

THE DRAFT RIGHTS OF PERSONS WITH DISABILITIES BILL, 2012

Government of India
Ministry of Social Justice & Empowerment
Department of Disability Affairs
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THE RIGHTS OF PERSONS WITH DISABILITIES BILL, 2012

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THE RIGHTS OF PERSONS WITH DISABILITIES BILL, 2012

PART I: PRELIMINARY

1. Short Title, Extent and Commencement

- (1) This Act may be called the "The Rights of Persons with Disabilities Act, 2012".
- (2) It extends to the whole of India except the State of Jammu & Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification, appoint.

2. Definitions

In this Act, unless the context otherwise requires:

- (a) 'abuse' includes verbal and physical abuse;
- (b) 'appellate authority' means an authority designated under sub-section (1) of Section 63 or sub-section (1) of Section 69 of this Act, as the case may be;
- (c) 'appropriate government' means:-
 - i. In relation to an establishment of the Central Government, or an establishment, wholly or substantially owned or financed by that Government, or a Cantonment Board constituted under the Cantonment Act, 1924, or a union territory without legislature, or the provider of a service which pertains to List I in Schedule VII of the Constitution, the Central Government;
 - ii. In all other cases, the State Government or, as the case may be, the Government of a UT with legislature.
- (d) 'augmentative and alternative communication (AAC)' are alternative systems or methods of communication that may supplement or complement the use of one's own speech to fulfil the daily communication needs of persons with speech, communication or language disabilities in accordance with their requirements and enables them to participate and contribute to their community and society;

- (e) 'barrier' means any factor including attitudinal, communicational, cultural, economic, environmental, institutional, political, religious, social or structural factors which hampers the full and effective participation, of persons with disabilities in society;
- (f) 'care giver' is a person who on payment provides care, support or assistance to a person with disability;
- (g) 'communication' includes languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;
- (h) "certifying authority", in relation to certification of a person with benchmark disability, means an authority designated under sub-section (1) of section 67 of this Act;
- (i) 'competent authority' means an authority appointed under sub-section(1) of section 44 or section 59 of this Act;
- (j) 'convention' means the United Nations Convention on the Rights of Persons with Disabilities;
- (k) 'disabled persons' organization' (DPO) means an organization registered under an Act of Parliament, or a State Legislature, and controlled by a majority of persons with disabilities at the board and membership levels;
- (l) 'discrimination on the basis of disability' means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination, including denial of reasonable accommodation;
- (m) 'establishment' means and includes:
 - a. Departments and Ministries of Government;

- b. Local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;
- c. Any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public or civic functions and includes Government Companies as defined in Section 617 of the Companies Act, 1956;
- d. Any company, firm, cooperative or other society, association, trust, agency, institution, organization, union, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (a) to (c) and provides services as defined in clause (gg) section 2;

Explanation

The term 'industry' shall have the same meaning as in Section 2 (j) of the Industrial Disputes Act, 1947.

- (n) 'exclusive disability rights court' means a court notified under Section 106 of this Act;
- (o) 'exploitation' means a person using the disability of another person to his own advantage to which he is not otherwise entitled, and/or to the latter's disadvantage, to which such latter person is not otherwise liable;
- (p) 'higher education' means a course of education which can be pursued after completing twelve years of school education;
- (q) 'high support' means an intensive support – physical, psychological and otherwise, which may be needed by individuals for activities of daily living; independent and informed decision-making; accessing facilities and participating in all areas of life including education; employment; family and community life; treatment and therapy; recreation and leisure;
- (r) 'human rights' shall have the meaning assigned to it in Clause (d) of Section 2 of the Protection of Human Rights Act, 1993;
- (s) 'inclusive education' means a system of education wherein all students – i.e. those with and without disability – learn together, most or all of the time, and the system of teaching-learning is suitably adapted to meet the learning needs of

different types of students such that learning outcomes of comparable/satisfactory quality are achieved for all students;

- (t) 'institution' for persons with disabilities means an institution for the reception, care, protection, education, training, rehabilitation or any other service of persons with disabilities;
- (u) 'language' includes spoken and signed languages and other forms of non spoken languages;
- (v) 'local authority' means a municipality, a cantonment board, a panchayat or any other authority, established under an Act of Parliament, or a State Legislature to administer the civic affairs of any habitation as defined in or under such Act;
- (w) 'National Commission' means the National Commission for Persons with Disabilities constituted under Section 84 of this Act.
- (x) 'person with benchmark disability' means a person with not less than forty percent of a specified disability, as certified by a competent authority;
- (y) 'person with disability' means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder his full and effective participation in society on an equal basis with others;
- (z) 'person with disability having high support needs' means a person with benchmark disability who is certified under section 44 to require high support on an ongoing basis, and may, in particular, include such persons confined to their homes or living in institutions, or who may be concealed, neglected or segregated, or destitute or homeless;
- (aa) 'prescribed' means prescribed by rules made under this Act;
- (bb) 'prohibited grounds' are the grounds on the basis of which persons with disabilities may be discriminated against, and include the following grounds:
 - i. Disability;
 - ii. Perceived disability, whether the perception is accurate or otherwise, or;

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- iii. Association of a person with persons to whom one or more prohibited grounds apply, or;
 - iv. A combination of disability and any other ground such as religion, race, caste, tribe, place of birth, age, language, sex, gender identity, sexual orientation, pregnancy, maternity, marital status, care giver status, economic status, political or other opinion.
- (cc) 'public building' means a building, irrespective of ownership, which is used and accessed by the public at large; and includes its entrance, exit, parking space, footpath and other appurtenant lands;
- (dd) 'reasonable accommodation' means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;
- (ee) 'registered organization' means an association of persons with disabilities or a Disabled Persons' Organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary, non-governmental or charitable organization or trust, society, non-profit company working for persons with disabilities, duly registered under an Act of Parliament or a State Legislature;
- (ff) 'rehabilitation' refers to a process aimed at enabling persons with disabilities to attain and maintain maximum independence, full physical, sensory, intellectual, psychiatric, social and vocational ability, and full inclusion and participation in all aspects of life.
- (gg) 'services' means services provided by members of any profession or trade, or provided by any government, local authority or establishment and includes services relating to banking and finance; education; health; insurance; rehabilitation; entertainment, recreation and hospitality; transport or travel; and telecommunications;
- (hh) 'specified disability' means:-

- i. autism spectrum disorder;
- ii. blindness;
- iii. cerebral palsy;
- iv. chronic neurological conditions;
- v. deafblindness;
- vi. hemophilia;
- vii. hearing impairment;
- viii. intellectual disability;
- ix. leprosy cured;
- x. locomotor disability;
- xi. low vision;
- xii. mental illness;
- xiii. muscular dystrophy;
- xiv. multiple sclerosis;
- xv. specific learning disability;
- xvi. speech and language disability, and
- xvii. thalassemia;
- xviii. multiple disability;
as defined in the Schedule.

(ii) 'State Commission' means a State Commission for Persons with Disabilities constituted under Section 96 of this Act.

(jj) '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 specialized design. "Universal design" shall also apply to assistive devices including advanced technologies for particular groups of persons with disabilities;

(kk) 'violence' means causing physical or mental harm or injury;

(ll) 'voluntary care-giver' means a person, who provides voluntary care, support and assistance to a person with disability without any payment for his work;

3. Guiding Principles

Appropriate governments and local authorities shall, subject to the provisions of this Act and any other laws for the time being in force, take all necessary steps to secure for persons with disabilities the following:

- 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.

PART II: RIGHTS AND ENTITLEMENTS

Chapter I: General

4. Equality and Non-discrimination

- (1) The appropriate government shall take all necessary steps to ensure that persons with disabilities enjoy the right of equality guaranteed by Article 15 of the Constitution of India, on an equal basis with others.
- (2) No person with disability shall be discriminated, unless it can be shown that the impugned act, provision, criterion, practice, treatment or omission is a proportionate means of achieving a legitimate aim.
- (3) The appropriate government shall take all necessary steps to ensure reasonable accommodation.
- (4) A person with disability shall not be forced or compelled to partly or fully pay any of the costs incurred to provide reasonable accommodation.
- (5) Any affirmative action or measure aimed to accelerate or achieve de facto equality of persons with disabilities shall not constitute discrimination.

5. Women and Girls with Disabilities

- (1) The appropriate government and local authorities shall take measures to ensure the full and equal enjoyment of all rights by women and girls with disabilities.
- (2) The appropriate government and local authorities shall take measures to ensure the full development, advancement and empowerment of women and girls with disabilities, for the purpose of guaranteeing them the exercise and enjoyment of the human rights on an equal basis with others.

6. Children with Disabilities

- (1) The appropriate government and local authorities shall take all necessary measures to ensure that children with disabilities enjoy human rights on an equal basis with other children.
- (2) The appropriate government and local authorities shall ensure that all children with disabilities shall have on an equal basis with all other children a right to freely express their views on all matters affecting them; and provide them age and disability appropriate support for the exercise of this right.

7. Legal Capacity and Equal Recognition before the Law

- (1) Notwithstanding anything contained in any other law to the contrary, persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as persons before the law.
- (2) Any express or implied disqualification on the grounds of disability prescribed in any legislation, rule, notification, order, bye-law, regulation, custom or practice which has the effect of depriving any person with disability of legal capacity shall not be legally enforceable from the date of enforcement of this Act.
- (3) Notwithstanding anything contrary contained in any other law, all persons with disabilities have right, on an equal basis with others, to own or inherit property; control their financial affairs; obtain access to bank loans, mortgages and other forms of financial credit, and not to be arbitrarily deprived of their property.
- (4) All persons with disabilities have the right to access all arrangements and support necessary for exercising legal capacity in accordance with their will and preferences.
- (5) The legal capacity of a person with disability shall not be questioned or denied, irrespective of the degree and extent of support, by reason of accessing support to exercise legal capacity.
- (6) 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.

Explanation

There shall not be a general presumption of conflict of interest just on the basis that the supported person is related to the person with disability by blood, affinity or adoption.

- (7) No person providing support either individually or as part of a network shall exercise undue influence on a person with disability. Such support when provided by an individual or a network shall be so provided that it respects the autonomy, dignity and privacy of persons with disabilities.
- (8) A person with disability may alter, modify or dismantle any support arrangement and substitute it with another.

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

8. Replacement of Plenary Guardianship with Limited Guardianship

- (1) After the commencement of this Act, any provision in any legislation, rule, regulation or practice which prescribes for the establishment of plenary guardianship shall be hereinafter deemed to be establishing a system of limited guardianship.

