

Bill No. I of 2014

THE RIGHTS OF PERSONS WITH DISABILITIES BILL, 2014

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Bill No. I of 2014

THE RIGHTS OF PERSONS WITH DISABILITIES BILL, 2014

A

BILL

to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006;

AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,—

(a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

(b) non-discrimination;

(c) full and effective participation and inclusion in society;

(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

AND WHEREAS India is a signatory to the said Convention;

AND WHEREAS India ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is considered necessary to implement the Convention aforesaid.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Rights of Persons with Disabilities Act, 2014.

(2) It extends to the whole of India except the State of Jammu and Kashmir. 5

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

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appellate authority” means an authority notified under sub-section (1) of section 52 or designated under sub-section (1) of section 58, as the case may be; 10

(b) “appropriate Government” means,—

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government; 41 of 2006.

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government. 15

(c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social or structural factors which hampers the full and effective participation of persons with disabilities in society; 20

(d) “care-giver” means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability;

(e) “certifying authority” means an authority designated under sub-section (1) of section 56; 25

(f) “communication” includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology;

(g) “competent authority” means an authority appointed under section 48; 30

(h) “establishment” means a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes Department of a Government; 35

(i) “Fund” means the National Fund constituted under section 100;

(j) “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, accessing facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy;

(k) “inclusive education” means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;

(l) “institution” means an institution for the reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities;

(m) “local authority” means a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution; a Cantonment Board constituted under of the Cantonments Act, 2006; and any other authority established under an Act of Parliament or a State Legislature to administer the civic affairs;

(n) “National Commission” means the National Commission for persons with disabilities constituted under section 73.

(o) “notification” means a notification published in the Official Gazette and the expression “notify” or “notified” shall be construed accordingly;

(p) “person with benchmark disability” means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

(q) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which hinder his full and effective participation in society equally with others;

(r) “person with disability having high support needs” means a person with benchmark disability certified under clause (a) of sub-section (2) of section 57 who needs high support;

(s) “prescribed” means prescribed by rules made under this Act;

(t) “reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;

(u) “registered organisation” means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature;

(v) “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychiatric or social function levels;

(w) “Special Employment Exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding—

(i) persons who seek to engage employees from amongst the persons suffering from disabilities;

(ii) persons with benchmark disability who seek employment;

(iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed;

(x) “specified disability” means the disabilities as specified in the Schedule;

(y) “State Commission” means a State Commission for persons with disabilities constituted under section 86 of this Act; 5

(z) “universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities. 10

CHAPTER II

RIGHTS AND ENTITLEMENTS

- Equality and non-discrimination. **3.** (1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others. 15
- (2) The appropriate Government shall take special measures to protect the rights of women and children with disability and also take steps to utilise the capacity of persons with disabilities by providing appropriate environment. 15
- (3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is appropriate to achieve a legitimate aim.
- (4) No person shall be deprived of his or her personal liberty only on the ground of disability. 20
- Community life. **4.** (1) The persons with disabilities shall have the right to live in the community.
- (2) The appropriate Government shall endeavour that the persons with disabilities are,—
- (a) not obliged to live in any particular living arrangement; and 25
- (b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender.
- Protection from cruelty and inhuman treatment. **5.** (1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment. 30
- (2) No person with disability shall be a subject of any research without,—
- (i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and
- (ii) prior permission of an Ethics Committee constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (u) of section 2. 35
- Protection from abuse, violence and exploitation. **6.** (1) The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation, and to prevent the same, shall— 40
- (a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;
- (b) take steps for avoiding such incidents and prescribe the procedure for its reporting;
- (c) take steps to rescue, protect and rehabilitate victims of such incidents; and 45

(d) create awareness and make available information among the public.

(2) Any person or registered organisation who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person with disability, may give information about it to the Executive Magistrate within the local limits of whose jurisdiction such incidents occur.

(3) The Executive Magistrate on receipt of such information, shall take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as he deems fit for the protection of such person with disability including an order—

(a) to rescue the victim of such act, authorising the police or any organisation working for persons with disabilities to provide for the safe custody or rehabilitation of such person, or both, as the case may be;

(b) for providing protective custody to the person with disability, if such person so desires;

(c) to provide maintenance to such person with disability.

(4) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person of—

(a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance;

(b) the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;

(c) the right to free legal aid; and

(d) the right to file a complaint under the provisions of this Act or any other law dealing with such offence:

Provided that nothing in this section shall be construed in any manner as to relieve the police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code, or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter.

7. (1) The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.

Protection and safety.

(2) The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 for the safety and protection of persons with disabilities.

(3) The District Disaster Management Authority constituted under section 25 of the Disaster Management Act, 2005 shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness.

(4) The authorities engaged in reconstruction activities subsequent to any situation of risk, armed conflict or natural disasters shall undertake such activities, in consultation with the concerned State Commission, in accordance with the accessibility requirements of persons with disabilities.

Home and family.	<p>8. (1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.</p> <p>(2) Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.</p>	5
Reproductive rights.	<p>9. (1) The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.</p> <p>(2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.</p>	10
Accessibility in voting.	<p>10. The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.</p>	
Access to justice.	<p>11. (1) The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.</p> <p>(2) The appropriate Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.</p> <p>(3) The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.</p> <p>(4) The appropriate Government shall take steps to—</p> <p>(a) ensure that all their public documents are in accessible formats;</p> <p>(b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and</p> <p>(c) make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.</p>	15 20 39 of 1987. 25 30
Legal capacity.	<p>12. (1) The appropriate Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.</p> <p>(2) When a conflict of interest arises between a person providing support and a person with disability in a particular financial, property or other economic transaction, then such supporting person shall abstain from providing support to the person with disability in that transaction:</p> <p>Provided that there shall not be a presumption of conflict of interest just on the basis that the supporting person is related to the person with disability by blood, affinity or adoption.</p> <p>(3) A person with disability may alter, modify or dismantle any support arrangement and seek the support of another:</p>	35 40 45

Provided that such alteration, modification or dismantling shall be prospective in nature and shall not nullify any third party transaction entered into by the person with disability with the aforesaid support arrangement.

(4) Any person providing support to the person with disability shall not exercise undue influence and shall respect his or her autonomy, dignity and privacy.

13. (1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a District Court records a finding that a mentally ill person is incapable of taking care of himself or herself and of taking any legally binding decisions on his or her own, it shall make an order for appointment of limited guardian to take care of such mentally ill person and take all legal binding decisions on his or her behalf in consultation with such person:

Provision for guardianship.

Provided that the District Court may grant plenary guardianship to the mentally ill person under extraordinary situations where limited guardianship could not be awarded.

Explanation.—For the purposes of this section,—

(i) “plenary guardianship” means a guardianship whereby subsequent to a finding of incapacity, a guardian substitutes for the person with disability as the person before the law and takes all legally binding decisions for him and the decisions of the person with disability have no binding force in law during the subsistence of the guardianship and the guardian is under no legal obligation to consult with the person with disability or determine his or her will or preference whilst taking decisions for him; and

(ii) “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any law for mentally ill person shall be deemed to function as limited guardian:

Provided that where a guardian appointed prior to the commencement of this Act, is unable to function as limited guardian, the concerned District Court may grant plenary guardianship afresh taking into account all relevant records of the concerned mentally ill person within six months from the date of commencement of this Act.

Explanation.—For the purposes of this section “District Court” means, in any area for which there is a city civil court, that court, and in any other area the principal civil court of original jurisdiction, and includes any other civil court which the State Government may, by notification, specify as the court competent to deal with all or any of the matters specified in this Act.

14. (1) The appropriate Government shall designate one or more authorities to mobilise the community and create social awareness to support persons with disabilities in exercise of their legal capacity.

Designation of authorities to support.

(2) The authority designated under sub-section (1) shall take measures for setting up suitable support arrangements to exercise legal capacity by persons with disabilities living in institutions and those with high support needs and any other measures as may be required.

CHAPTER III

EDUCATION

15. The appropriate Government and the local authorities shall endeavour that all educational institutions funded by them provide inclusive education to the children with disabilities and towards that end shall—

Duty of educational institutions.

(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;

(ii) make building, campus and various facilities accessible;

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion; 5

(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;

(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;

(vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability; 10

(viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.

Specific measures to promote and facilitate inclusive education.

16. The appropriate Government and the local authorities shall take the following measures for the purpose of section 15, namely:— 15

(a) to conduct survey of school going children for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met;

(b) to establish adequate number of teacher training institutions;

(c) to train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disability; 20

(d) to train professionals and staff to support inclusive education;

(e) to establish adequate number of resource centres to support educational institutions; 25

(f) to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to fulfill the daily communication needs of persons with speech, communication or language disabilities and enables them to participate and contribute to their community and society; 30

(g) to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years and either free or at affordable cost, thereafter;

(h) to provide scholarships in appropriate cases to students with benchmark disability; 35

(i) to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses;

(j) to promote research to improve learning; and 40

(k) any other measures, as may be required.

Adult education.

17. The appropriate Government and the local authorities shall take measures to promote participation of persons with disabilities in adult education and continuing education programmes equally with others.

CHAPTER IV

SKILL DEVELOPMENT AND EMPLOYMENT

18. The appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment. Vocational training and self employment.
19. (1) No establishment shall discriminate against any person with disability in any matter relating to employment: Non-discrimination in employment.
- Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.
- (2) Every establishment shall provide appropriate environment to employees with disabilities.
- (3) No promotion shall be denied to a person merely on the ground of disability.
- (4) No establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:
- Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:
- Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.
20. (1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government. Equal opportunity policy.
- (2) Every establishment shall register a copy of the said policy with the National Commission or the State Commission, as the case may be.
21. (1) Every establishment shall maintain records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information in compliance with the provisions of this Chapter in such form and manner as may be prescribed by the Central Government. Maintenance of records.
- (2) Every employment exchange shall maintain records of persons with disabilities seeking employment.
- (3) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in their behalf by the appropriate Government.
22. (1) Every establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 and shall inform the National Commission or the State Commission, as the case may be, about the appointment of such officer. Appointment of Grievance Redressal Officer.
- (2) Any person aggrieved with the non-compliance of the provisions of section 19, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.
- (3) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be enquired within two weeks of its registration.
- (4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability.

CHAPTER V

SOCIAL SECURITY, HEALTH, REHABILITATION AND RECREATION

Social security.

23. (1) The appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community: 5

Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five per cent. higher than the similar schemes applicable to others.

