission for Senior Citizens would help in protecting the social and economic interests of our senior citizens. It also seeks to work towards the right to equal participation, equal recognition of law while promoting the right to medical attention, right to affordable housing communities, right to social justice and protection as well as to facilitate affordable and accessible services.

Hence this Bill.

NEW DELHI;
November 27, 2017

SUSHMITA DEV

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for the constitution of the National Commission for Senior Citizens. It further provides for appointment of Committees by the Commission and constitution a separate Fund by the Central Government to carry out the provision of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees fifty crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifteen crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill *vide* proposed section 18R empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of this Act. As the matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative detail only, the delegation of legislative power is, therefore, of a normal character.

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

(Ms. Sushmita Dev, M.P.)