Explanation

Plenary Guardianship is a system 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 or her. The decisions of the person with disability have no binding force in law during the subsistence of the guardianship. The guardian is under no legal obligation to consult with the person with disabilities or determine his will or preference whilst taking decisions for him or her.

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- (2) Subsequent to the enforcement of this Act all plenary guardians shall operate as limited guardians;
- (3) All limited guardians shall act in close consultation with the person with disability to arrive at legally binding decisions.

Explanation

A limited guardianship is a system of joint decision making which operates on mutual understanding and trust between the guardian and the person with disability.

9. Duty to Provide Support in Exercise of Legal Capacity

- (1) The appropriate governments shall establish or designate one or more authorities to mobilize the community and create social networks to support persons with disabilities in the exercise of their legal capacity.
- (2) An authority authorized or designated under sub-section (1) should, inter-alia, perform the following functions, viz.:-
- i. institute support measures for the exercise of legal capacity by persons with disabilities living in institutions and those with high support needs, and
 - ii. set up suitable support arrangements, other than limited guardianship to assist persons with disabilities, who have exited from plenary guardianship, in the exercise of their legal capacity.

Chapter 2: Right to Life, Liberty & Justice

10. Right to Life and Personal Liberty

- (1) The appropriate government shall take necessary steps to ensure that persons with disabilities enjoy the right to life with dignity and to personal liberty guaranteed by Article 21 of the Constitution of India on an equal basis with others.
- (2) No person shall be deprived of his personal liberty only on the ground of disability.

11. Right to live in the community

- (1) All persons with disabilities shall have the right to live in the community with choices equal to others.
- (2) The appropriate government and local authorities shall take appropriate measures to ensure full enjoyment of the right mentioned in sub section (1) including by:-
 - a. not obliging persons with disabilities to live in any particular living arrangement;
 - b. according due recognition to the age and gender needs of persons with disabilities;
 - c. ensuring that persons with disabilities have access to a range of in-house, residential and other community support services, including personal assistance necessary to support living and inclusion with community; and;
 - d. making community services and facilities for the general population available on an equal basis to persons with disabilities

12. Right to Integrity

Every person with disability has a right to respect for his or her physical and mental integrity on an equal basis with others.

13. Protection from torture or cruel, inhuman or degrading treatment or punishment

- (1) The appropriate government and local authorities shall take all appropriate administrative, and other measures to protect persons with disabilities from being subjected to torture, or cruel, inhuman or degrading treatment or punishment.
- (1) 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 for the purpose by the appropriate government in as may be prescribed in which not less

than half the members shall themselves be either persons with disabilities or members of registered organizations;

14. Protection from Abuse, Violence and Exploitation

- (1) The appropriate government and local authorities shall take all appropriate administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of abuse, violence and exploitation.
- (2) Any person, or registered organization 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 in whose jurisdiction such incident occurs or is likely to occur, who, on receipt of such information, shall take immediate steps to stop it 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, authorizing the police or any reliable organization working for persons with disability to provide for the safe custody, or rehabilitation of such person with disability, 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 for maintenance to such person with disability.
- (3) No civil or criminal liability shall be incurred by any person who in good faith furnishes information under sub section (2).
- (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. the right to apply for protection under subsection (2).
 - b. the particulars of the nearest organization or institution working for the rehabilitation of persons with disabilities who have been subject to abuse, violence or exploitation;

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- c. the particulars of the Executive Magistrate having jurisdiction to provide assistance to aggrieved persons;
 - d. of the right of the person with disability to free legal services under the Legal Services Authorities Act, 1987 (Act No. 39 of 1987) and any other services offered by the National Legal Services Authority or the State Legal Services Authority for the benefit of persons with disabilities;
 - e. of the right to file a complaint under the relevant provisions of the Indian Penal Code or any other law dealing with such crimes.

Provided that nothing in this section shall be construed to free such police officer of his obligation 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 behavior would also be an offence under the Indian Penal Code, 1860 (Act No. 40 of 1860) or under any other law imposing criminal sanctions on such acts, he may forward a complaint to that effect to the judicial or metropolitan magistrate, as the case may be, having jurisdiction in the matter, whereupon the latter shall act on it forthwith in accordance with law.
- (6) The appropriate government shall take all appropriate measures to prevent abuse, violence and exploitation against persons with disabilities by, inter alia, providing information and raising awareness on:
 - a. taking cognizance of incidents of abuse, violence and exploitation;
 - b. the legal remedies available against such incidents;
 - c. steps to be taken for avoiding such incidents;
 - d. procedure for reporting such incidents;
 - e. steps required for the rescue, protection and rehabilitation of persons with disabilities who have been victims of such incidents.

15. Protection and Safety of Persons with Disabilities in Situations of Risk

- (1) All persons with disabilities shall have the right to suitable protection and safety in situations of risk, including situations of armed conflict, humanitarian emergencies and natural disasters.
- (2) In furtherance of the right recognized in sub-section (1), the appropriate governments and local authorities shall take effective and appropriate measures to enable the protection and safety of persons with disabilities in these situations on an equal basis with others.
- (3) The National and State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its 'disaster management activities' as defined under S 2(e) of the Disaster Management Act, 2005 (Act No 53 of 2005) during the occurrence of any 'disaster' as defined under S. 2(d) of the Disaster Management Act, 2005, for the safety and protection of persons with disabilities.
- (4) 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.
- (5) The appropriate government shall take suitable measures to ensure the safety and protection and to offer immediate relief and rehabilitation to victims with disabilities in situations of communal violence or internal disturbance.
- (6) The Armed Forces shall, in all situations of armed conflict, take appropriate measures to ensure the safety and protection of persons with disabilities in the light of their obligations pursuant to Human Rights.
- (7) All authorities engaged in reconstruction activity subsequent to any situation of armed conflict, humanitarian emergencies or natural disasters shall undertake such activity, in consultation with the concerned State Commission for Persons

with Disability, in accordance with the accessibility requirements of persons with disabilities.

16. Right to Home and Family

- (1) No child with disability shall be separated from his or her parents on grounds of disability except on an order of competent Court if required in the best interest of the child.
- (2) Where the immediate family is unable to care for a child with disabilities, the competent Court shall make every effort to place such child within his or her extended family, and failing that within the community in a family setting.

Explanation

'Family' means a group of people related by blood, marriage or adoption to a person with disability.

17. Reproductive Rights of Persons with Disabilities

- (1) The appropriate government shall ensure that persons with disabilities have access to information regarding family and reproductive planning on an equal basis with others.
- (2) No person with disability shall be subject to any medical procedure which leads to or could lead to infertility without their free and informed consent.

18. Freedom of Speech, etc.

The appropriate government and local authorities shall take steps to ensure that persons with disabilities are able to enjoy the rights regarding freedom of speech, etc., provided by Article 19 of the Constitution, on an equal basis with others.

19. Right to Political Participation

- (1) The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and that all materials related to the electoral process are easily understandable by and accessible to persons with disabilities.
- (2) Without prejudice to the generality of the provisions contained in sub-section (1), the measures undertaken by an Election Commission in pursuance of that sub-section shall include:
 - a. the construction and availability of ramps at all polling booths;
 - b. separate queues for persons with disabilities at all polling booths with clear pictorial signs;
 - c. the availability of ballot papers and/ or electronic voting machines with candidates' information available in Braille and other accessible formats;
 - d. the fitting of audio devices to electronic voting machines;
 - e. training programs to sensitise polling officers about the special requirements of persons with disabilities.
- (3) If the Presiding Officer of a polling booth is satisfied that, due to disability, a person with disability is unable to recognise the symbols or to record vote without assistance, the presiding officer shall permit the elector to take a companion of not less than eighteen years of age to the voting compartment for recording/casting the vote.

20. Access to Justice

- (1) All persons with disabilities and Disabled Persons' Organizations shall, in their individual or representative capacity, as the case may be, have the right to move any court; tribunal; authority; commission; or any other body having judicial or quasi judicial or investigative powers on an equal basis with others.

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- (2) The authorities in subsection (1) shall ensure that persons with disabilities are able to exercise the right to approach these authorities without discrimination on the basis of disability and provide reasonable accommodation.
 - (3) All the authorities mentioned in subsection (1) shall evaluate the testimony, opinion or argument given by a person with disability on an equal basis with others and ensure that there is no discrimination whether directly or indirectly on the basis of disability.
 - (4) National and State Legal Services Authorities shall make provisions including reasonable accommodations to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them on an equal basis with others.
 - (5) The authorities in sub-section (1), shall take steps to:
 - a. ensure that all their public documents are in accessible formats;
 - b. ensure that 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
 - 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;

Chapter 3: Education

21. Duty of Educational Institutions to Provide Inclusive Education to Students with Disabilities

Appropriate governments and local authorities shall ensure that all educational institutions funded or recognized by them, provide inclusive education, and towards that end, *inter alia*:-

- i. admit students with disabilities without discrimination and provide them education as also opportunities for sports, recreation and leisure activities on an equal basis with others,

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- ii. make their building, campus and various facilities accessible to students with disabilities,
 - iii. provide reasonable accommodation of the individual's requirements,
 - iv. provide necessary support – individualised and otherwise - in environments that maximize academic and social development, consistent with the goal of full inclusion,
 - v. ensure that education to persons who are blind, deaf or deafblind is delivered in the most appropriate languages and modes and means of communication for the individual,
 - vi. specific learning disabilities in children are detected at the earliest, and suitable pedagogical and other measures are taken to enable the children to overcome them, and
 - vii. monitor participation, progress in terms of attainment levels, and completion of education, in respect of every student with disability.

22. Duty of Appropriate Governments and Local Authorities, to Promote and Facilitate Inclusive Education

In order to ensure inclusive education of students with disabilities, and to enable educational institutions funded or recognized by them to comply with the provisions of Section 21, appropriate governments and local authorities shall, *inter alia*, take the following measures:-

- i. in surveys of children of school-going age, provide especially for identifying children with disabilities, and ascertaining their special needs and the extent to which these are being met,
- ii. establish an adequate no. of teacher training institutions, so that teachers equipped to teach students with various kinds of disabilities are available in adequate number,
- iii. train and employ teachers, including teachers with disabilities, who are qualified in sign language and Braille,
- iv. train professionals and staff to support education of persons with disabilities at all levels,

- v. establish an adequate no. of resource centres at appropriate locations to support educational institutions in their vicinity, by way of special teachers, teacher trainers, educational aids, equipment and material etc.
- vi. promote the use of appropriate augmentative and alternative modes, means and formats of communication, including Braille and Sign Language,
- vii. promote the use of educational techniques and materials to support the education of persons with disabilities,
- viii. provide to students with benchmark disabilities, books, other learning material and appropriate assistive devices, free of cost, upto the age of 18 years, and either free or at affordable cost, thereafter,
- ix. provide transport facilities or transport allowance, and scholarships, in appropriate cases, to students with benchmark disabilities,
- x. make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities e.g. extra time for completion of examination paper, facility of scribe/amanuensis, exemption from second and third language courses, etc., and
- xi. promote research aimed at improvement of learning by students with disabilities and equalising educational opportunities for them.