(2) The appropriate Government while devising these schemes and programmes shall give due consideration to the diversity of disability, gender, age, and socio-economic status. 10

(3) The schemes under sub-section (1) shall provide for,—

(a) community centres with good living conditions in terms of safety, sanitation, health care and counseling;

(b) facilities for persons including children with disabilities who have no family or have been abandoned, or are without shelter or livelihood; 15

(c) support during natural or man-made disasters and in areas of conflict;

(d) support to women with disability for livelihood and for upbringing of their children;

(e) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas; 20

(f) provisions of aids and appliances, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities with such income ceiling as may be notified;

(g) disability pension to persons with disabilities subject to such income ceiling as may be notified; 25

(h) unemployment allowance to persons with disabilities registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation;

(i) care-giver allowance to persons with disabilities with high support needs; 30

(j) comprehensive insurance scheme for persons with disability, not covered under the Employees State Insurance Schemes, or any other statutory or Government-sponsored insurance schemes;

(k) any other matter which the appropriate Government may think fit.

Health care.

24. (1) The appropriate Government and the local authorities shall take necessary measures for the persons with disabilities to provide,— 35

(a) free health care in the vicinity specially in rural area subject to such family income as may be notified;

(b) barrier-free access in all parts of the hospitals and other healthcare institutions and centres run or aided by them; 40

(c) priority in attendance and treatment.

(2) The appropriate Government and the local authorities shall take measures and make schemes or programmes to promote health care and prevent the occurrence of disabilities and for the said purpose shall—

(a) undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;

(b) promote various methods for preventing disabilities;

5 (c) screen all the children at least once in a year for the purpose of identifying “at-risk” cases;

(d) provide facilities for training to the staff at the primary health centres;

(e) sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;

(f) take measures for pre-natal, perinatal and post-natal care of mother and child;

10 (g) educate the public through the pre-schools, schools, primary health centres, village level workers and anganwadi workers;

(h) create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;

(i) health care during the time of natural disasters and other situations of risk;

15 (j) essential medical facilities for life saving emergency treatment and procedures; and

(k) sexual and reproductive health care especially for women with disability.

25. The appropriate Government shall, by notification, make insurance schemes for their employees with disabilities.

Insurance schemes.

20 **26.** (1) The appropriate Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities.

Rehabilitation.

25 (2) For the purposes of sub-section (1), the appropriate Government and the local authorities may grant financial assistance to non-Government Organisations.

(3) The appropriate Government and the local authorities, while formulating rehabilitation policies shall consult the non-Governmental Organisations working for the cause of persons with disabilities.

30 **27.** The appropriate Government shall initiate or cause to be initiated research and development through individuals and institutions on issues which shall enhance habilitation and rehabilitation and on such other issues which are necessary for the empowerment of persons with disabilities.

Research and development.

35 **28.** The appropriate Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others which include,—

Culture and recreation.

(a) facilities, support and sponsorships to artists and writers with disability to pursue their interests and talents;

(b) establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities;

40 (c) making art accessible to persons with disabilities;

(d) promoting recreation centres, and other associational activities;

(e) facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities;

45 (f) redesigning courses in cultural and arts subjects to enable participation and access for persons with disabilities; and

(g) developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities.

Sporting activities.

29. (1) The appropriate Government shall take measures to ensure effective participation in sporting activities of the persons with disabilities.

(2) The sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provisions for the inclusion of persons with disabilities in their schemes and programmes for the promotion and development of sporting talents. 5

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the appropriate Government and the sports authorities shall take measures to,— 10

(a) restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities;

(b) redesign and support infrastructure facilities of all sporting activities for persons with disabilities;

(c) develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities; 15

(d) provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with disabilities;

(e) allocate funds for development of state of art sport facilities for training of persons with disabilities; 20

(f) promote and organise disability specific sporting events for persons with disabilities.

CHAPTER VI

SPECIAL PROVISIONS FOR PERSONS WITH BENCHMARK DISABILITIES

Free education for children with benchmark disabilities.

30. (1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, if necessary. 25 35 of 2009.

(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years. 30

Reservation in higher educational institutions.

31. (1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities;

(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education. 35

Identification of posts for reservation.

32. The appropriate Government shall—

(i) identify posts in the establishments to be reserved for the persons with benchmark disability;

(ii) review and update the list of identified posts, taking into consideration the developments in technology, at periodical intervals not exceeding five years. 40

Reservation.

33. (1) Every appropriate Government shall reserve in every establishment under them, not less than five per cent. of the vacancies meant to be filled for persons or class of persons with benchmark disability, of which one per cent. each shall be reserved for the persons with following disabilities,— 45

(a) blindness and low vision;

(b) hearing impairment and speech impairment;

(c) locomotor disability including cerebral palsy, leprosy cured and muscular dystrophy;

5 (d) autism, intellectual disability and mental illness;

(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:

10 Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

Explanation.—For the purposes of this section, the computation of reservation of vacancies for the persons with benchmark disabilities shall be computed on five per cent. of the total cadre strength.

15 (2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no
20 person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

25 (3) The appropriate Government shall, by notification, provide relaxation of upper age limit up to five years for employment of persons with benchmark disability.

30 **34.** The appropriate Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to employer in private sector to ensure that at least five per cent. of their work force is composed of persons with benchmark disability. Incentives to employers in private sector.

35. The appropriate Government may, by notification, require that from such date, the employer in every establishment shall furnish such information or return as may be prescribed by the Central Government in relation to vacancies appointed for persons with benchmark disability that have occurred or are about to occur in that establishment to such Special
35 Employment Exchange as may be notified by the Central Government and the establishment shall thereupon comply with such requisition. Special employment exchange.

36. The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,— Special schemes and development programmes

40 (a) five per cent. reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;

(b) five per cent. reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;

45 (c) five per cent. reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centers and production centers.

CHAPTER VII

SPECIAL PROVISIONS FOR PERSONS WITH DISABILITIES WITH HIGH SUPPORT NEEDS

Special provisions for persons with disabilities with high support.

37. (1) Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his or her behalf, may apply to an authority, to be notified by the appropriate Government, requesting to provide high support. 5

(2) On receipt of an application under sub-section (1), the authority shall refer it to an Assessment Board consisting of such Members as may be prescribed by the Central Government.

(3) The Assessment Board shall assess the case referred to it under sub-section (1) in such manner as may be prescribed by the Central Government, and shall send a report to the authority certifying the need of high support and its nature. 10

(4) On receipt of a report under sub-section (3), the authority shall take steps to provide support in accordance with the report and subject to relevant schemes and orders of the appropriate Government in this behalf.

CHAPTER VIII

15

DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENTS

Awareness campaigns.

38. (1) The appropriate Government, in consultation with the National Commission or the State Commission, as the case may be, shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities provided under this Act are protected. 20

(2) The programmes and campaigns specified under sub section (1) shall also,—

(a) promote values of inclusion, tolerance, empathy and respect for diversity;

(b) advance recognition of the skills, merits and abilities of persons with disabilities and of their contributions to the workforce, labour market and professional fee; 25

(c) foster respect for the decisions made by persons with disabilities on all matters related to family life, relationships, bearing and raising children;

(d) provide orientation and sensitisation at the school, college, University and professional training level on the human condition of disability and the rights of persons with disabilities; 30

(e) provide orientation and sensitisation on disabling conditions and rights of persons with disabilities to employers, administrators and co-workers.

(f) ensure that the rights of persons with disabilities are included in the curriculum in Universities and colleges.

Accessibility.

39. The National Commission shall, formulate regulations for the persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas. 35

Access to transport.

40. (1) The appropriate Government shall take suitable measures to provide,—

(a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines; 40

(b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design; 45

(c) accessible roads to address mobility necessary for persons with disabilities.

(2) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,—

(a) incentives and concessions;

5 (b) retrofitting of vehicles; and

(c) personal mobility assistance;

41. The appropriate Government shall take measures to ensure that,—

(i) all contents available in audio, print and electronic media are in accessible format;

10 (ii) persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning;

(iii) electronic goods and equipment which are meant for every day use are available in universal design.

Access to information and communication technology.

15 **42.** The appropriate Government shall take measures to promote development, production and distribution of universally designed consumer products and accessories for general use for persons with disabilities.

Consumer goods.

43. (1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the regulations formulated by the National Commission under section 39.

Mandatory observance of accessibility norms.

20 (2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the regulations formulated by the National Commission.

25 **44. (1)** All existing public buildings shall be made accessible in accordance with the regulations formulated by the National Commission within a period not exceeding five years from the date of notification of such regulations:

Time limit for making existing infrastructure and premises accessible and action for that purpose.

Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.

30 (2) The appropriate Government and the local authorities shall formulate and publish an action plan based on prioritization, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.

35 **45.** The service providers shall provide services in accordance with the regulations on accessibility formulated by the National Commission under section 39 within a period of two years from the date of notification of such regulations:

Time limit for accessibility by service providers.

Provided that the Central Government, in consultation with the National Commission, may grant extension of time for providing certain category of services in accordance with the said regulations.

34 of 1992. 40 **46. (1)** Without prejudice to any function and power of Rehabilitation Council of India constituted under the Rehabilitation Council of India Act, 1992, the appropriate Government shall endeavour to develop human resource for the purposes of this Act and to that end shall,—

Human resource development.

(a) mandate training on disability rights in all courses for the training of Panchayati Raj Members, legislators, administrators, police officials, judges and lawyers;

45 (b) induct disability as a component for all education courses for schools, colleges and University teachers, doctors, nurses, para-medical personnel, social welfare officers,

rural development officers, asha workers, *anganwadi* workers, engineers, architects, other professionals and community workers;

(c) initiate capacity building programmes including training in independent living and community relationships for families, members of community and other stakeholders and care providers on care giving and support; 5

(d) ensure independence training for persons with disabilities to build community relationships on mutual contribution and respect;

(e) conduct training programmes for sports teachers with focus on sports, games, adventure activities;

(f) any other capacity development measures as may be required. 10

(2) All universities shall promote teaching and research in disability studies including establishment of study centres for such studies.

(3) In order to fulfil the obligation stated in sub-section (1), the appropriate Government shall in every five years undertake a need based analysis and formulate plans for the recruitment, induction, sensitization, orientation and training of suitable personnel to undertake the various responsibilities under this Act. 15

Social audit.

47. The appropriate Government shall undertake social audit of all general schemes and programmes involving the persons with disabilities to ensure that the scheme and programmes do not have an adverse impact upon the persons with disabilities and need the requirements and concerns of persons with disabilities. 20

CHAPTER IX

REGISTRATION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES AND GRANTS TO SUCH INSTITUTIONS

Competent authority.

48. The State Government shall appoint an authority as it deems fit to be a competent authority for the purposes of this Chapter. 25

Registration.

49. Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except in accordance with a certificate of registration issued in this behalf by the competent authority:

Provided that an institution for care of mentally ill persons, which holds a valid licence under section 8 of the Mental Health Act, 1987 or any other Act for the time being in force, shall not be required to be registered under this Act. 30 14 of 1987.

Application and grant of certificate of registration.

50. (1) Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the State Government.

(2) On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and on being satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder, it shall grant a certificate of registration to the applicant and if not satisfied, the competent authority shall, by order, refuse to grant the certificate applied for: 35

Provided that before making any order refusing to grant a certificate, the competent authority shall give the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in writing. 40

(3) No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and meet such standards as may be prescribed by the State Government.

(4) The certificate of registration granted under sub-section (2) ,— 45

(a) shall, unless revoked under section 51 remain in force for such period as may be prescribed by the State Government;

(b) may be renewed from time to time for a like period; and

(c) shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.

(5) An application for renewal of a certificate of registration shall be made not less than sixty days before the expiry of the period of validity.

(6) A copy of the certificate of registration shall be displayed by the institution in a conspicuous place.

(7) Every application made under sub-section (1) or sub-section (5) shall be disposed of by the competent authority within such period as may be prescribed by the State Government.

51. (1) The competent authority may, if it has reason to believe that the holder of a certificate of registration granted under sub-section (2) of section 49 has,—

Revocation of registration.

(a) made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or

(b) committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted,

it may, after making such inquiry, as it deems fit, by order, revoke the certificate:

Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate of registration shall not be revoked.

(2) Where a certificate of registration in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation:

Provided that where an appeal lies under section 52 against the order of revocation, such institution shall cease to function,—

(a) where no appeal has been preferred immediately on the expiry of the period prescribed for the filing of such appeal; or

(b) where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.

(3) On the revocation of a certificate of registration in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be—

(a) restored to the custody of his or her parent, spouse or lawful guardian, as the case may be, or

(b) transferred to any other institution specified by the competent authority.

(4) Every institution which holds a certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.

52. (1) Any person aggrieved by the order of the competent authority refusing to grant a certificate of registration or revoking a certificate of registration may, within such period as may be prescribed by the State Government, prefer an appeal to such appellate authority, as may be notified by the State Government against such refusal or revocation.

Appeal.

(2) The order of the appellate authority on such appeal shall be final.

53. Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.

Act not to apply to institutions established or maintained by Central or State Government.

Assistance to registered institutions.

54. The appropriate Government may within the limits of their economic capacity and development, grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the provisions of the Act.

CHAPTER X

CERTIFICATION OF SPECIFIED DISABILITIES

Guidelines for assessment of specified disabilities.

55. The Central Government shall notify guidelines for the purpose of assessing the extent of specified disability in a person.

Designation of certifying authorities.

56. (1) The appropriate Government shall designate persons, having requisite qualifications and experience, as certifying authorities, who shall be competent to issue the certificate of disability.

(2) The appropriate Government shall also notify the jurisdiction within which and the terms and conditions subject to which, the certifying authority shall perform its certification functions.

Procedure for certification.

57. (1) Any person with specified disability, may apply, in such manner as may be prescribed by the Central Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 55, and shall, after such assessment, as the case may be,—

(a) issue a certificate of disability to such person, in such form as may be prescribed by the Central Government;

(b) inform him in writing that he has no specified disability.

Appeal against a decision of certifying authority.

58. (1) Any person aggrieved with decision of the certifying authority, may appeal against such decision, within such time and in such manner as may be prescribed by the State Government, to such appellate authority as the State Government may designate for the purpose.

(2) On receipt of an appeal, the appellate authority shall decide the appeal in such manner as may be prescribed by the State Government.

CHAPTER XI

CENTRAL AND STATE ADVISORY BOARDS ON DISABILITY AND DISTRICT LEVEL COMMITTEE

Constitution of Central Advisory Board on Disability.

59. (1) The Central Government shall, by notification, constitute a body to be known as the Central Advisory Board on Disability to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Central Advisory Board shall consist of,—

(a) the Minister in charge of Department of Disability Affairs in the Central Government, Chairperson, *ex officio*;

(b) the Minister of State in charge dealing with Department of Disability Affairs in the Ministry in the Central Government, Vice Chairperson, *ex officio*;

(c) three Members of Parliament, of whom two shall be elected by Lok Sabha and one by the Rajya Sabha; Members, *ex officio*;

(d) the Ministers in charge of Disability Affairs of all States and Administrators or Lieutenant Governors of the Union territories, Members, *ex officio*;

(e) Secretaries to the Government of India in charge of the Ministries or Departments of Disability Affairs, Social Justice and Empowerment, School Education and Literacy, and Higher Education, Women and Child Development, Expenditure,

- Personnel and Training, Administrative Reforms and Public Grievances, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Communications and Information Technology, Legal Affairs, Public Enterprises, Youth Affairs and Sports, Road Transport and Highways and Civil Aviation, Members, *ex officio*;
- (f) Secretary, Planning Commission, Member, *ex officio*;
- (g) Chairperson, Rehabilitation Council of India, Member, *ex officio*;
- (h) Chairperson, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, Member, *ex officio*;
- (i) Chairman-cum-Managing Director, National Handicapped Finance Development Corporation, Member, *ex officio*;
- (j) Chairman-cum-Managing Director, Artificial Limbs Manufacturing Corporation, Member, *ex officio*;
- (k) Chairman, Railway Board, Member, *ex officio*;
- (l) Director-General, Employment and Training, Ministry of Labour and Employment, Member, *ex officio*;
- (m) Director, National Council for Educational Research and Training, Member, *ex officio*;
- (n) Chairperson, National Council of Teacher Education, Member, *ex officio*;
- (o) Chairperson, University Grants Commission, Member, *ex officio*;
- (p) Chairperson, Medical Council of India, Member, *ex officio*;
- (q) Directors of the following Institutes:—
- (i) National Institute for the Visually Handicapped, Dehradun;
- (ii) National Institute for the Mentally Handicapped, Secundrabad;
- (iii) Pandit Deen Dayal Upadhyay Institute for the Physically Handicapped, New Delhi;
- (iv) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai;
- (v) National Institute for the Orthopaedically Handicapped, Kolkata;
- (vi) National Institute of Rehabilitation Training and Research, Cuttack;
- (vii) National Institute for Empowerment of Persons with Multiple Disabilities, Chennai;
- (viii) National Institute for Mental Health and Sciences, Bangalore;
- (ix) Indian Sign Language Research and Training Centre, New Delhi, Members, *ex officio*;
- (r) Members to be nominated by the Central Government:—
- (i) five Members who are experts in the field of disability and rehabilitation;
- (ii) ten Members, as far as practicable, being persons with disabilities, to represent non-Governmental Organisations concerned with disabilities or disabled persons organisations;

Provided that out of the ten Members nominated, at least, five Members shall be women and at least one person each shall be from Scheduled Castes and Scheduled Tribes;

(iii) up to three representatives of national level chambers of commerce and industry;

(s) Joint Secretary to the Government of India dealing with the subject of disability policy, Member-Secretary, *ex officio*.

Terms and conditions of service of Members.

60. (1) Save as otherwise provided under this Act, a Member of the Central Advisory Board nominated under clause (r) of sub-section (2) of section 59 shall hold office for a term of three years from the date of his nomination: 5

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The Central Government may, if it thinks fit, remove any Member nominated under clause (r) of sub-section (2) of section 59, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same. 10

(3) A Member nominated under clause (r) of sub-section (2) of section 59 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant. 15

(4) A casual vacancy in the Central Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (r) of sub-section (2) of section 59 shall be eligible for renomination. 20

(6) The Members nominated under sub-clause (i) and sub-clause (ii) of clause (r) of sub-section (2) of section 59 shall receive such allowances as may be prescribed by the Central Government.

Disqualification.

61. (1) No person shall be a Member of the Central Advisory Board, who—

(a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or 25

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or 30

(e) has so abused his position in the opinion of the Central Government as a Member so as to render his continuance in the office is prejudicial interests of the general public.

(2) No order of removal shall be made by the Central Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same. 35

(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 60, a Member who has been removed under this section shall not be eligible for renomination as a Member.

Vacation of seats by Members.

62. If a Member of the Central Advisory Board becomes subject to any of the disqualifications specified in section 61, his seat shall become vacant. 40

Meetings of the Central Advisory Board on disability.

63. The Central Advisory Board shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

64. (1) Subject to the provisions of this Act, the Central Advisory Board on disability shall be the national-level consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full enjoyment of rights.

Functions of
Central
Advisory
Board on
disability.

5 (2) In particular and without prejudice to the generality of the foregoing provisions, the Central Advisory Board on disability shall perform the following functions, namely:—

(a) advise the Central Government and the State Governments on policies, programmes, legislation and projects with respect to disability;

10 (b) develop a national policy to address issues concerning persons with disabilities;

(c) review and coordinate the activities of all Departments of the Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to persons with disabilities;

15 (d) take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the national plans;

(e) recommend steps to ensure accessibility, reasonable accommodation, non-discrimination for persons with disabilities *vis-à-vis* information, services and the built environment and their participation in social life;

20 (f) monitor and evaluate the impact of laws, policies and programmes to achieve full participation of persons with disabilities; and

(g) such other functions as may be assigned from time to time by the Central Government.

25 **65.** (1) Every State Government shall, by notification, constitute a body to be known as the State Advisory Board on disability to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

State
Advisory
Board on
disability.

(2) The State Advisory Board shall consist of—

(a) the Minister in charge of the Department in the State Government dealing with disability matters, Chairperson, *ex officio*;

30 (b) the Minister of State or the Deputy Minister in charge of the Department in the State Government dealing with disability matters, if any, Vice-Chairperson, *ex officio*;

35 (c) secretaries to the State Government in charge of the Departments of Disability Affairs, School Education, Literacy and Higher Education, Women and Child Development, Finance, Personnel and Training, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Labour and Employment, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Information Technology, Public Enterprises, Youth Affairs and Sports, Road Transport and any other Department, which the State Government considers necessary, Members, *ex officio*;

40 (d) three Members of the State Legislature of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any, and where there is no Legislative Council, three Members shall be elected by the Legislative Assembly, Members, *ex officio*;

(e) Members to be nominated by the State Government:—

45 (i) five Members who are experts in the field of disability and rehabilitation;

(ii) five Members to be nominated by the State Government by rotation to represent the districts in such manner as may be prescribed:

Provided that no nomination under this sub-clause shall be made except on the recommendation of the district administration concerned;

(iii) ten persons as far as practicable, being persons with disabilities, to represent non-Governmental Organisations or associations which are concerned with disabilities: 5

Provided that out of the ten persons nominated under this clause, at least, five shall be women and at least one person each shall be from the Scheduled Castes and the Scheduled Tribes;

(iv) not more than three representatives of the State Chamber of Commerce and Industry; 10

(f) officer not below the rank of Joint Secretary in the Department dealing with disability matters in the State Government, Member-Secretary, *ex officio*.