23. Adult Education for Persons with Disabilities

Appropriate governments and local authorities shall ensure participation of persons with disabilities in adult education and continuing education programmes on an equal basis with others.

Chapter 4: Skill Development & Employment

24. Vocational Training and Self-Employment

- (1) The appropriate government shall formulate schemes and programmes to facilitate and support employment of persons with disabilities specially for their vocational training and self-employment.

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- (2) The appropriate governments shall institute mechanisms for provision of loans at concessional rates to persons with disabilities for self-employment ventures, and for marketing of their products.

25. Non Discrimination in Employment

- (1) No establishment shall discriminate against any person with disability in any matter relating to employment including but not limited to recruitment, promotion and other related issues.
- (2) Every establishment shall provide reasonable accommodation to employees with disability.
- (3) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during service,

Provided that such employee may, if required by the nature of disability, be shifted to another 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;

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, as may be specified in such notification, exempt any establishment from the provisions of this section.

- (4) Any person with disability, if eligible for any post which is sought to be filled, shall have the right to appear for selection and hold the post if selected.

26. Equal Opportunity Policies

- (1) Within one year of the commencement of this legislation, every establishment shall notify an Equal Opportunity Policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter and any Rules made thereunder.
- (2) The Equal Opportunity Policy of an establishment shall, inter-alia delineate the following:-

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- a. measures taken or proposed to be taken in order to comply with the provisions of the Act;
 - b. strategy to increase employment opportunities for persons with disabilities;
 - c. measures taken or proposed to be taken to provide reasonable accommodation to employees, especially women employees with disabilities.
- (3) A copy of the Equal Opportunity Policy of every establishment shall be deposited and registered with the State Commission for Persons with Disabilities.

27. Employers to Maintain Records & Powers to Inspect such Record

- (1) Every establishment shall maintain records in relation to employment, facilities provided and other necessary information with regard to compliance with the provisions of this Chapter in such form and in such manner as may be prescribed.
- (2) These records shall specifically include information on women with disabilities in relation to their employment, facilities provided and other information as prescribed.
- (3) Every employment exchange shall register and maintain records of persons with disabilities seeking employment.

28. Redressal of Grievances relating to Section 25

- (1) Every establishment shall appoint an officer as Grievance Redressal Officer with reference to Section 25 and shall notify the State Commission for Persons with Disabilities about the appointment of such Officer.
- (2) If any person is aggrieved that an establishment has not complied with the provisions of Section 25, it may file a complaint with the Grievance Redressal Officer, who will investigate it and, on being found correct, shall take up the matter with the competent authority within the establishment for corrective action.
- (3) The Grievance Redressal Officer shall maintain a register of complaints in the manner prescribed, and every complaint shall be looked into within two weeks of its registration.

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- (4) If a person with disability is not satisfied with the action taken on his complaint filed with a Grievance Redressal Officer, he may approach the District-Level Committee on Disability.

Chapter 5: Social Security, Health, Rehabilitation & Recreation

29. Social Security

- (1) Appropriate governments shall promulgate necessary schemes and programmes to safeguard and promote right of persons with disabilities to adequate standard of living and living conditions to enable them to live independently and in the community. In devising these schemes and programmes the diversity of disability, gender, age, and socio-economic status shall be relevant considerations.
- (2) The schemes under sub-section (1) shall inter-alia provide for:
- a. safe and hygienic community centres with decent living conditions in terms of nutritious food, sanitation, health care and counseling;
 - b. facilities for persons including children with disabilities who have no families or have been abandoned, or are without shelter or livelihood;
 - c. support required during times of natural or man-made disasters and in areas of conflict;
 - d. support to women with disabilities for livelihood; and support for upbringing of their children; and
 - e. access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas.
 - f. provision of aids and appliances, medicine and diagnostic services and corrective surgery without cost to persons with disabilities subject to such income ceiling as may be notified;
 - g. disability pension to persons with disabilities subject to such income ceiling as may be prescribed;
 - h. unemployment allowance to unemployed 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;
- j. comprehensive insurance scheme for persons with disabilities, not covered under the Employees State Insurance Schemes, or any other statutory or government-sponsored insurance schemes.

30. Health

- (1) Appropriate Governments and local authorities shall take necessary measures to provide to persons with disabilities:
 - a. health care within a reasonable distance from their location, specially in rural areas; which shall be free in case of persons with disability, whose family income is below such limit as the appropriate government may notify;
 - b. barrier-free access in all parts of the hospitals and other healthcare institutions and centres run or aided by them; and
 - c. priority in attendance and treatment.
- (2) In fulfillment of its obligation under this Section, the appropriate governments shall make schemes and programmes with participation and involvement of persons with disabilities and care-givers that inter-alia makes provision for:
 - a. minimization and prevention of further disabilities with requisite education, training, information and intervention;
 - b. health care of persons with disabilities during times of natural disasters and other situations of risk ;
 - c. disability specific equipments and accessible infrastructure at all health care centres; public buildings and places; and all other such places that may be notified by the appropriate government from time to time;
 - d. 'essential medical facilities' for all life saving emergency treatment and procedures;
 - e. sexual and reproductive health especially for women with disabilities;
 - f. pre-natal, peri-natal and post natal care of mother with disabilities and their children;
 - g. nutritional intervention for children with disabilities;

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- h. coverage of medical expenses, travel allowances and therapeutic intervention within a comprehensive insurance scheme for persons with disabilities.

31. Insurance for Employees with Disabilities

- (1) All establishments shall provide medical and life insurance to their employees with disabilities on an equal basis with others.
- (2) Denial of insurance to employees with disabilities or its provision on disproportionate premium or iniquitous conditions would constitute discrimination against such employees.

32. Rehabilitation

- (1) The appropriate Governments and local authorities shall 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.
- (2) The above services and programmes shall be:-
 - i. so designed as to begin at the earliest possible stage;
 - ii. based on a comprehensive assessment of individual needs and strengths;
 - iii. delivered as close to the residence of persons with disabilities as possible including in rural areas; and
 - iv. involve family care givers and guardians of persons with disabilities, for which adequate training shall be provided.
- (3) For purposes of sub-section (1), read with sub-section (2), the appropriate Governments and local authorities shall, subject to fulfillment of financial and other norms, and availability of budgetary allocation, grant financial assistance to non-governmental organizations.
- (4) The appropriate Governments and local authorities, while formulating rehabilitation policies, shall consult the non-governmental organizations working for the cause of persons with disabilities.
- (5) Without prejudice to the generality of sub-section (1), the appropriate Governments shall by notification make schemes to provide aids and appliances

to persons with disabilities, specially for those with family income lower than the prescribed limit.

33. Research and Development

The appropriate governments shall initiate or cause to be initiated research and development through individuals and institutions on issues which would enhance habilitation and rehabilitation of persons with disabilities.

34. Leisure, Culture and Recreation

- (1) Appropriate governments and local authorities shall take suitable measures to promote and protect the right of all persons with disabilities to have a cultural life and to participate in leisure and recreational activities on an equal basis with others.
- (2) Without prejudice to the general obligation in sub-section (1), such measures shall include –
 - a. Providing facilities, support and sponsorships to artists and writers with disabilities to pursue their interests and talents;
 - b. Sponsoring of disability film, theatre, music and dance festivals;
 - c. Establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities;
 - d. Making art accessible to persons with disabilities;
 - e. Promoting the launch of leisure clubs, recreation centers, and other associational activities;
 - f. Facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities;
 - g. Redesigning courses in cultural and arts subjects to enable participation and access of persons with disabilities;
 - h. Developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities.

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- (3) All Cultural Academies whether of, art, literature, music, or dance shall include persons with disabilities in their programs and activities, and shall thereby provide recognition, support, and awards to the cultural contribution of persons with disabilities on an equal basis with others.

35. Participation in Sporting Activities

- (1) Appropriate governments shall take measures to guarantee the effective participation in sporting activities for all persons with disabilities. Such measures shall expressly provide for the inclusion of persons with disabilities in all mainstream sporting events and activities.
- (2) National and State Sports bodies shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provision for the inclusion of persons with disabilities in their schemes and programs for the promotion and development of sporting talent.
- (3) Without prejudice to the general obligations stated in sub-section (1) and (2), the appropriate governments and the National and State Sports bodies shall take measures to:
- 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;
 - 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;
 - f. promote and organize disability specific sporting events for persons with disabilities.

Chapter 6: Special Provisions for Persons with Benchmark Disabilities

36. Right of Children with Benchmark Disabilities to Free Education up to the age of 18 years

- (1) Notwithstanding anything contained in the Right of Children to Free and Compulsory Education Act, 2009, every child with bench-mark disability, of the age of 6 to 18 years, shall have a right to free education;
 - a) In a neighbourhood school, as far as possible, and
 - b) In a special school, if necessary.
- (2) For the purpose of sub-section (1), no child with bench-mark disability shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing education up to the age of 18 years.
- (3) 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 18 years.

37. Reservation in Higher Educational Institutions

All Government institutions of higher education and all higher education institutions receiving aid from the Government shall reserve upto five percent of the total seats in each course for persons with benchmark disabilities;

Provided that persons with benchmark disabilities shall not be prevented from competing for seats which are not reserved for them.

38. Identification of Posts which can be Reserved for Persons with Benchmark Disabilities

Appropriate governments shall –

- (a) identify posts in establishments under them which can be reserved for persons with benchmark disability as mentioned in section 39;

(b) at periodical intervals not exceeding three years, review and revise the list of identified posts, taking into consideration developments in technology.

39. Reservation of Posts for Persons with Benchmark Disabilities

(1) Every appropriate government shall reserve, in every establishment under them, not less than 5% of the vacancies meant to be filled by direct recruitment, for persons or class of persons with benchmark disability, of which 1% each shall be of all posts reserved for persons with following disabilities:-

- i. blindness & low vision (with reservation of 0.5% of the vacancies for each of the two disabilities).
- ii. hearing impairment & speech impairment
- iii. locomotor disability including cerebral palsy, leprosy cured and muscular dystrophy
- iv. autism, intellectual disability and mental illness
- v. multiple disabilities from among i to iv above including deafblindness

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

(2) If sufficient number of qualified persons with benchmark disabilities are not available in a particular year, then the reservation may be carried forward for upto the next three recruitment years, and if in such succeeding recruitment years also a suitable person with benchmark disability is not available, then the post in the fourth year may be first filled by interchange among the categories of disabilities; and only when there is no person with any benchmark disability available for the post in that year, the vacancy may be filled by appointment of a person, other than a person with benchmark disability.

40. Incentive/disincentive to Employers in the Private Sector

- (1) Appropriate governments shall, within a period of one year from the commencement of this Act, provide incentives to employers in the private sector to ensure that at least 5% of their work force is composed of persons with benchmark disabilities within a period of five years from the commencement of this Act.
- (2) As from the beginning of the financial year after the expiry of a period of five years from the commencement of this Act, employers in the private sector whose workforce is 20 or more:-
 - i. with more than 5% of their workforce of persons with benchmark disabilities, shall be eligible to deduct from their taxable income, an amount equal to the salary of employees with disabilities in excess of 5%, and
 - ii. with less than 5% of their workforce consisting of persons with benchmark disabilities, shall be liable to add to their taxable income, an amount equal to the salary of employees to the extent of the shortfall,

in such manner as may be prescribed.

41. Special Employment Exchanges

- (1) The appropriate governments may, by notification, require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for persons with benchmark disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition,

Provided that any notification issued by the appropriate government under Section 34(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995 shall continue to be effective and establishments shall adhere to any new notification issued by the appropriate government in this regard.

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- (2) The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.

42. Affirmative Action

Appropriate governments and local authorities shall, by notification, frame schemes in favour of persons with benchmark disabilities, inter-alia, to provide:

- a. five percent reservation in allotment of agricultural land and housing to persons with disabilities in all relevant schemes and development programmes, with appropriate priority to women with disabilities;
- b. five percent reservation in all poverty alleviation and various developmental schemes, to persons with disabilities with appropriate priority to women with disabilities;
- c. five percent 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, production centers exclusively for persons with disabilities whether or not such facilities are owned and managed by persons with disabilities;

Chapter 7: Special Provisions for Persons with Disabilities with High Support Needs

43. Persons with Disabilities with High Support Needs

- (1) The appropriate government and local authorities shall take measures to ensure full and equal enjoyment of all rights by persons with disabilities with high support needs, on an equal basis with others.
- (2) The interventions referred to in sub section (1) shall be designed to progressively achieve the full inclusion of and total participation by such persons with disabilities in all spheres of life.

44. Provision of High Support to Persons Needing It

- (1) Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his behalf, may apply to a competent authority requesting for such person to be provided high support as appropriate in his case.
- (2) On receipt of an application under sub-section (1), the competent authority shall refer it to an Assessment Board consisting of the following:-
 - i. a specialist doctor or doctors in the area(s) concerned with the disability/disabilities affecting the person,
 - ii. a person with knowledge and experience of rehabilitation of persons with relevant disability/disabilities,
 - iii. a social worker, and
 - iv. such other person(s), as may be prescribed.
- (3) The Assessment Board shall assess the case referred to it under sub-section (1), in such a manner as may be prescribed, and shall:-
 - i. certify whether such person is actually in need of high support, and
 - ii. if yes, the nature of high support needed by him,and shall send its report to the competent authority.
- (4) On receipt of a report under sub-section (3), the competent authority shall take steps to provide support to the person certified by the Assessment Board as needing high support, in accordance with the Board's recommendations and subject to relevant schemes and general or special orders of the appropriate government, in this behalf.

PART III: DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVTS., ETC.

Chapter 1: Duties and Responsibilities

45. Prevention of Disabilities

Appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall -

- a) Undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
- b) Promote various methods of preventing disabilities;
- 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 centers;
- 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;
- g) Educate the public through the pre-schools, schools, Primary Health Centers, 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.

46. Awareness Raising

- (1) Appropriate governments, in consultation with the National or State Commission, as the case may be, shall conduct, sponsor, encourage, support or promote on a regular and continuous basis information campaigns and sensitization programmes to ensure that the rights recognized in this legislation are respected, protected and promoted. Such campaigns should aim at enabling both state and civil society to comprehend disability as an integral part of the human condition; to recognize the capabilities and contributions of persons with disabilities; and to

combat the stereotypes, prejudices and harmful practices which impede the participation of persons with disabilities on an equal basis with others;

- (2) Without prejudice to the general objectives of the information campaigns and sensitization programmes stated in sub section (1), the appropriate governments shall ensure that the aforementioned awareness programmes especially draw attention to the direct and indirect discrimination faced by women and children with disabilities;
- (3) Without prejudice to the general awareness raising obligation in sub section (1), such programmes, campaigns and workshops shall *inter-alia*:
 - 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;
 - 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 sensitization at the school, college, university and professional training level on the human condition of disability and the rights of persons with disabilities;
 - e. Provide orientation and sensitization on disabling conditions and Rights of Persons with Disabilities to employers, administrators and co-workers.

47. Accessibility

- (1) Appropriate governments and establishments shall ensure that the all persons with disabilities have the right on an equal basis with others to the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas.
- (2) rights of persons with disabilities to accessibility as outlined in sub section (1) of this section are fully protected.

48. Accessibility Standards

- (1) The National Commission shall formulate regulations which lay down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas.
- (2) The National Commission shall formulate the regulations, in consultation with experts, by adopting or adapting prevailing international standards on physical environment and information and communication technologies and systems to local conditions. It shall ensure that the regulations are age and gender appropriate and are applicable to:
 - a. All buildings and facilities used by the public;
 - b. Permanent, temporary or emergency conditions;
 - c. Pedestrian infrastructure;
 - d. Ports;
 - e. Road based transport; Aviation; Railways; Maritime transport; Rural Public Transport System; and all other modes of transport so as to ensure that persons with disabilities travel in safety and comfort.
- (3) The National Commission shall, within a period of one year, develop and notify the aforesaid accessibility standards regulations for both urban and rural areas. It shall review these regulations every five years and revise them if required in order to ensure universal coverage of all transport and built environment.
- (4) The appropriate governments and establishments shall take suitable measures:
 - a. to provide facilities for persons with disabilities at bus and railway stations and airports that meet the accessibility standards relating inter alia to parking spaces, toilets, ticketing counters and ticketing machines;
 - b. to provide access to all modes of transport that conform to 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.;
- c. to ensure that where no modifications are possible, human assistance is made available to persons with disabilities;
- d. to provide support services to persons with disabilities to negotiate and interact with unfamiliar people, environs and spaces;
- e. to provide for rural modes of transport and accessible roads to address mobility needs of persons with disabilities in rural areas.

49. Personal Mobility

- (1) Appropriate governments and establishments shall develop schemes and programmes to promote the personal mobility of persons with disabilities at affordable cost, according to their choice.
- (2) Such schemes may *inter alia* provide:
 - a. incentives and concessions to provide accessible transport facilities to persons with disabilities;
 - b. for retrofitting of vehicles for persons with disabilities;
 - c. appropriate personal mobility assistance;
 - d. rural modes of transport to address mobility needs of persons with disabilities in rural areas.

50. Access to Services

- (1) Appropriate governments and establishments shall ensure that all services and facilities provided by them are available to persons with disabilities on an equal basis with others; and that such services are provided in such mode or format which is responsive to the needs of persons with disabilities but at no extra cost to them.
- (2) All appropriate governments and establishments shall ensure that all announcements inviting public response including those made for procurement, entitlement, employment, public health and disaster preparedness are accessible to persons with disabilities.

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- (3) The National and State Commission shall make available to service providers information on how they can make their services accessible to persons with disabilities.

51. Access to Information and Communication Technology

- (1) Appropriate governments and establishments shall take measures to ensure that:

- a. All content in whichever medium whether audio, print or electronic shall be made available to persons with disabilities in accessible format;
- b. Persons with disabilities have access to electronic media by providing for audio description, sign language interpretation and close captioning;
- c. Accessibility to telecommunication services where telecommunications will include any kind of transmission of information of the user's choosing without change in form or content of information as sent or received;
- d. Electronic goods and equipment of everyday use shall follow the principles of universal design;
- e. Schemes are formulated or amended to ensure affordable access to Information and Communication Technology & Electronics for persons with disabilities in rural as well as urban areas;
- f. Incentives and concessions are provided to support existing websites to make them accessible to persons with disabilities.

- (2) All government websites and private websites providing consumer services, shall be made accessible, in accordance to the regulations formulated by the National Commission, within a maximum period of one year from the date of notification of such regulations.

52. Access to Consumer Goods and Services

- (1) Appropriate governments and establishments shall take measures to:
- a. promote development, production and distribution of universally designed consumer products and accessories for general use;
 - b. provide accessible consumer services, including personal grooming and fitness training services.

53. Service Animals

- (1) The National Commission shall formulate regulations for Service Animal training facilities so as to ensure that persons with disabilities in need of Service Animals can get the services of trained animals.
- (2) The appropriate governments and establishments shall permit and facilitate the use of Service Animals by persons with disabilities on roads, buildings, all transport systems, public facility or service.
- (3) A person with disability needing assistance shall have a right to be accompanied by a Service Animal.

54. Mandatory Observance of Accessibility Norms

- (1) No individual, organization or establishment shall be granted permission to build any structure if the building plan does not adhere to the regulations formulated by the National Commission.
- (2) No individual, organization or establishment shall be issued a certificate of completion or allowed to take occupation of a building if it has failed to adhere to the regulations formulated by the National Commission.

55. Time Limit for Making Existing Infrastructure and Premises Accessible and Action Plan for that Purpose

- (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.
- (2) Appropriate Governments and 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/District hospitals, Primary schools/ secondary schools, railway stations and bus stations.
- (3) All plans prepared under sub-section (2) shall be public documents and shall be made available in formats accessible to persons with disabilities.

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- (4) The National and State Commissions shall set up a system of monitoring all existing built infrastructure once the plans to provide accessibility have been made public.

56. Time Limit for Accessibility Duties of Service Provider

All service providers shall provide services in accordance with the regulations on accessibility formulated by the National Commission within a period of one year from the date of notifications of such regulations.