Terms and conditions of service of Members.

66. (1) Save as otherwise provided under this Act, a Member of the State Advisory Board nominated under clause (e) of sub-section (2) of section 65, shall hold office for a term of three years from the date of his nomination: 15

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The State Government may, if it thinks fit, remove any Member nominated under clause (e) of sub-section (2) of section 65, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same. 20

(3) A Member nominated under clause (e) of sub-section (2) of section 65 may at any time resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.

(4) A casual vacancy in the State Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated. 25

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (e) of sub-section (2) of section 65 shall be eligible for renomination.

(6) the Members nominated under sub-clause (i) and sub-clause (ii) of clause (e) of sub-section (2) of section 65 shall receive such allowances as may be prescribed by the State Government. 30

Disqualification.

67. (1) No person shall be a Member of the State Advisory Board, who—

(a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or 35

(c) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has so abused in the opinion of the State Government his position as a Member as to render his continuance in the State Advisory Board detrimental to the interests of the general public. 40

(2) No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 66, a Member who has been removed under this section shall not be eligible for renomination as a Member. 45

68. If a Member of the State Advisory Board becomes subject to any of the disqualifications specified in section 67 his seat shall become vacant. Vacation of seats.
69. The State Advisory Board shall meet at least once in every six months and shall observe such rules or procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government. Meetings of State Advisory Board on disability.
70. (1) Subject to the provisions of this Act, the State Advisory Board shall be the State-level consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full enjoyment of rights. Functions of State Advisory Board on disability.
- 10 (2) In particular and without prejudice to the generality of the foregoing provisions, the State Advisory Board on disability shall perform the following functions, namely:—
- (a) advise the State Government on policies, programmes, legislation and projects with respect to disability;
 - (b) develop a State policy to address issues concerning persons with disabilities;
 - 15 (c) review and coordinate the activities of all Departments of the State Government and other Governmental and non-Governmental Organisations in the State which are dealing with matters relating to persons with disabilities;
 - (d) take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the State plans; District-level Committee on disability.
 - 20 (e) recommend steps to ensure accessibility, reasonable accommodation, non-discrimination for persons with disabilities, services and the built environment and their participation in social life on an equal basis with others;
 - (f) monitor and evaluate the impact of laws, policies and programmes designed to achieve full participation of persons with disabilities; and
 - 25 (g) such other functions as may be assigned from time to time by the State Government.
71. The State Government shall constitute District-level Committee on disability to perform such functions as may be prescribed by it. District-level Committee on disability.
- 30 72. No act or proceeding of the Central Advisory Board on disability, a State Advisory Board on disability, or a District-level Committee on disability shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of such Board or Committees, as the case may be. Vacancies not to invalidate proceedings.

CHAPTER XII

NATIONAL COMMISSION FOR PERSONS WITH DISABILITIES

- 35 73. (1) The Central Government shall, by notification, constitute a body to be known as the National Commission for persons with disabilities to exercise the powers conferred upon and to perform the following functions, namely:— Constitution of National Commission for persons with disabilities.
- 40 (a) identify, *suo motu* or otherwise, provisions of any law, policies, programmes and procedures, which are inconsistent with this Act, and recommend necessary corrective steps;
 - (b) inquire, *suo motu* or otherwise with respect to deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the Central Government is the appropriate Government and take up the matter with the appropriate authorities for corrective action;
 - 45

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures; 5

(e) study treaties and other international instruments on the rights of persons with disabilities and make recommendations for their effective implementation;

(f) undertake and promote research in the field of the rights of persons with disabilities;

(g) promote awareness of the rights of persons with disabilities and the safeguards available for their protection; 10

(h) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(i) monitor utilisation of funds disbursed by the Central Government for the benefit of persons with disabilities; and 15

(j) such other functions as the Central Government may assign.

(2) The National Commission shall consist of a Chairperson from amongst persons of eminence with a distinguished record of service of not less than twenty-five years in the field of disability, and two Members with distinguished record of service of not less than twenty years in the field of rehabilitation, advocacy, law, management and technology concerning disability matters: 20

Provided that out of the two Members, one Member shall be a person with disability.

(3) The head office of the National Commission shall be in the National Capital Region, Delhi.

Selection and
appointment
of
Chairperson
and Members.

74. (1) The Central Government shall, for the purpose of selection of the Chairperson and the Members of the National Commission, constitute a Selection Committee consisting of— 25

(a) Cabinet Secretary—Chairperson;

(b) Secretary in charge of the Ministry or the Department responsible for administration of this Act as the convener— Member; 30

(c) Secretary in charge of the Ministries or the Departments of the Central Government dealing with health and personnel—Members;

(d) two experts in the field of empowerment and rehabilitation of persons with disability matters as may be nominated by the Central Government—Members.

(2) The Central Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member of the National Commission and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Commission, make a reference to the Selection Committee for filling up of the vacancy. 35

(3) The Selection Committee shall finalise the selection of the Chairperson and Members of the National Commission within two months from the date on which the reference is made to it. 40

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) The Selection Committee, before recommending any person for appointment as a Chairperson or other Member of the National Commission, shall satisfy itself that such 45

person does not have any financial or other interest, which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member of the National Commission shall be invalid merely by reason of any vacancy in the Selection Committee.

5 **75. (1)** The Chairperson and a Member of the National Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for another term of three years. Term of office of Chairperson and Members.

10 (2) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—

 (a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

 (b) be removed from his office in accordance with the provisions of section 76.

15 **76. (1)** Notwithstanding anything contained in sub-section (1) of section 75, the Central Government may, by order, remove from office the Chairperson or any other Members, if the Chairperson or as the case may be, such other Member,— Removal of Chairperson and Members.

 (a) has been adjudged an insolvent; or

20 (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

 (c) has become physically or mentally incapable of acting as a Member; or

 (d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or

25 (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) No Member shall be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

30 **77. (1)** In the event of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Central Government may designate the senior-most Member to act as the Chairperson until the day on which a Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office. Member to act as Chairperson and to discharge functions in certain circumstances.

35 (2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may authorise the senior-most Member to discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

(3) The senior-most Member designated to act under sub-section (1) or to discharge functions of the Chairperson under sub-section (2), of the Chairperson shall continue to draw salary and allowances of a Member.

40 **78.** The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members of the National Commission shall be such as may be prescribed by the Central Government: Terms and conditions of service of Chairperson and Members.

 Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.

Vacancies, etc., not to invalidate proceedings of National Commission.	<p>79. No act or proceeding of the National Commission shall be invalid merely by reason of—</p> <p>(a) any vacancy in, or any defect in the constitution of, the National Commission; or</p> <p>(b) any defect in the appointment of a person acting as a Member of the National Commission; or</p> <p>(c) any irregularity in the procedure of the National Commission not affecting the merits of the case.</p>	5
Procedure for National Commission.	<p>80. (1) The National Commission shall meet at such time and place as the Chairperson may think fit.</p> <p>(2) Subject to the provisions of this Act and the rules made thereunder, the National Commission shall have the power to lay down, by regulations, its own procedure.</p> <p>(3) All orders and decisions of the National Commission shall be authenticated by the Secretary or any other officer of the National Commission duly authorised by the Chairperson in this behalf.</p>	10
Officers and other staff of National Commission.	<p>81. (1) The Central Government shall appoint an officer of the rank of an Additional Secretary to the Government of India, who shall be the Secretary to the National Commission.</p> <p>(2) Subject to such rules as may be made by the Central Government in this behalf, the National Commission may appoint such other administrative and technical officers and staff as it may consider necessary.</p> <p>(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the Central Government.</p>	15
Transfer of service of existing employees.	<p>82. Subject to the provisions of this Act, every person employed in the Office of Chief Commissioner for persons with disabilities constituted under section 57 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 immediately before the date of establishment of the National Commission shall, on and from such date, become an employee of the National Commission with such designation as the National Commission may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held on such date if the National Commission had not been established and shall continue to do so unless and until his employment in the National Commission is terminated or until such tenure, remuneration and terms and conditions are duly altered by the National Commission:</p> <p>Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.</p>	25 1 of 1996.
Action by appropriate authorities on recommendation of National Commission.	<p>83. Whenever the National Commission makes a recommendation to an authority in pursuance of clause (b) of sub-section (1) of section 73, that authority shall take necessary action on it, and inform the Commission of the action taken within three months from the date of receipt of the recommendation:</p> <p>Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the National Commission within the period of three months, and shall also inform the aggrieved person.</p>	40
National Commission to have certain powers of civil court.	<p>84. (1) The National Commission shall, for the purpose of discharging its functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—</p> <p>(a) summoning and enforcing the attendance of witnesses;</p>	45 5 of 1908.

- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

5 (2) Every proceeding before the National Commission shall be a judicial proceeding
 45 of 1860. within the meaning of sections 193 and 228 of the Indian Penal Code and the National
 Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter
 2 of 1974. XXVI of the Code of Criminal Procedure, 1973.

10 **85. (1)** The National Commission shall submit an annual report to the Central
 Government and may at any time submit special reports on any matter which, in its opinion,
 is of such urgency or importance that it shall not be deferred till submission of the annual
 report.

Annual and
 special
 reports of
 National
 Commission.

15 (2) The Central Government shall cause the annual and special reports of the National
 Commission to be laid before each House of Parliament, along with a memorandum of action
 taken or proposed to be taken on the recommendations of the Commission and the reasons
 for non-acceptance of the recommendations, if any.

(3) The annual and special reports shall be prepared in such form, manner and contain
 such details as may be prescribed by the Central Government.

CHAPTER XIII

20 STATE COMMISSION FOR PERSONS WITH DISABILITIES

86. (1) A State Government shall constitute a body to be known as the State Commission
 for persons with disabilities or two or more States on mutual consent can have one
 Commission in respect of their States to exercise the powers conferred upon and to perform
 the following functions, namely:—

Constitution
 of State
 Commission
 for persons
 with
 disabilities.

25 (a) identify, *suo motu*, or otherwise, provisions of any law, policies, programmes
 and procedures of the State Government, which are inconsistent with the provisions
 of this Act, and recommend necessary corrective steps;

30 (b) inquire, *suo motu*, or otherwise, with respect to deprivation of rights of
 persons with disabilities and safeguards available to them, in respect of matters for
 which the State Government is the appropriate Government and take up the matter with
 the appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the
 time being in force for the protection of rights of persons with disabilities and recommend
 measures for their effective implementation;

35 (d) review the factors that inhibit the enjoyment of rights of persons with
 disabilities and recommend appropriate remedial measures;

(e) undertake and promote research in the field of the rights of persons with
 disabilities;

40 (f) promote awareness of the rights of persons with disabilities and the safeguards
 available for their protection;

(g) monitor implementation of the provisions of this Act and schemes, programmes
 meant for persons with disabilities;

(h) monitor utilisation of funds disbursed by the State Government for the benefit
 of persons with disabilities; and

45 (i) such other functions as may be assigned by the State Government from time
 to time.

(2) The State Commission shall consist of a Chairperson from amongst persons of eminence, with a distinguished record of service of not less than twenty years in the field of disability, and two Members, with distinguished record of service of not less than fifteen years in the field of rehabilitation, advocacy, law, management, technology concerning disability matters: 5

Provided that out of the two Members, one Member shall be a person with disability.

(3) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

Selection and appointment of Chairperson and Members.

87. (1) The State Government shall, for the purpose of selection of the Chairperson and the Members of the State Commission, constitute a Selection Committee consisting of— 10

(a) Chief Secretary—Chairperson;

(b) Secretary in charge of the Ministry or the Department responsible for administration of this Act as the convener—Member;

(c) Secretary in charge of the Departments of the State Government dealing with Health, and Personnel—Members; 15

(d) two experts in the field of rehabilitation of persons with disability matters as may be nominated by the State Government—Member.

(2) The State Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member of the State Commission and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Commission, make a reference to the Selection Committee for filling up of the vacancy. 20

(3) The Selection Committee shall finalise the selection of the Chairperson and Members of the State Commission within two months from the date on which the reference is made to it. 25

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as a Member. 30

(6) No appointment of the Chairperson or other Member of the State Commission shall be invalid merely by reason of any vacancy in the Selection Committee.

Term of office of Chairperson and Members.

88. (1) The Chairperson and Members of the State Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for another term of three years. 35

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—

(a) relinquish his office by giving in writing to the State Government a notice of not less than three months; or 40

(b) be removed from his office in accordance with the provisions of section 89.

Removal of Chairperson and Members.

89. (1) Notwithstanding anything contained in sub-section (1) of section 88, the State Government may, by order, remove from office the Chairperson or any other Members, if the Chairperson or, as the case may be, such other Member,— 45

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) No Member shall be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

90. (1) In the event of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the State Government may designate the senior-most Member to act as the Chairperson until the day on which a Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Member to act as Chairperson and to discharge functions in certain circumstances.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the State Government may authorise the senior-most Member to discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

(3) The senior-most Member designated to act under sub-section (1) or to discharge functions of the Chairperson under sub-section (2), of the Chairperson shall continue to draw salary and allowances of a Member.

91. The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members of the State Commission shall be such as may be prescribed by the State Government:

Terms and conditions of service of Chairperson and Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.

92. No act or proceeding of the State Commission shall be invalid merely by reason of—

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

(a) any vacancy in, or any defect in the constitution of, the State Commission; or

(b) any defect in the appointment of a person acting as a Member of the State Commission; or

(c) any irregularity in the procedure of the State Commission not affecting the merits of the case.

93. (1) The State Commission shall meet at such time and place as the Chairperson may think fit.

Procedure of State Commission.

(2) Subject to the provisions of this Act and the rules made thereunder, the State Commission shall have the powers to lay down, by regulations, its own procedure.

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

94. (1) The State Government shall appoint an officer of the rank of Additional Secretary to the State Government who shall be the Secretary to the Commission.

Officers and other staff of State Commission.

(2) Subject to such rules as may be made by the State Government in this behalf, the Commission may appoint such other administrative and technical officers and staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

Transfer of service of existing employees to State Commission.

95. Subject to the provisions of this Act, every person employed in the Office of State Commissioner for persons with disabilities constituted under section 60 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 immediately before the date of establishment of the State Commission shall, on and from such date becomes an employee of the State Commission with such designation as the State Commission may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held on such date if the State Commission had not been established and shall continue to do so unless and until his employment in the State Commission is terminated or until such tenure, remuneration and terms and conditions are duly altered by the State Commission:

5 1 of 1996.

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Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the approval of the Central Government.

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Annual and special reports of State Commission.

96. (1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

20

(3) The annual and special reports shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.

25

Transitory provisions.

97. The Chief Commissioner for persons with disabilities and the State Commissioners for persons with disabilities appointed under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, shall continue to so function and exercise the powers conferred on them under that Act, until the National Commission and the State Commission are constituted under this Act, but on the constitution of the National Commission and the State Commission, as the case may be, the Chief Commissioner for persons with disabilities and the State Commissioners for persons with disabilities shall cease to hold office.

1 of 1996.

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CHAPTER XIV

SPECIAL COURT

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Special Court.

98. For the purpose of providing speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Session to be a Special Court to try the offences under this Act.

Special Public Prosecutor.

99. (1) For every Special Court, the State Government may, by notification, specify a Public Prosecutor or appoint an advocate, who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

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(2) The Special Public Prosecutor appointed under sub-section (1) shall be entitled to receive such fees or remuneration as may be prescribed by the State Government.

CHAPTER XV

45

NATIONAL FUND FOR PERSONS WITH DISABILITIES

National Fund for persons with disabilities.

100. (1) There shall be constituted a Fund to be called the National Fund for persons with disabilities and there shall be credited thereto—

(a) all sums available under the Fund for people with disabilities, constituted

6 of 1890.

vide notification no. S.O. 573 (E), dated the 11th August, 1983 and the Trust Fund for Empowerment of Persons with Disabilities, constituted *vide* notification No. 30-03/2004-DDII, dated the 21st November, 2006, under the Charitable Endowment Act, 1890.

(b) all sums payable by banks, corporations, financial institutions in pursuance of judgment dated the 16th April, 2004 of the Hon'ble Supreme Court in Civil Appeal Nos. 4655 and 5218 of 2000;

(c) all sums received by way of grant, gifts, donations, benefactions, bequests or transfers;

(d) all sums received from the Central Government including grants-in-aid;

(e) all sums from such other sources as may be decided by the Central Government.

(2) The Fund for persons with disabilities shall be utilised and managed in such manner as may be prescribed.

101. (1) The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Fund including the income and expenditure accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

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

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

(4) The accounts of the Fund as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be laid before each House of Parliament by the Central Government.

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CHAPTER XVI

OFFENCES AND PENALTIES

102. Any person who contravenes any of the provisions of this Act, or of any rule or regulation made thereunder shall for first contravention be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both, and for any subsequent contravention with imprisonment for a term which may extend to two years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

Punishment
for
contravention
of provisions
of Act or
rules or
regulations
made
thereunder.

103. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 5

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm. 10

Punishment for fraudulently availing any benefit meant for persons with benchmark disabilities.

104. Whoever, fraudulently avails or attempts to avail any benefit meant for persons with benchmark disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both.

Punishment for offences of atrocities.

105. Whoever,—

(a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view; 15

(b) assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;

(c) having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her; 20

(d) being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;

(e) voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;

(f) performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability, 25
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shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

Punishment for failure to furnish information.

106. Whoever, fails to produce any book, account or other documents or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, is duty bound to produce or furnish or to answer any question put in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, shall be punishable with fine which may extend to twenty-five thousand rupees in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to one thousand rupees for each day, of continued failure or refusal after the date of original order imposing punishment of fine. 35
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Previous sanction of appropriate Government.

107. No Court shall take cognizance of an offence alleged to have been committed by an employee of the appropriate Government under this Chapter, except with the previous sanction of the appropriate Government or a complaint is filed by an officer authorised by it in this behalf.

108. Where an act or omission constitutes an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any other law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

Alternative
punishments.

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CHAPTER XVII

MISCELLANEOUS

109. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application
of other laws
not barred.

110. No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any officer of the appropriate Government or any officer or employee of the National Commission or State Commission for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of
action taken
in good faith.

111. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be, after it is made, before each House of Parliament.

112. (1) On the recommendations made by the appropriate Government or otherwise, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the Schedule and any such notification being issued, the Schedule shall be deemed to have been amended accordingly.

Power to
amend
Schedule.

(2) Every such notification shall, as soon as possible after it is issued, shall be laid before each House of Parliament.

113. (1) The Central Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

Power of
Central
Government
to make
rules.

(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:—

(a) the manner of constituting the Ethics Committee under sub-section (2) of section 5;

(b) the manner of notifying the equal opportunity policy under sub-section (1) of section 20;

(c) the form and manner of maintaining records by every establishment under sub-section (1) of section 21;

(d) the manner of maintenance of register of complaints by grievance redressal officer under sub-section (3) of section 22;

(e) the manner of furnishing information and return by establishment to the Special Employment Exchange under section 35;

(f) the composition of the Assessment Board under sub-section (2) and manner of assessment to be made by the Assessment Board under sub-section (3) of section 37;

(g) the manner of application for issuance of certificate of disability under sub-section (1) and form of certificate of disability under sub-section (2) of section 57;

(h) the allowances to be paid to nominated Members of the Central Advisory Board under sub-section (6) of section 60;

(i) the rules of procedure for transaction of business in the meetings of the Central Advisory Board under section 63;

(j) the salaries and allowances and other conditions of services of Chairperson and Members of the National Commission under section 78; 5

(k) the salaries and allowances and conditions of services of officers and staff of the National Commission under sub-section (3) of section 81;

(l) the form, manner and content of annual report to be prepared and submitted by the National Commission under sub-section (3) of section 85; 10

(m) the procedure, manner of utilisation and management of the Fund under sub-section (2) of 100; and

(n) the form for preparation of accounts of Fund under sub-section (1) of section 101.

(3) Every rule made under this Act 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. 15 20

Power of State Government to make rules.

114. (1) The State Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of foregoing powers, such rules may provide for all or any of the following matters, namely:— 25

(a) the manner of constituting the ethics committee under sub-section (2) of section 5;

(b) the form and manner of making an application for certificate of registration under sub-section (1) of section 50; 30

(c) the facilities to be provided and standards to be met by institutions for grant of certificate of registration under sub-section (3) of section 50;

(d) the validity of certificate of registration, the form of, and conditions attached to, certificate of registration under sub-section (4) of section 50;

(e) the period of disposal of application for certificate of registration under sub-section (7) of section 50; 35

(f) the period within which an appeal to be made under sub-section (1) of section 52;

(g) the time and manner of appealing against the order of certifying authority under sub-section (1) and manner of disposal of such appeal under sub-section (2) of section 58; 40

(h) the allowances to be paid to nominated Members of the State Advisory Board under sub-section (6) of section 66;

(i) the rules of procedure for transaction of business in the meetings of the State Advisory Board under section 69; 45

(j) the composition and functions of District Level Committee under section 71;

(k) salaries, allowances and other conditions of services of Chairperson and Members of the State Commission under section 91;

(l) the salaries, allowances and conditions of services of officers and staff of the State Commission under sub-section (3) of section 94;

5 (m) the form, manner and content of annual and special reports to be prepared and submitted by the State Commission under sub-section (3) of section 96; and

(n) the fee or remuneration to be paid to the Special Public Prosecutor under sub-section (2) of section 99.