57. Human Resource Development

- (1) The appropriate governments shall ensure that social, economic and civil political rights guaranteed in this Act are duly implemented and to that end shall:
- a. undertake the development of human resource so that both inclusive and specialized services are made available to persons with disabilities;
 - b. orients, sensitizes and trains existing personnel and creates curricula which is disability sensitive;
 - c. make provision for adequate numbers of professionals in such manner that such personnel are available in appropriate ratios to provide services for persons across all disabilities at the central, state, local and panchayat level;
 - d. the provision of personnel to monitor the conduct of training at central, state, district and local bodies and panchayat levels to ensure effective functioning of institutions and professionals.
- (2) In order to fulfill the obligation stated in sub section(1) the appropriate governments shall every three years undertake a needs based analysis and formulate plans for the recruitment, induction, sensitization, orientation and training of suitable personnel to undertake the various responsibilities outlined in this Act.
- (3) Without prejudice to any function and power of Rehabilitation Council of India contained in the Rehabilitation Council of India Act and in addition to the cadre creating obligations outlined in sub section (2), the appropriate governments and

establishments shall ensure human resource development in this sector by *inter alia*:

- a. Mandating training on disability rights in all courses for the training of panchayati raj members, legislators, administrators, police officials, judges, lawyers and judicial officers;
 - b. Induction of disability as a component for all education courses/ programmes for school, college and university teachers, doctors, nurses, para-medical personnel, social welfare officers, rural development officers, Aasha workers, Anganwadi workers, engineers, architects, other professionals and community workers;
 - c. Initiating 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;
 - d. Ensuring independence training for persons with disabilities to build community relationships on mutual contribution and respect;
 - e. Conducting training programmes for sports teachers with focus on sports, games, adventure activities, athletics and skill demonstration of persons with disabilities.
- (4) All Universities shall promote teaching and research in disability studies including, establishment of centres for such studies.

58. Disability Audit

Appropriate governments shall undertake an audit of all general schemes and programs in order to ensure that they do not have an adverse impact upon persons with disabilities and meet the requirements and concerns of persons with disabilities.

Chapter 2: Registration of Institutions for PwDs, and Grants to such Institutions.

59. Competent Authority

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

60. Registration of Institutions for Persons with Disabilities

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 a person maintaining an institution for persons with disabilities under Section 52 of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995, immediately before the commencement of this Act may continue to maintain such institution for a period of six months from such commencement and if he has made an application for such certificate under this section within the said period of six months, till the disposal of such application;

Provided further that an institution for care of mentally ill persons, which holds a valid licence under Section 8 of the Mental Health Act, 1987, shall not be required to be registered under this Act.

61. Certificate of Registration

- (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 where it is 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 where it is not so satisfied the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate the competent authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in such manner as may be prescribed by the State Government.

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- (3) No certificate of registration shall be granted under sub-section (2) unless the institution, with respect to which an application has been made, fulfills such facilities and meet such norms and standards as may be prescribed,

Provided that different norms and standards may be prescribed for institutions catering to persons with different types and degrees of disabilities.

- (4) A certificate of registration granted under this section,-
- (a) shall, unless revoked under Section 61, 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 period of validity.
- (6) The certificate of registration shall be displayed by the institution in a conspicuous place.
- (7) Every application made under sub-section (1) or (5) of this Section shall be disposed of by the Competent Authority within such period, as may be prescribed.

62. Revocation of Certificate

- (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 61 has –
- (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 should not be revoked.

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

Provided that where an appeal lies under section 63 against the order of revocation, such institution shall cease to function –

- (a) where a 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 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 her or his 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 certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.

63. Appeal

- (1) Any person aggrieved by the order of the competent authority refusing to grant a certificate or revoking a certificate may, within such period as may be prescribed by the State Government, prefer an appeal against such refusal or revocation to such appellate authority as the State Government may notify in this behalf.
- (2) The order of the appellate authority on such appeal shall be final.

64. Act not to Apply to Institutions Established or Maintained by the Central or State Government

Nothing contained in this Chapter shall apply to an institution by the Central Government or a State Government.

65. Financial Assistance to Registered Institutions

Appropriate governments shall grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the provisions of this Act.

Chapter 3: Certification of Specified Disabilities

66. Power of Central Government to Notify Guidelines for Assessment of Specified Disabilities

- (1) Central Government shall, from time to time, notify guidelines to be followed by certifying authorities in assessing the extent of specified disability in a person.
- (2) The guidelines under sub-section (1) shall be notified after obtaining advice of a Technical Committee, constituted in such manner as may be prescribed, and after following such procedure, as may be prescribed.

67. Designation of Certifying Authorities

- (1) The appropriate Government, or any authority empowered by it in this behalf, shall designate persons, having requisite qualifications and experience, as certifying authorities, who will be competent to certify that a person has a specified disability, and the extent of such disability.
- (2) While designating a certifying authority, the appropriate Government or the authority empowered by it in this behalf, shall specify the jurisdiction within which, and the terms and conditions subject to which, the certifying authority will perform its certification functions.

68. Procedure for Certification of Specified Disabilities

- (1) Any person, who believes himself to be having a specified disability, may apply, in such manner as may be prescribed, to a certifying authority having jurisdiction, for being assessed and issued a certificate of disability.
- (2) On being approached under sub-section(1), the certifying authority shall proceed to assess the disability of the concerned person in accordance with relevant guidelines notified under Section 66, and shall, after such assessment, as the case may be:-
 - a) Issue a certificate to such person, in such form as may be prescribed, showing the disability which the person has, and its extent; or
 - b) Inform him in writing that he has, on assessment, been found to have no specified disability.

69. Appeal against a Decision of the Certifying Authority

- (1) Any person who is aggrieved with either the nature of a disability certificate issued to him by a certifying authority, or by the determination of such authority that the person has no specified disability, may appeal against such decision, within such time and in such manner as may be prescribed, to such appellate authority as the appropriate government may designate for the purpose.
- (2) The appellate authority mentioned in sub-section(1) shall, on receipt of an appeal, proceed to re-assess the appellant and after such re-assessment;
 - a) either uphold the determination of the certifying authority; or
 - b) if it is of the opinion that the certifying authority has committed an error, rescind the decision of the certifying authority, and issue a certificate as it deems fit.

PART IV: CENTRAL AND STATE ADVISORY BOARDS ON DISABILITY

Chapter 1: Central Advisory Board on Disability

70. Constitution of Central Advisory Board on Disability

- (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 on Disability shall consist of-
 - (A) The Minister-in-charge of the Ministry in the Central Government which nodally deals with disability matters, Chairperson, ex officio;
 - (B) The Minister of State-in-charge in the Ministry in the Central Government which nodally deals with disability matters, Vice Chairperson, ex officio;
 - (C) Three Members of Parliament, of whom two shall be elected by the Lok Sabha and one by the Rajya Sabha;
 - (D) Members, ex officio:
 - (a) Secretaries to the Government of India in-charge of the Ministries/Departments nodally dealing with the following subjects: -
 - i. Disability;
 - ii. School Education & Literacy, and Higher Education;
 - iii. Women & Child Development;
 - iv. Finance (Expenditure);
 - v. Personnel & Training;
 - vi. Administrative Reforms & Public Grievances;
 - vii. Health & Family Welfare
 - viii. Rural Development;
 - ix. Panchayati Raj;
 - x. Industrial Policy & Promotion;
 - xi. Urban Development;
 - xii. Housing & Urban Poverty Alleviation;
 - xiii. Science and Technology;
 - xiv. Communications & Information Technology
 - xv. Legal Affairs;
 - xvi. Public Enterprises;
 - xvii. Youth Affairs & Sports;
 - xviii. Surface Transport and Highways.

xix. Civil Aviation

- (b) Secretary, Planning Commission,
- (c) Chairperson, Rehabilitation Council of India;
- (d) Chairperson, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities;
- (e) CMD, NHFDC;
- (f) Chairman, Railway Board;
- (g) Director-General, Employment and Training; Ministry of Labour & Employment.
- (h) Director, National Council for Educational Research and Training;
- (i) Chairperson, National Council of Teacher Education
- (j) Chairperson, University Grants Commission;
- (k) Chairperson, Medical Council of India.
- (l) Directors of the-
 - i. National Institute for the Visually Handicapped, Dehradun;
 - ii. National Institute for the Mentally Handicapped, Secundrabad;
 - iii. Pt. 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, (NIMHANS), Bangalore,
 - ix. Indian Sign Language Research and Training Centre (ISLRTC), New Delhi.

(E) Members to be nominated by the Central Government:

- a) Five persons who are either experts in the field of disability and rehabilitation to represent interests, which in the opinion of the Government ought to be represented;
- b) Five Members to be nominated by the Central Government by rotation to represent States and the Union territories in such manner as may be prescribed:

Provided that no nomination under sub-clause (b) shall be made except on the recommendation of the State Government or, as the case may be, the Union Territory;

- c) Ten persons, as far as practicable, being persons with disabilities, to represent non-governmental organizations concerned with disabilities or disabled persons organizations;

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

- d) Upto three representatives of national level chambers of commerce & industry.

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

- (3) The office of the Member of the Central Advisory Board on Disability shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.

71. Term of Office of Members

- (1) Save as otherwise provided by or under this Act a Member of Central Board nominated under clause (a) or clause (c) of sub-section (2)(E) of section 70 shall hold office for a term of three years from the date of his nomination:

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 (a) or clause (c) of sub-section (2)(E) of the section 70, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.
- (3) A Member nominated under clause (a) or clause (c) of sub-section (2)(E) of section 70 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.
- (4) A casual vacancy in the Central 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.

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- (5) A Member nominated under clause (a) or clause (c) of sub-section (2)(E) of section 70 shall be eligible for renomination.
- (6) Members nominated under clause (a) and clause (c) of sub-section (2)(E) of section 70 shall receive such allowances as may be prescribed by the Central Government.

72. Disqualification

- (1) No person shall be a Member for 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,
 - b) is or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or
 - c) is or at any time has been convicted of an offence under this Act, or
 - d) has so abused in the opinion of the Central Government his position as Member as to render his continuance in the Central Advisory Board detrimental to the 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.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of Section 71, a Member who has been removed under this section shall not be eligible for renomination as a Member.

73. Vacation of Seats by Members

If a Member of the Central Advisory Board becomes subject to any of the disqualifications specified in section 72, his seat shall become vacant.

74. Meetings of the Central Advisory Board on Disability

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 by the Central Government.

75. Functions of the Central Advisory Board on Disability

- (1) Subject to the provision 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 by them on an equal basis with others.
- (2) In particular and without prejudice to the generality of the foregoing, the Central Advisory Board on Disability shall perform the following functions, namely:
 - a) advise Central and State Governments on policies, programmes, legislation and projects with respect to disability;
 - b) evolve a national policy to address issues concerning persons with disabilities;
 - c) review and coordinate the activities of all Departments of Government and other Governmental and non-Governmental Organizations which are dealing with matters relating to persons with disabilities.
 - d) take up the cause of persons with disabilities with concerned authorities and international organizations with a view to provide for schemes and projects for the persons with disability in the national plans;
 - e) recommend steps to ensure accessibility, reasonable accommodation, non-discrimination for persons with disability vis-à-vis information, 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 in achieving equality and full participation of persons with disabilities; and
 - g) to perform such other functions as may be prescribed.