(3) Every rule made by the State Government under this Act shall be laid, as soon as
10 may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

115. (1) The National Commission may, with the previous approval of the Central Government and after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Power of National Commission to make regulations.

15 (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) standards for accessibility under section 39; and

(b) the rules of procedure for transaction of business under section 80.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is
20 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
25 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.

116. (1) The State Commission may, with the previous approval of the Central Government and after previous publication, by notification, make regulations consistent
30 with this Act and the rules made thereunder to carry out the provisions of this Act:

Power of State Commission to make regulations.

Provided that where any regulation has already been issued in any such matter by the National Commission, such regulations shall prevail over the regulations of the State Commission pertaining to the said matter.

(2) In particular, and without prejudice to the generality of the foregoing power, the
35 State Commission shall make regulations relating to the rules of procedure for transaction of business under section 93.

(3) Every regulation made by the State Commission under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

40 **117.** (1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 is hereby repealed.

Repeal and savings.

(2) Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See clause (x) of section 2]

SPECIFIED DISABILITIES

1. “Autism Spectrum Disorder” means a neuro-psychological condition typically appearing in the first three years of life that significantly affects a person’s ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.

2. “blindness” means a condition where a person has any of the following conditions, after best correction,—

(i) total absence of sight; or

(ii) visual acuity not exceeding 3/60 or 10/200 (Snellen) in the better eye; or

(iii) limitation of the field of vision subtending an angle of 10 degree or worse.

3. “cerebral palsy” means a group of non-progressive neurological condition of a person affecting body movements and muscle coordination caused by damage to one or more specific areas of the brain, usually occurring before, during or shortly after birth.

4. “chronic neurological conditions” means a condition that has its origin in some part of person’s nervous system lasting for a long period of time or marked by frequent recurrence.

5. “deafblindness” means a condition in which a person may have a combination of hearing and visual impairments causing severe communication, developmental, and educational problems and include,—

(i) moderate to profound hearing and significant visual impairments;

(ii) moderate to profound hearing and significant visual impairments and other significant disabilities;

(iii) central processing problems of vision and hearing;

(iv) progressive sensory impairments or significant visual impairment; and

(v) possible loss of auditory processing mechanisms (associated with severe physical disability or severe cognitive disability) and severe communication delay.

6. “hemophilia” means an inheritable disease, usually affecting only male but transmitted by women to their male children, characterised by loss or impairment of the normal clotting ability of blood so that a minor wound may result in fatal bleeding.

7. “hearing Impairment” means loss of sixty decibels hearing level or more in the better ear in the conversational range of frequencies.

8. “intellectual disability” means a condition characterised by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour, which covers a range of everyday social and practical skills.

9. “leprosy cured person” means a person who has been cured of leprosy but is suffering from—

(i) loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;

(ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

(iii) extreme physical deformity as well as advanced age which prevents him or her from undertaking any gainful occupation, and the expression “leprosy cured” shall be construed accordingly.

10. “locomotor disability” means a person’s inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both.

11. “low-vision” means a condition where a person has any of the following conditions, namely:—

(i) visual acuity not exceeding 6/18 or 20/60 and less than 6/60 or 20/200 (Snellen) in the better eye with correcting lenses; or

(ii) limitation of the field of vision subtending an angle of more than 10 and up to 40 degree.

12. “mental illness” means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence.

13. “muscular dystrophy” means a group of hereditary genetic muscle disease that weakens the muscles that move the human body and persons with multiple dystrophy have incorrect or missing information in their genes, which prevents them from making the proteins they need for healthy muscles. It is characterised by progressive skeletal muscle weakness, defects in muscle proteins, and the death of muscle cells and tissue.

14. “multiple sclerosis” means an inflammatory, nervous system disease in which the myelin sheaths around the axons of nerve cells of the brain and spinal cord are damaged, leading to demyelination and affecting the ability of nerve cells in the brain and spinal cord to communicate with each other.

15. “specific learning disabilities” means a heterogeneous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell, or to do mathematical calculations and includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia.

16. “speech and language disability” means a permanent disability arising out of conditions such as laryngectomy or aphasia affecting one or more components of speech and language due to organic or neurological causes.

17. “thalassemia” means a group of inherited disorders characterised by reduced or absent amounts of hemoglobin.

18. “sickle cell disease” means a hemolytic disorder characterised by chronic anemia, painful events, and various complications due to associated tissue and organ damage; “hemolytic” refers to the destruction of the cell membrane of red blood cells resulting in the release of hemoglobin.

19. “multiple disability” means two or more of the specified disabilities mentioned at serial numbers 1 to 18, occurring in a person at the same time.

20. Any other category as may be notified by the Central Government.

STATEMENT OF OBJECTS AND REASONS

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was enacted to give effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region. The Act defines Persons with Disabilities as those having not less than forty per cent. disability and identified seven categories of disabilities, namely, blindness, low vision, hearing impairment, locomotor disability, mental retardation, mental illness and leprosy-cured.

2. Over a period of time, the conceptual understanding of the rights of persons with disabilities has become more clear and there has been worldwide change in approach to handle the issues concerning persons with disabilities. The United Nations adopted its Convention on the Rights of Persons with Disabilities laying down the principles to be followed by the States Parties for empowerment of persons with disabilities. India signed the said Convention and subsequently ratified the same on the 1st day of October, 2007. The Convention came into effect on the 3rd day of May, 2008. Being a signatory to the Convention, India has an international obligation to comply with the provisions of the said Convention which required an entirely new legislation.

3. In 2010, an Expert Committee constituted under the chairmanship of Dr. Sudha Kaul, Vice-Chairperson, Indian Institute of Cerebral Palsy, Kolkata submitted its report in 2011, suggesting a Draft Bill relating to the Rights of Persons with Disabilities. The draft Bill was extensively debated upon at various levels involving State Governments and Union territories and various stakeholders.

4. The salient features of the Rights of Persons with Disabilities Bill, 2014, *inter alia*, are:

(i) Nineteen specified disabilities have been defined;

(ii) the persons with disabilities enjoy various rights such as right to equality, life with dignity, respect for his or her integrity, etc., equally with others;

(iii) duties and responsibilities of the appropriate Government have been enumerated;

(iv) all educational institutions funded by appropriate Government shall provide inclusive education to the children with disabilities;

(v) a National Fund is proposed to provide financial support to persons with disabilities;

(vi) stakeholders' participation in the policy making through Central and State Advisory Boards;

(vii) increase in reservation in posts from existing three per cent. to five per cent. in the vacancies for persons or class of persons with benchmark disabilities in every establishment and reservation of seats for students with benchmark disabilities in higher educational institutions;

(viii) setting up of National Commission and State Commission to act as Grievance Redressal Mechanism, monitor implementation of the proposed legislation replacing the Chief Commissioner and State Commissioners for persons with disabilities, respectively;

(ix) guidelines to be issued by the Central Government for issuance of certificates of specified disabilities;

(x) penalties for offences committed against persons with disabilities; and

(xi) Court of Session to be designated as Special Court by the State Government in every district to try offences.

5. The Bill seeks to achieve the above objects.

MALLIKARJUN KHARGE.

NEW DELHI;
The 31st January, 2014.

Notes on clauses

Clause 1.—This clause seeks to provide for short title, extent and commencement of the proposed legislation.

Clause 2.—This clause seeks to provide the definitions of certain words and expressions used in various provisions of the Bill.

Clause 3.—This clause seeks to provide that the appropriate Government shall ensure that persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

Clause 4.—This clause seeks to provide for the appropriate Government to endeavour that the persons with disabilities enjoy the right to live in community.

Clause 5.—This clause seeks to provide for the responsibility of the appropriate Government to take measures for protecting the persons with disabilities from being subjected to torture, cruelty and inhuman treatment.

Clause 6.—This clause seeks to provide for the appropriate Government to take measures to protect persons with disabilities from all forms of abuse, violence and exploitation. It also seeks to specify the responsibility of the Executive Magistrate and Police Officers to deal with the complaint regarding any abuse, violence and exploitation.

Clause 7.—This clause seeks to ensure that the National Disaster Management Authority, State Disaster Management Authority and District Management Authority to take appropriate measures for the safety and protection of persons with disabilities in situations of risks.

Clause 8.—This clause seeks to provide for the right of the children with disability to live with their family and in certain exceptional cases the competent court may place the child in shelter homes, as may be required.

Clause 9.—This clause seeks to provide for the reproductive rights of persons with disabilities and prohibits any medical procedure to be carried out on persons with disabilities which leads to infertility without his or her free and informed consent.

Clause 10.—This clause seeks to provide for the responsibility of the Election Commission of India and State Elections Commissions to ensure that persons with disabilities have accessibility to voting.

Clause 11.—This clause seeks to provide for the appropriate Government to ensure that the persons with disabilities have access to any Court, Tribunal, Authority, Commission or any other judicial or *quasi-judicial* body.

Clause 12.—This clause seeks to provide for the appropriate Government to ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

Clause 13.—This clause seeks to provide for grant of limited guardianship and plenary guardianship by the District Court for mentally ill persons who can take all legal binding decisions on his or her behalf.

Clause 14.—This clause seeks to provide for the appropriate Government to designate authorities to mobilise community support for persons with disabilities.

Clause 15.—This clause seeks to provide for the duties of the educational institutions funded by the appropriate Government and local authorities to achieve the goal of inclusive

education wherein students with and without disabilities learn together and systems of teaching and learning are suitably adopted to meet the learning needs of different types of students with disabilities.

Clause 16.—This clause seeks to provide for the appropriate Government and local authorities to take specific measures to promote and facilitate inclusive education.

Clause 17.—This clause seeks to provide for the appropriate Government and local authorities to take measures to promote adult education for persons with disabilities.

Clause 18.—This clause seeks to provide for the appropriate Government to formulate schemes and programmes to promote vocational training and self-employment of persons with disabilities.

Clause 19.—This clause seeks to prohibit every establishment to discriminate any person with disability in any matter relating to employment.

Clause 20.—This clause seeks to provide for the responsibility of every establishment to notify equal opportunity policy.

Clause 21.—This clause seeks to provide for every establishment to maintain record regarding employment and facilities provided to persons with disabilities.