Chapter 2: State Advisory Board and District Level Committee on Disabilities

76. State Advisory Board on Disability

- (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.

- (2) the State Advisory Board on Disability shall consist of-
- (A) The Minister-in-charge of the Department in the State Government which nodally deals with disability matters, Chairperson, ex officio;
 - (B) the Minister of State/Deputy Minister-in-charge of the Department in the State Government which nodally deals with disability matters, if any, Vice-Chairperson, ex officio;
 - (C) three members of the State Legislature of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any.
 - (D) Members, ex officio:
 - (a) Secretaries to the State Government in-charge of the Departments nodally dealing with the following subjects :
 - i. Disability;
 - ii. School Education & Literacy, and Higher Education;
 - iii. Women and Child Development;
 - iv. Finance(Expenditure);
 - v. Personnel & Training;
 - vi. Health and Family Welfare;
 - vii. Rural Development;
 - viii. Panchayati Raj;
 - ix. Industrial Policy and Promotion;
 - x. Labour;
 - xi. Urban Development;
 - xii. Housing and Urban Poverty Alleviation;
 - xiii. Science and Technology;
 - xiv. Information Technology;
 - xv. Public Enterprises;
 - xvi. Youth Affairs and Sports;
 - xvii. Surface Transport
 - (b) Secretary of any other Department, which the State Government considers necessary;

(E) Members to be nominated by the State Government

- a) Five persons who are either experts in the field of disability and rehabilitation to represent interests, which in the opinion of the Government ought to be represented;
- b) 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;

- c) Ten persons as far as practicable, being persons with disabilities, to represent non-governmental organizations or associations which are concerned with disabilities;

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

- d) Upto three representatives of State level chamber of commerce and industry.

(F) Principal Secretary/Secretary level officer in the Department dealing with the subject of disabilities, Member-Secretary, ex officio.

- (3) The office of the Member of the State Advisory Board shall not disqualify its holder for being chosen as or for being a Member of the Legislature of the State.
- (4) Notwithstanding anything contained in this section, no State Advisory Board shall be constituted for a Union Territory and in relation to a Union territory, the Central Advisory Board shall exercise the functions and perform the functions of a State Advisory Board for the Union Territory:

Provided that in relation to a Union Territory, the Central Advisory Board may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

77. Terms and Conditions of Service of Members

- (1) Save as otherwise provided by or under this Act, a Member of a State Board nominated under clause (a) or clause (c) of subsection (2)(E) of section 76 shall hold office for a term of three years from the date of his nomination:

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 term of office of an ex officio Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.
- (3) A Member nominated under clause (a) or clause (c) of subsection (2)(E) of section 76 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 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 clause (a) or clause (c) of subsection (2)(E) of section 76 shall be eligible for renomination.
- (6) Members nominated under clause (a) or clause (c) of subsection (2)(E) of section 76 shall receive such allowances as may be prescribed by the State Government.

78. Disqualifications

- (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 debtor or has compounded with his creditors, or
 - b) is or has been convicted of an offence which in the opinion of the State Government involves moral turpitude, or
 - c) is or at any time has been convicted of an offence under this Act, or
 - d) 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.
- (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.

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- (3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of Section 77, a Member who has been removed under this section shall not be eligible for renomination as a Member.

79. Vacation of Seats

If a Member of the State Advisory Board becomes subject to any of the disqualifications specified in section 78 his seat shall become vacant.

80. Meetings of the State Advisory Board on Disability

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.

81. Functions of the State Advisory Board on Disability

- (1) Subject to the provision of this Act, the State 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 by them on an equal basis with others.
- (2) In particular and without prejudice to the generality of the foregoing, the State Advisory Board on Disability shall perform the following functions, namely:
- a) advise State Government on policies, programmes, legislation and projects with respect to disability;
 - b) evolve a State policy to address issues concerning persons with disabilities;
 - c) review and coordinate the activities of all Departments of the State Government and other Governmental and non-Governmental Organizations in the State which are dealing with matters relating to persons with disabilities.
 - d) take up the cause of persons with disabilities with concerned authorities and international organizations with a view to provide for schemes and projects for the persons with disabilities in the State 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 on an equal basis with others;

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- f) monitor and evaluate the impact of laws, policies and programmes designed for achieving equality and full participation of persons with disabilities; and
 - g) to perform such other functions as may be prescribed.

82. District-level Committee on Disability

- (1) The State Government shall constitute a committee in each district to be known as the District-level Committee on Disability to perform the functions spelt out in sub-section (6) below.
- (2) The composition of the District-level Committee on Disability shall be such as may be prescribed, subject to the condition that it shall necessarily have the following as its members:
 - a) Chairperson of the District Panchayat,
 - b) the Deputy Commissioner/ Collector / District Magistrate,
 - c) the Chief Executive Officer of the District Panchayat,
 - d) the Chief Executive Officer of the Municipality of the district headquarters,
 - e) District level officers of Departments of the State Government concerned with disability,
 - f) the District Lead Bank Officer,
 - g) Up to ten persons, as far as practicable being persons with disabilities, or representatives of Non-Government Organizations, or Associations concerned with disabilities to be nominated by the Chairperson of the District Committee, such that there are at least 50% women, and at least one person each belonging to SC and ST,
 - h) District Welfare Officer,
- (3) Nominated Members of the District-level Committee may receive such honorarium as may be prescribed by the State Government.
- (4) A member nominated may resign at any time from his office by writing under his hand addressed to the Chairperson and the seat of the said member thereafter will become vacant.
- (5) The District-level Committee on Disability shall meet at least once in three months and shall transact its business in accordance with such procedure as may be prescribed.

- (6) The District-level Committee on Disability shall perform the following function, namely:
- i. monitor and ensure effective implementation of the provisions of the Act and policies and programmes for persons with disabilities;
 - ii. review and coordinate the activities of all Governmental and non-Governmental Organizations at the District-level which are dealing with matters relating to persons with disabilities;
 - iii. perform such other functions as may be prescribed, or as the State Government may, from time to time, direct.

83. Vacancies not to Invalidate Proceedings

No act or proceeding of the Central Board on Disability, a State 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 Committees.

PART V: NATIONAL & STATE COMMISSIONS FOR PERSONS WITH DISABILITIES

Chapter I: National Commission

84. Constitution of National Commission for Persons with Disabilities (NCPD)

- (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 functions assigned to it, under this Act.
- (2) The Commission shall consist of the following Members, namely:
 - a) a Chairperson who is a person of eminence with a distinguished record of service in the field of disability, and
 - b) six members, of whom at least three shall be persons with disabilities, having a distinguished record of service in the fields of rehabilitation, advocacy, law, management, technology etc. concerning disability matters, and atleast two members shall be women,
 - c) The Chairperson and the Members shall be appointed by the Central Government on the recommendation of a Selection Committee with such composition as may be prescribed.

85. Term of office of Chairperson and Members

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.

86. Resignation and Removal of Chairperson and Members

- (1) The Chairperson or any Member may, by notice in writing under his hand addressed to the Central Government, resign his office.
- (2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the Central Government on the ground of proven misbehaviour or incapacity has, on inquiry held in accordance

with the procedure, prescribed in that behalf reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.

- (3) Notwithstanding anything in sub-section (2), the Central Government may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be –
- a) is adjudged an insolvent; or
 - b) engages during his term of office in any paid employment outside the duties of his office; or
 - c) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude.

87. Member to act as Chairperson or to Discharge his Functions in Certain Circumstances

- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Central Government may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.
- (2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, one of the Members as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

88. Terms and Conditions of Service of Chairperson and Members

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

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.

89. Vacancies, etc., not to Invalidate the Proceedings of the Commission

No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

90. Procedure to be Regulated by the Commission

- (1) The Commission shall meet at such time and place as the Chairperson may think fit.
- (2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down, by regulations, its own procedure.
- (3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.

91. Officers and Other Staff of the Commission

- (1) The Central Government shall make available to the Commission an officer of the rank of an Additional Secretary to the Government of India who shall be the Secretary to the Commission.
- (2) Subject to such rules as may be made by the Central 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.

92. Functions of the Commission

The Commission shall perform all or any of the following functions, namely:-

- a) identify, suo-moto, or on a representation received, provisions of any laws, policies, programmes and procedures, which are inconsistent with this Act, and recommend necessary corrective steps;
- b) inquire, suo-moto or on a complaint by an affected person with disability or any person or organization on his behalf, with respect to deprivation of his

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- rights and safeguards in respect of matters for which the Central Government is the appropriate government and take the up the matter with the appropriate authorities for corrective action, as necessary;
- c) intervene in any proceeding involving any allegation of violation of the rights of persons with disabilities pending before a court with the approval of such court;
 - d) review the safeguards provided by or under this Act or any law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;
 - e) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;
 - f) study treaties and other international instruments on the rights of persons with disabilities and make recommendations for their effective implementation;
 - g) undertake and promote research in the field of the rights of persons with disabilities;
 - h) promote awareness of the rights of persons with disabilities and promote awareness of the safeguards available for their protection;
 - i) monitor implementation of the provisions of this Act and of schemes, programmes, etc., meant for persons with disabilities;
 - j) monitor utilization of funds disbursed by the Central Government for the benefit of persons with disabilities; and
 - k) such other functions as the Central Govt. may assign.

93. Action by Appropriate Authorities on the Commission's Recommendations made after Enquiry into a Complaint

Whenever the Commission makes a recommendation to an authority in pursuance of clause (b) of Section 92, 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;

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the Commission within the above period of three months, and shall also similarly inform the aggrieved person.

94. Powers of the Commission

- (1) The Commission shall, for the purpose of discharging its functions under the Act, have all the powers of a civil court trying a suit under the Code of Civil

Procedure, 1908 (5 of 1908) and in particular in respect of the following matters, namely :

- a) summoning and enforcing the attendance of witnesses and examining them on oath;
 - b) discovery and production of any document;
 - c) receiving evidence on affidavits;
 - d) requisitioning any public record or copy thereof from any court or office;
 - e) issuing commissions for the examination of witnesses or documents;
 - f) any other matter which may be prescribed.
- (2) The Commission may, while investigating a complaint, make written requests for information, interview people, review documents or visit the premises to determine upon the nature of violation or non-compliance of regulations.
- (3) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

95. Annual and Special Reports of the Commission

- (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 should not be deferred till submission of the annual report.
- (2) The Central Government shall cause the annual and special reports of the 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.

Chapter 2: State Commission

96. Constitution of State Commission for Persons with Disabilities

- (1) A State Government may constitute a body to be known as the
(name of the State) for persons with disabilities to exercise the powers conferred

upon, and to perform the functions assigned to, a State Commission under this chapter.

- (2) The State Commission shall, with effect from such date as the State Government may by notification specify, consist of —
 - a) a Chairperson who is a person of eminence, with a distinguished record of service in the field of disability, and
 - b) Upto six Members, of whom at least half shall be persons with disability, having distinguished record of service in the field of rehabilitation, advocacy, law, management, technology, etc. concerning disability matters, and atleast one-third shall be women,
 - c) The Chairperson and the Members shall be appointed by the State Government on the recommendation of Selection Committee with such composition as may be prescribed.
- (3) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.
- (4) A State Commission may inquire, suo-moto or on a complaint by an affected person with disability or any person or organization on his behalf, with respect to deprivation of his rights and safeguards in respect of matters for which the State Government is the appropriate government.

97. Resignation and Removal of Chairperson and Members

- (1) The Chairperson or any Member may, by notice in writing under his hand addressed to the State Government, resign his office.
- (2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the State Government on the ground of proved misbehaviour or incapacity has, on inquiry held in accordance with the procedure prescribed in that behalf reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.
- (3) Notwithstanding anything in sub-section (2), the State Government may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be –

- a) is adjudged an insolvent; or
- b) engages during his term of office in any paid employment outside the duties of his office; or
- c) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude.

98. Term of Office of Chairperson and Members

- (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.

99. Member to act as Chairperson or to Discharge his Functions in Certain Circumstances

- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the State Government may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.
- (2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, one of the Members as the State Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

100. Terms and Conditions of Service of Chairperson and Members

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

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.

101. Officers and other staff of the Commission

- (1) The State Government shall make available to the Commission an officer of the rank of the Secretary to the State Government who shall be the Secretary to the 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.

102. Annual and Special Reports of State Commission

- (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 should 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.

103. Application of Certain Provisions Relating to National Commission to State Commissions

The provisions of sections 89, 90, 92, [except clause (f)], 93 & 94 shall apply, mutatis mutandis to a State Commission.

104. Transitory provisions regarding Chief Commissioner for Persons with Disabilities and State Commissioners appointed under the Persons with Disabilities Act, 1995

The Chief Commissioner for Persons with Disabilities and the State Commissioners appointed under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 shall continue to discharge their functions and exercise the powers conferred on them under that Act, till such time as the National Commission or as the case may be, the State Commission is constituted and becomes functional.

PART VI: DISABILITY RIGHTS COURTS

105. Special Disability Rights Courts

For the purpose of speedy disposal of suits of a civil nature which may be filed by or on behalf of persons with disabilities regarding infringement of their rights as a person with disability, under this or any other law for the time being in force, and speedy trial of offences under this Act, the State Govt. may, with the concurrence of the Chief Justice of the High Court, by notification in the official gazette, specify for each sub-division, a court to be a Special Disability Court for the hearing and disposal of such suits and criminal cases.

106. Exclusive Disability Rights Courts

Notwithstanding anything contained in Section 105, the State Government, with the concurrence of the Chief Justice of the High Court, by notification in the official gazette:-

- i. may establish for each district, and
- ii. shall establish for each city with a population of 10 lakh or more as per the last Census,

a court as an Exclusive Disability Court, and such court shall hear and dispose of only suits of the type mentioned in Section 105.

107. Jurisdiction

Where a district has one or more Exclusive Disability Courts established under Section 106, their jurisdiction vis-à-vis that of Special Disability Courts specified under Section 105, shall be such as the State Govt. may, by notification in the official gazette, specify.

108. Disability Rights Counsel

- (1) The State Govt. may, by notification in the official gazette, appoint for:-
 - i. every Special Disability Court specified under Section 105, and
 - ii. every Exclusive Disability Court established under Section 106,an advocate, of not less than five years' standing, as a Disability Rights Counsel, to give legal advice to and plead the cases of such plaintiffs with disabilities in such courts, as may wish to avail of his services, and to prosecute the criminal cases filed in such courts.

- (2) A Disability Rights Counsel shall be entitled to receive such fees or remuneration from the State Government as may be prescribed, and shall not charge any fees from the plaintiffs with disabilities on whose behalf he appears in a Special or an Exclusive Disability Court, as the case may be.

PART VII: NATIONAL FUND FOR PERSONS WITH DISABILITIES

109. Definitions

In this Chapter, unless the context otherwise requires:-

- a) "Erstwhile Fund" means the National Fund for People with Disabilities, constituted vide notification no. SO 573 (E) dated 11.08.1983 under the Charitable Endowments Act, 1890.
- b) "Trust Fund" means the Trust Fund for Empowerment of Persons with Disabilities, constituted vide notification no 30-03/2004-DDII dated 21.11.2006, under the Charitable Endowment Act, 1890.

110. Establishment of a National Fund for Persons with Disabilities

- (1) With effect from such date as the Central Government may, by notification, appoint in this behalf, there shall be constituted for the purposes of this Act, a Fund to be called the National Fund for Persons with Disabilities.
- (2) The National Fund for Persons with Disabilities shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

111. Dissolution of Erstwhile Fund and Trust Fund and transfer of their Rights, Assets and Liabilities to the National Fund for Persons with Disabilities

On and from the date of the constitution of the National Fund for Persons with Disabilities in accordance with Section 109, the Erstwhile Fund and the Trust Fund shall stand dissolved, and on such dissolution –

- a) all properties and assets, movable and immovable, of, or belonging to the two dissolved funds shall vest in the National Fund for Persons with Disabilities.
- b) all rights and liabilities of the two dissolved funds shall be transferred to, and be the rights and liabilities of the National Fund for Persons with Disabilities,

- c) without prejudice to the provisions of clause (b) all liabilities incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the two dissolved Funds, shall be deemed, as the case may be, to have been incurred, entered into, or engaged to be done by, with or for, the National Fund for Persons with Disabilities;
- d) all sums of money due to the two dissolved Funds immediately before their dissolution shall be deemed to be due to National Fund for Persons with Disabilities;
- e) all suits and other legal proceedings instituted or which could have been instituted by or against the two dissolved Funds immediately before their dissolution may be continued or may be instituted by or against the National Fund for Persons with Disabilities.

112. Governing Body of the Fund

- (1) The National Fund for Persons with Disabilities shall be governed by a Governing Body consisting of:-
- | | | |
|--------|---|-------------------------|
| (i) | The Minister-in-charge of the Ministry in the Central Government which nodally deals with disability matters | Chairperson, ex-officio |
| (ii) | The Minister of State-in-charge in the Ministry in the Central Government which nodally deals with disability matters | Vice-Chairperson |
| (iii) | Secretary, Department of Disability Affairs, in the Central Government | Member, ex-officio |
| (iv) | Secretary, Department of Financial Services/Banking, in the Central Government | " " " " |
| (v) | Chairperson, Rehabilitation Council of India | " " " " |
| (vi) | Chairperson, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities | " " " " |
| (vii) | Financial Advisor, Ministry of Social Justice & Empowerment, in the Central Government | " " " " |
| (viii) | Representatives of the following Ministries of the Central Government, not below the rank of a Joint Secretary:
(a) Health & Family Welfare
(b) Human Resource Development (Deptt. of School Education & Literacy, and Deptt. of Higher Education)
(c) Labour & Employment | Members, ex-officio |
| (ix) | Five Members representing different types of disabilities, to be nominated by the Central Government, by rotation | Members |

-
- (x) A Chief Executive Officer to be appointed by the Central Government, not below the rank of a Joint Secretary to the Government of India Member-Secretary, ex-officio
- (2) The Governing Body shall meet as often as necessary, but at least once in every financial year.
- (3) The Governing Body may associate with itself, in such manner and for such purpose as may be determined by regulations, any person whose assistance or advice it may desire for carrying out any of the objects of the Trust.
- (4) Nominated members shall hold office for not more than three years.
- (5) No Member of the Governing Body shall be a beneficiary of the Fund during the period such Member holds office.
- (6) No person shall be nominated as a member of the Governing Body if he/ she -
- a) is, or has been, convicted of an offence, which in the opinion of the Central Government, involves moral turpitude; or
 - b) is, or at any time has been, adjudicated as an insolvent.

113. Sources of Income for the National Fund for Persons with Disabilities

As from the date of constitution of the National Fund for Persons with Disabilities u/s 101, the following shall be credited into it, viz.:

- a) all moneys payable by banks, corporations, etc., in pursuance of judgment dated 16.04.2004 of the Supreme Court in Civil Appeal No.4655 and 5218 of 2000;
- b) all moneys received from the Central Government;
- c) all moneys received by the Fund by way of grant, gifts, donations, beneficinations, bequests or transfers; and
- d) all moneys received by the fund in any other manner or from any other source.

114. Management and Utilization of the Fund

- (1) Central Government may from time to time fix an amount to be known as the corpus of the Fund;
- (2) An amount equal to the corpus shall be invested in such manner as may be prescribed and shall not be spent, except with the prior approval of the Central Government.
- (3) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as the Governing body, may, subject to the general guidelines of the Central Government, decide.
- (4) Amounts in excess of the corpus, including the interest accruing on the corpus, may be spent for one or more of the following purposes in relation to persons with disabilities:
 - i. education, health and rehabilitation
 - ii. vocational training and employment
 - iii. generation of awareness
 - iv. administrative and other expenses of the Fund, as may be required to be incurred by or under this Act, and
 - v. such other purposes as may be prescribed.

115. Chief Executive Officer and Staff of Fund

- (1) The Central Government shall appoint a Chief Executive Officer of the Fund to exercise such powers and perform such duties under the direction of the Governing Body as may be prescribed or as may be delegated to him by the Chairperson.
- (2) The Governing Body shall, with the previous approval of the Central Government, appoint such other officers and employees as it considers necessary to carry out the objectives of the Fund.
- (3) The salary and allowances payable to, and the other terms and conditions of service of, the Chief Executive Officer, other officers and employees of the Fund shall be such as may be determined by regulations.

116. Budget

The Fund shall prepare, in such form and at such time in each financial year as may be prescribed, the budget for the next financial year showing the estimated receipt and expenditure of the Fund, and shall forward the same to the Central Government.

117. Accounts & Audit

- (1) The Fund shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Trust including the income and expenditure accounts in such form as the Central Government may prescribe and in accordance with such general direction as may be issued by that Government in consultation with the Comptroller and Auditor-General of India.
- (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 by the Fund to the Comptroller and Auditor-General of India.
- (3) The Comptroller and Auditor-General of India and 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 accounts, and in particular, shall have the right to demand production of books of accounts, 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 forwarded annually to the Central Government, which shall cause the same to be laid before each House of Parliament.