Clause 22.—This clause seeks to provide for every establishment to appoint Grievance Redressal Officer to inquire the complaints regarding discrimination in employment.

Clause 23.—This clause seeks to provide for the appropriate Government to formulate schemes and programmes to safeguard and promote the rights of persons with disabilities and enumerates various areas for such schemes.

Clause 24.—This clause seeks to provide for the appropriate Government and local authorities to take measures to provide free and barrier free access to health care facilities in the vicinity and also casts responsibilities on them to promote health care and prevent occurrence of disability.

Clause 25.—This clause seeks to provide for the appropriate Government to make insurance schemes for their employees with disabilities.

Clause 26.—This clause seeks to provide for the appropriate Government and local authority to undertake programmes for rehabilitation of persons with disabilities.

Clause 27.—This clause seeks to provide for the appropriate Government to undertake research and development on issues concerning empowerment of persons with disabilities.

Clause 28.—This clause seeks to provide for the appropriate Government and local authority to take measures to facilitate the persons with disabilities to participate in cultural life and recreational activities.

Clause 29.—This clause seeks to provide for the appropriate Government to take measures to promote participation of persons with disabilities in sporting activities.

Clause 30.—This clause seeks to provide for right of every child with benchmark disability between the age of six and eighteen years to free education.

Clause 31.—This clause seeks to provide for reservation of seats in Government and Government-aided higher educational institutions for the persons with benchmark disabilities.

Clause 32.—This clause seeks to provide for the appropriate Government to identify posts in establishments to be reserved for the persons with benchmark disabilities.

Clause 33.—This clause seeks to provide for reservation of vacancies in establishments meant for persons with disabilities and also provides for the manner of recruitment to fill up such vacancies.

Clause 34.—This clause seeks to provide for the appropriate Government and the local authorities to give incentives to promote employment of persons with benchmark disabilities.

Clause 35.—This clause seeks to provide for the establishment to furnish information relating to appointment of persons with benchmark disabilities to Special Employment Exchange.

Clause 36.—This clause seeks to provide for the appropriate Government to make special schemes and developmental programmes for the persons with benchmark disabilities.

Clause 37.—This clause seeks to provide for the persons with disabilities requiring high support to apply before an authority and also provides for the duty of such authority to make arrangement for providing such support on the basis of recommendations of an Assessment Board.

Clause 38.—This clause seeks to provide for the appropriate Government to conduct, encourage, support or promote awareness campaigns and sensitisation programmes regarding protection of rights of persons with disabilities.

Clause 39.—This clause seeks to provide for the National Commission to lay down standards of accessibility for the physical environment, transportation, informational communication and other facilities and services provided to the public.

Clause 40.—This clause seeks to provide for the appropriate Government to take suitable measures to facilitate and access to all modes of transport by the persons with disabilities.

Clause 41.—This clause seeks to provide for the appropriate Government to take measures to ensure that the persons with disabilities have access to information and communication technology.

Clause 42.—This clause seeks to provide for the appropriate Government to take measures to promote development and distribution of universal design consumer products for the general use of persons with disabilities.

Clause 43.—This clause seeks to provide for mandatory observance of accessibility norms by the establishments.

Clause 44.—This clause seeks to provide for the time limit for making existing infrastructure and premises accessible for the persons with disabilities and also provides for the action to be taken by the appropriate Government and local authorities for that purpose.

Clause 45.—This clause seeks to provide for the timeline for every service provider to meet the accessibility norms to be formulated by the National Commission.

Clause 46.—This clause seeks to provide for the appropriate Government to take various measures for human resource development for the purpose of achieving the objectives of the proposed legislation.

Clause 47.—This clause seeks to provide for the appropriate Government to undertake social audit of all general schemes and programmes involving persons with disabilities.

Clause 48.—This clause seeks to empower the State Government to appoint a competent authority for the purpose of registration of institutions for persons with disabilities.

Clause 49.—This clause seeks to provide for the requirement of registration for establishment of any institution of persons with disabilities.

Clause 50.—This clause seeks to provide for procedure for grant of certificate of registration of the institutions for the persons with disabilities by the State Government.

Clause 51.—This clause seeks to provide for the conditions under which and the procedure to be followed for revocation of registration of the institutions for persons with disabilities.

Clause 52.—This clause seeks to provide for the arrangement of making an appeal before the appellate authority regarding the decision of the competent authority refusing to grant a certificate of registration or revoking such certificate of registration.

Clause 53.—This clause seeks to exempt the institutions established or maintained by the Central or State Government from the requirement of registration.

Clause 54.—This clause seeks to provide for the appropriate Government, within their limits of economic capacity and development to provide financial assistance to the registered institutions.

Clause 55.—This clause seeks to empower the Central Government to notify guidelines for assessment of specified disabilities.

Clause 56.—This clause seeks to provide for the appropriate Government to designate certifying authority for the purpose of issuance of certificate of disability.

Clause 57.—This clause seeks to provide for the procedure for issuance of certificate of disability to any person with specified disability.

Clause 58.—This clause seeks to provide for making an appeal before an appellate authority as designated by the State Government against the decision of certifying authority.

Clause 59.—This clause seeks to provide for the Central Government to constitute a Central Advisory Board on disability.

Clause 60.—This clause seeks to provide for the terms and conditions of the nominated members of the Central Advisory Board.

Clause 61.—This clause seeks to provide for the grounds of disqualification of a member of the Central Advisory Board.

Clause 62.—This clause seeks to provide for the vacation of seats of members on account of disqualification.

Clause 63.—This clause seeks to provide for the meetings of the Central Advisory Board and empowers the Central Government to make rules of procedure for transaction of business in its meetings.

Clause 64.—This clause seeks to provide for the functions of the Central Advisory Board.

Clause 65.—This clause seeks to provide for the State Government to constitute State Advisory Board on disability.

Clause 66.—This clause seeks to provide for the terms and conditions of service of members of State Advisory Board.

Clause 67.—This clause seeks to provide for the grounds of disqualification of a member of the State Advisory Board.

Clause 68.—This clause seeks to provide for vacation of seats by members of State Advisory Board on account of disqualification.

Clause 69.—This clause seeks to provide for meetings of the State Advisory Board and empowers the State Government to make rules of procedure for transaction of business in its meetings.

Clause 70.—This clause seeks to provide for the functions of the State Advisory Board on disability.

Clause 71.—This clause seeks to empower the State Government to constitute District-level Committee on disability.

Clause 72.—This clause seeks to provide that vacancies in Central Advisory Board, State Advisory Board or district level Committee not to invalidate their proceedings.

Clause 73.—This clause seeks to provide for the Central Government to constitute National Commission for persons with disabilities and enumerates its functions.

Clause 74.—This clause seeks to provide for procedure for selection and appointment of Chairperson and Members of the National Commission.

Clause 75.—This clause seeks to provide for term of office of Chairperson and Members of the National Commission.

Clause 76.—This clause seeks to provide for grounds for removal of Chairperson and Members of the National Commission.

Clause 77.—This clause seeks to provide for the circumstances under which senior most member of the National Commission can act as Chairperson and to discharge his functions.

Clause 78.—This clause seeks to provide for terms and conditions of service of Chairperson and Members of the National Commission.

Clause 79.—This clause seeks to provide for vacancies not to invalidate the proceedings of the National Commission.

Clause 80.—This clause seeks to provide for procedure to be followed by the National Commission for transaction of its business and empowers the National Commission to make regulations.

Clause 81.—This clause seeks to provide for provisions for officers and staff of the National Commission and their conditions of service.

Clause 82.—This clause seeks to provide for transfer of services of officers and staff of the existing office of the Chief Commissioner for Persons with Disabilities to National Commission.

Clause 83.—This clause seeks to provide the duty of concerned authorities to take necessary action as per the recommendations of the National Commission.

Clause 84.—This clause seeks to provide for the National Commission to exercise the powers of a Civil Court in certain matters.

Clause 85.—This clause seeks to provide for the National Commission to submit annual and special reports and laying of such reports before each House of Parliament.

Clause 86.—This clause seeks to provide for the State Government to constitute State Commission for persons with disabilities and its functions.

Clause 87.—This clause seeks to provide for procedure for selection and appointment of Chairperson and Members of State Commission.

Clause 88.—This clause seeks to provide for term of office of Chairperson and Members of the State Commission.

Clause 89.—This clause seeks to provide for grounds of removal of Chairperson and Members of the State Commission.

Clause 90.—This clause seeks to provide for the circumstances under which senior most Member of the State Commission to act as Chairperson and to discharge his functions.

Clause 91.—This clause seeks to provide for terms and conditions of service of Chairperson and Member of State Commission.

Clause 92.—This clause seeks to provide for vacancies not to invalidate the proceedings of the State Commission.

Clause 93.—This clause seeks to provide for procedure to be followed by the State Commission for transaction of its business and empowers the State Commission to make regulations.

Clause 94.—This clause seeks to provide for provisions for officers and staff of State Commission and their conditions of service.

Clause 95.—This clause seeks to provide for transfer of services of officers and staff of the existing office of the State Commissioner for Persons with Disabilities to State Commission.

Clause 96.—This clause seeks to provide for the State Commission to submit annual and special reports and laying of such reports before each House of State Legislature where such Legislature consists of two Houses or where such Legislature consists of one House, before that House.

Clause 97.—This clause seeks to provide for transitory provisions wherein the Chief Commissioner and the State Commissioner for persons with disabilities will continue to function until National Commission and the State Commissioners respectively are constituted.

Clause 98.—This clause seeks to provide for the State Government to designate a Court of Session in each district to be a Special Court to facilitate speedy trial of offences against persons with disabilities.

Clause 99.—This clause seeks to provide for the State Government to appoint Special Public Prosecutor to conduct cases concerning persons with disabilities.

Clause 100.—This clause seeks to provide for the Central Government to constitute National Fund for the persons with disabilities.

Clause 101.—This clause seeks to provide for the Central Government to maintain accounts of the National Fund and conduct audit of the Fund through Comptroller and Auditor General of India.

Clause 102.—This clause seeks to provide for punishment for contravention of provisions of the proposed legislation or rules or regulations made thereunder.

Clause 103.—This clause seeks to provide for offences by companies.

Clause 104.—This clause seeks to provide for punishment for fraudulently availing any benefit meant for persons with disabilities.

Clause 105.—This clause seeks to provide for punishments for various acts of atrocities against persons with disabilities.

Clause 106.—This clause seeks to provide for punishment for failure to furnish information in terms of the provisions of the proposed legislation.

Clause 107.—This clause seeks to provide for requirement of previous sanction of appropriate Government to proceed against its employees in case of offences alleged to have been committed by them.

Clause 108.—This clause seeks to provide for alternative punishment where punishment for such offences has been specified under any other Central or State Act.

Clause 109.—This clause seeks to provide for the provisions of the proposed legislation to be in addition to and not in derogation of the provisions of any other law for the time being in force.

Clause 110.—This clause seeks to provide for protection of action taken in good faith.

Clause 111.—This clause seeks to provide for the power to remove difficulties.

Clause 112.—This clause seeks to empower the Central Government to amend the Schedule.

Clause 113.—This clause seeks to empower the Central Government to make rules to carry out the provisions of the proposed legislation and provide for laying of every such rule, as soon as may be after it is made, before each House of the Parliament.

Clause 114.—This clause seeks to empower the State Government to make rules to carry out the provisions of the proposed legislation and provide for laying of every such rule, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

Clause 115.—This clause seeks to empower the National Commission to make regulations and provide for laying of every such regulation, as soon as may be after it is made, before each House of the Parliament.

Clause 116.—This clause seeks to empower the State Commission to make regulations and provide for laying of every such regulation, as soon as after it is made, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

Clause 117.—This clause seeks to provide for repeal of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Protection) Act, 1995 and savings of the action taken thereunder.

FINANCIAL MEMORANDUM

Clause 16 of the Bill provides that the appropriate Government and local authorities for achieving inclusive education to the children with disabilities shall take a number of measures which include conducting surveys to identify children with disabilities, establish adequate teacher training institutions, provide books and other learning materials, provide scholarships and promote research to improve learning.

2. Clause 18 of the Bill provides that the appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates, facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

3. Clause 23 of the Bill provides that the appropriate Government shall, within the limit of its economic capacity and development, formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community, which include provision of community centres; access to safe drinking water; accessible sanitation facility; aids and appliances; disability pension; unemployment allowance; care-giver allowance; etc.

4. Sub clause (i) of clause 24 of the Bill provides that the appropriate Government and the local authorities shall take necessary measures for the persons with disabilities to provide (a) free health care in the vicinity specially in rural area subject to such family income as may be notified; (b) barrier-free access in all parts of the hospitals and other healthcare institutions and centres run or aided by them; (c) priority in attendance and treatment. Sub-clause (ii) of this clause provides that the appropriate Governments and the local authorities shall take measures and make schemes or programmes to promote health care and prevent the occurrence of disabilities.

5. Sub-clause (1) of clause 26 of the Bill provides that the appropriate Government and the local authorities shall, within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities. Sub-clause (2) of this clause provides that the appropriate Government and the local authorities may grant financial assistance to Non-Governmental Organisations.

6. Clause 27 of the Bill provides that the appropriate Government shall initiate or cause to be initiated research and development through individuals and institutions on issues which shall enhance habilitation and rehabilitation and on such other issues which are necessary for the empowerment of persons with disabilities.

7. Clause 28 of the Bill provides that the appropriate Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others which include providing facilities, recreation centres and developing assistive devices and equipments.

8. Clause 29 of the Bill provides that the appropriate Government shall take measures and services ranging from support infrastructure facilities, developing technology and allocating funds for training of persons with disabilities.

9. Sub-clause (2) of clause 30 of the Bill provides that the appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

10. Clause 38 of the Bill provides that the appropriate Government shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure

that the rights of the persons with disabilities contained in the proposed legislation are protected.

11. Clause 40 of the Bill provides that the appropriate Government shall take suitable measures to provide—(a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines; (b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design; and (c) accessible roads to address mobility necessary for persons with disabilities.

12. Sub-clause (2) of clause 44 of the Bill provides that the appropriate Government and the local authorities shall formulate and publish an action plan based on prioritisation, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.

13. Clause 46 of the Bill provides that the appropriate Government shall endeavour to develop human resource, which includes training for various categories of functionaries, governmental and non-governmental.

14. Clause 54 of the Bill provides that the appropriate Government may, within the limits of their economic capacity and development, grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the proposed legislation.

15. Sub-clause (6) of clause 60 of the Bill provides for allowances payable by the Central Government to certain nominated Members of the Central Advisory Board. Similarly, sub-clause (6) of clause 66 provides for allowances payable by the State Government to the certain nominated Members of the State Advisory Board.

16. Clause 73 of the Bill provides that the Central Government shall constitute National Commission for persons with disabilities to exercise the powers conferred upon and to perform the functions contained in the proposed legislation. The office of the National Commission will be established by way of reshaping of the office of the existing Chief Commissioner for persons with disabilities. Similarly, the State Government shall constitute State Commission for persons with disabilities to exercise the powers conferred upon and to perform the functions contained in the proposed legislation in terms of clause 86 of the Bill. The State Commissions will be set up by way of reshaping of the office of existing State Commissioners.

17. Clause 99 of the Bill provides for appointment of special public prosecutor for conducting cases concerning offences against persons with disabilities and payment of fees and remunerations to such public prosecutor by the State Governments.

There is no easy way of estimating the full financial burden likely to be incurred if all the provisions of the proposed legislation if enacted were implemented in such a manner that all persons with disabilities requiring such services were to be covered. However, some of these tasks are currently funded through approved plan schemes which the Central Government intends to expand in the XII Plan period. Some tasks which are currently not funded by the Central Government and which would be necessary, should the proposed legislation be enacted, are also proposed to be funded through Plan schemes. Funding through Plan schemes for the implementation of the proposed legislation would need to continue in subsequent plan periods also. Provisioning for empowerment of persons with disabilities is not a onetime activity. Since disability is a State subject under the Constitution, it is also expected that overtime the States will also contribute substantially to the implementation of programmes for the period of benefit of persons with disabilities, thereby, contributing to the implementation of the provisions of the Bill. However, the expenditure, whether recurring or non-recurring will be met out of the Consolidated Fund of India or Consolidated Fund of the concerned State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 112 of the Bill empowers the Central Government to amend the Schedule by notification in the official Gazette.

2. The notification issued under sub-clause (2) of clause 112 is required to be laid before each House of the Parliament.

3. Clause 113 of the Bill empowers the Central Government to make rules to carry out the provisions of the proposed legislation, subject to the condition of previous publication. Sub-clause (2) of this clause enumerates the matter with respect to which rules may be made under this clause. These matters, *inter alia*, relate to—(a) the manner of constituting the ethics committee under sub-clause (2) of clause 5; (b) the manner of notifying the equal opportunity policy under sub-clause (1) of clause 20; (c) the form and manner of maintaining records by every establishment under sub-clause (1) of clause 21; (d) the manner of maintenance of register of complaints by Grievance Redressal Officer under sub-clause (3) of clause 22; (e) the manner of furnishing information and return by establishment to the Special Employment Exchange under clause 35; (f) the composition of the Assessment Board under sub-clause (2) and manner of assessment to be made by the Assessment Board under sub-clause (3) of clause 37; (g) the manner of application for issuance of certificate of disability under sub-clause (1) and the form of certificate of disability under sub-clause (2) of clause 57; (h) the allowances to be paid to the nominated Members of Central Advisory Board under sub-clause (6) of clause 60; (i) the rules of procedure for transaction of business in the meetings of the Central Advisory Board under clause 63; (j) the salaries and allowances and other conditions of services of Chairperson and Members of the National Commission under clause 78; (k) the salaries and allowances and conditions of services of officers and staff of the National Commission under sub-clause (3) of clause 81; (l) the form, manner and content of annual report to be prepared and submitted by the National Commission under sub-clause (3) of clause 85; (m) the procedure, manner of utilisation and management of the Fund under sub-clause (2) of clause 100; and (n) the form for preparation of accounts of Fund under sub-clause (1) of clause 101.

4. Sub-clause (3) of clause 113 provides that every rule made by the Central Government under the proposed legislation is required to be laid before each House of the Parliament.

5. Clause 114 of the Bill empowers the State Government to make rules to carry out the provisions of the proposed legislation, subject to the condition of previous publication. Sub-clause (2) of this clause enumerates the matters with respect to which rules may be made under this clause. These matters *inter alia*, relate to – (a) the manner of constituting the ethics committee under sub-clause (2) of clause 5; (b) the form and manner of making an application for certificate of registration under sub-clause (1) of clause 50; (c) the facilities to be provided and standards to be met by institution for grant of certificate of registration under sub-clause (3) of clause 50; (d) the validity of certificate of registration, the form of and conditions attached to certificate of registration under sub-clause (4) of clause 50; (e) the period of disposal of application for certificate of registration under sub-clause (7) of clause 50; (f) the period within which an appeal to be made under sub-clause (1) of clause 52; (g) the time and manner of appealing against the order of certifying authority under sub-clause (1) and manner of disposal of such appeal under sub-clause (2) of clause 58; (h) the allowances to be paid to the nominated Members of the State Advisory Board under sub-clause (6) of clause 66; (i) the rules of procedure for transaction of business in the meetings of the State Advisory Board under clause 69; (j) the composition, and functions of district level committee under clause 71; (k) salaries, allowances and other conditions of services of Chairpersons and Members of the State Commission under clause 91; (l) the salaries, allowances and conditions of services of officers and the staff of the State Commission under sub-clause (3)

of clause 94; (m) the form, manner and content of annual and special reports to be prepared and submitted by the State Commission under sub-clause (3) of clause 96; and (n) the fee or remuneration to be paid to the special public prosecutor under sub-clause (2) of clause 99.

6. Sub-clause (3) of clause 114 provides that every rule made by the State Government under the proposed legislation is required to be laid before each House of the State Legislature where it consists of two Houses, or where such legislature consist of one House, before that House.

7. Clause 115 of the Bill empowers the National Commission to make regulations, by notification, consistent with the provisions of proposed legislation and rules made thereunder to carry out the provisions of the proposed legislation. Sub-clause (2) of this clause enumerates the matters with respect to which regulations may be made under this clause. These matters, *inter alia*, relate to - (a) standards for accessibility under clause 39; and (b) the rules of procedure for transaction of business under clause 80.

8. Sub-clause (3) of clause 115 provides that every regulation made by the National Commission under the proposed legislation is required to be laid before each House of the Parliament.

9. Clause 116 of the Bill empowers the State Commission to make regulations, by notification, consistent with the provisions of proposed legislation and rules made thereunder to carry out the provisions of the proposed legislation.

10. Sub-clause (3) of clause 116 provides that every regulation made by the State Commission under the proposed legislation is required to be laid before each House of the State Legislature where it consists of two Houses, or where such legislature consist of one House, before that House.

11. The matters in respect of which rules, regulations and notifications may be made under the aforesaid provisions are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

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BILL

to give effect to the United Nations Convention on the Rights of Persons with Disabilities
and for matters connected therewith or incidental thereto.

(Shri Mallikarjun Kharge, Minister of Social Justice and Empowerment)