118. Annual Report

The National Fund shall prepare every year, in such form and within such time as may be prescribed, an annual report giving a true and full accounts of its activities during the previous financial year and copies thereof shall be forwarded to the Central Government, which shall cause the same to be laid before each House of Parliament.

119. Authentication of Orders

All orders and decisions of the National Fund and instrument issued in the name of the Fund shall be authenticated by the signature of the Chairperson, the Chief Executive Officer or any other officer authorized by the Chairperson, in this behalf.

120. Returns & Information

The National Fund shall furnish to the Central Government such reports, returns and other information as that Government may require time to time.

121. Powers of Central Government

- (1) Without prejudice to the foregoing provisions of this Act, the National Fund shall, in exercise of its power or the performance of its duties under this Act, be bound by such directions on questions of policy as the Central Government may give to it in writing from time to time:

Provided that the Fund shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

- (2) The decision of the Central Government on whether a question is one of policy or not shall be final.

122. Exemption from Tax on Income

Notwithstanding anything contained in the Income-tax Act, 1961, or any other law for the time being in force relating to tax on income, profits or gains, the Trust shall not be liable to pay income-tax or any other tax in respect of its income, and profits or gains derived therefrom.

123. Protection of Action Taken in Good Faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or the Trust or any member of the Board or Chief Executive Officer or any officer or other employee of the Trust or any other person authorized by the Board to perform duties under this Act for any loss or damage caused or likely to be caused by anything which is done in good faith.

Explanation -For the purposes of this section, the expression "good faith" shall have the same meaning as assigned to it in Section 52 of the Indian Penal Code (45 of 1860)

124. Delegation

The Board may, by general or special order in writing, delegate to its such sub-committee as it may constitute, or the Chairperson or to any officer of the

Fund, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers under this Act (except the power to make regulations under section 125) as it may deem necessary.

125. Power to Make Regulations

- (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and rules generally to carry out the, purposes of this Act.
- (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) the manner and purpose for which persons may be associated under sub-section(3) of section 112;
 - b) the time and place at which the Board shall meet under clause(2) of section 112;
 - c) the terms and conditions of service of the Chief Executive Officer, other officers and employees of the Fund under section 115.

PART VIII: OFFENCES & PENALTIES

126. Punishment for Contravention of Section 55, 56, 60 & 62

Any establishment, which contravenes the provisions of sub-section (1) of section 55, section 56, 60 or sub-sections (2), (3) & (4) of section 62, shall be punishable with fine which may extend to Rs.50,000/- and with additional fine of upto Rs.1,000/- per day for each day of continued contravention after the date of the original order imposing punishment of fine.

127. Offences by Establishments

- (1) Where any offence under this Act has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible to the establishment for the conduct of its business, as well as the establishment, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly;

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

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by an establishment 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 other officer of the establishment, such person shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

128. Penalty for Hate Speech

Whoever voluntarily or knowingly commits or abets the offence by words, either spoken or written, or by signs or by visible representations or otherwise, shall be punished with imprisonment for a term which may extend to one year and with fine.

129. Penalty for Assault or Use of Force

Whoever assaults or uses force to any child or woman, intending thereby to dishonour or outrage modesty of that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment for a term which may extend to two years and with fine.

130. Penalty for Denial of Food and Fluids

Whoever voluntarily or knowingly denies food or fluids to any persons with disability or aids or abets in such denial shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine.

131. Penalty for Sexual Exploitation

Whoever, being in a position to dominate the will of a child or woman with disability, and uses that position to exploit sexually to which the child or woman would not have otherwise agreed, shall be punished with imprisonment for a term which may extend to six years and with fine.

132. Penalty for Wrongful Medical Procedures

- (1) Whoever performs, conducts or directs any medical procedure to be performed on a person with disability which leads to or is likely to lead to infertility shall be punishable with imprisonment for a period not exceeding seven years and with fine;
- (1) Any person acting as a care-giver of the person with disability, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to facilitate, or negligently fails to prevent such medical procedure from being performed, shall be punishable with imprisonment which may extend to five years and with fine.

133. Punishment for Injury to Persons with Disability

Whoever voluntarily injures, damages or interferes with the use of any limb or sense or faculty of a person with disability, permanently or temporarily shall be punishable with imprisonment for a term which shall not be less than six months but which may extended to eight years, and with fine, or with both.

134. Penalty for Forceful Termination of Pregnancy

- (1) Whoever 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 shall be punishable with imprisonment for a period not exceeding ten years and with fine;
- (2) Any person acting as a care-giver of the woman with disability, whether as parent or guardian or in any other capacity, lawful, who does any act to facilitate, or negligently fails to prevent such medical procedure from being performed, shall be punishable with imprisonment which may extend to seven years and with fine.

135. Penalty for Fraudulently Availing or Conferring Benefit Meant for Persons with Benchmark Disabilities

Whoever fraudulently avails or attempts to avail or confer or attempt to confer any benefit meant for persons with benchmark disabilities on a person not entitled to such benefit 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 both.

136. Penalty for Failure to Furnish Information

Whoever fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, he 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.

PART IX: MISCELLANEOUS

137. Act to be in Addition to and not in Derogation of any other Law

The provisions of this Act or the rules made there under shall be in addition and not in derogation of any other legislation, rules, orders or instructions which provides any entitlement or benefit to persons with disabilities.

138. Action Taken in Good Faith

No suit prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule there made under

139. Power to Remove Difficulties

- (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, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty;

Provided that no such order shall be made 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 as soon as may be after it is made, be laid before each House of parliament.

140. Power of Appropriate Governments to Make Rules

- (1) The Government may, 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 the all or any of the following matters, namely:-
 - a. the manner in which a State Government or a Union Territory shall be chosen under clause () of sub-section () of Section.

- b. such other functions which the Central Advisory Board may perform under clause () of sub-section () of section;
- c. the manner in which a State Government or a Union Territory shall be chosen under clause () of sub-section () of section ();
- d. allowances which members shall receive under sub-section () of section ();
- e. rules of procedure which a State Advisory Board shall observe in regard to transaction of business in its meetings under section ();
- f. such other functions which a State Advisory Board may perform under clause () of sub-section () of section ();
- g. information on return which the employer in every establishment should furnish and the Special Employment Exchange to which such information or return shall be furnished under sub-section () of section ();
- h. the form and the manner in which record shall be maintained by an employer under sub-section () of section ();
- i. the form and manner in which an application shall be made under sub-section () of section ();
- j. the manner in which an order of refusal shall be communicated under sub-section () of section ();
- k. facilities or standards required to be provided or maintained under sub-section () of section ();
- l. the period for which a certificate of registration shall be valid under clause () of sub-section () of section ();
- m. the form in which and conditions subject to which a certificate of registration shall be granted under clause () of sub-section () of section;
- n. period within which an appeal shall lie under sub-section () of section ()
- o. Manner in which equal opportunities policy is to be formulated along with measures to be taken under Section ().

- p. Manner and procedure for framing guidelines for assessment for specified disabilities under Section ().
- q. Manner in which National Fund is to be managed and utilized under Section ().
- r. Power and duties of Chief Executive Officer of the Fund under Section ().
- s. deputation of government officers to the National Commission;
- t. the salaries and allowances and other terms and conditions of service of the Chairperson and members of the National Commission;
- u. the qualifications, duties and powers and terms of conditions of service of the Secretary to the National Commission;
- v. the salaries, allowances and conditions subject to which other administrative, technical and scientific staff may be provided by the National Commission;
- w. procedure relating to the preparation and publication of the annual reports of the National Fund and National Commission;
- x. the salaries and allowances and other terms and conditions of service of the Chairperson and members of the State Commission;
- y. the salary and allowances and other conditions of service of the officers and employees of the State Commission;
- z. the salaries, allowances and conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission;
- aa. the qualifications, duties and powers and terms of condition of service of the Member-Secretary to the State Commission;
- bb. procedure relating to the preparation and publication of the annual reports of the State Commission;
- cc. procedure of establishing competent authorities for issuing disability certificates;

dd.rules of procedure which the Central Advisory Board on Disability shall observe in regard to the transaction of business in its meeting under section;

ee.any other matter which is required to be or may be prescribed.

- (3) Prior to the formation of the rules, the appropriate government shall make available the draft of the rules in accessible formats to the members of the public and invite their suggestions and objections to the same.
- (4) Every rule made by the Central Government 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 30 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.
- (5) Every rule made by the State Government under this section 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 legislature consists of one house, before that house.

141. Powers of National Commission to Make Regulations

- (1) The National Commission may, by notification make regulations consistent with this Act and the Rules for the effective implementation of the purposes of this Act, in respect of the matters relatable to any of the entries enumerated in List I and List III in the Seventh Schedule to the Constitution.
- (2) Without prejudice to the generality of sub-section (1), the National Commission shall make regulations relating to:
 - a. Standards for accessibility to physical environment, transportation, information and communication technologies including appropriate

technology and systems and other facilities and services with due consideration to the diversity of disability and principles of universal design;

- b. Standards of facilities for service animal training.
- c. Standards for accessibility for existing infrastructure and premises;
- d. Standards for accessibility for all service providers;
- e. Training and educational qualifications for teachers having regard to the support requirements of persons with disabilities;
- f. Procedure relating to matters;
- g. Establishment of such committees as may be required for the efficient performances of its functions;
- h. The composition, membership, qualifications, terms and conditions of appointment, removal, tenure, meetings, quorum and resignation of the Committees formed by the National Commission;
- i. The rules of procedure for transaction of business;
- j. The rules of procedure for convening meetings of Chairpersons of State Commissions;
- k. The form in which and the time at which the meetings to be called;
- l. The form and manner in which and the time at which research needs to be undertaken;
- m. The manner in which and the time at which meetings of National Commission to be convened;
- n. Any other matter incidental or ancillary for the enforcement of this Act.

- (3) Prior to the finalization of the regulations, the National Commission shall make available the draft rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

142. Power of the State Commission to make Regulations

- (1) The State Commission shall have the power to issue regulations which are in conformity with the Act and the Rules for the effective implementation of the purposes of this Act, in respect of the matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution.

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

- (2) Without prejudice to the generality of sub-section (1), the State Commission shall make regulations relating to:
 - a. Establishment of such Committees as may be required for the efficient performance of its functions;
 - b. The composition, membership, qualifications, terms and conditions of appointment, removal, tenure, meetings, quorum and resignation of the Committees formed by the State Commission;
 - c. Any other matter incidental or ancillary for the enforcement of this Act.
- (3) Prior to the finalization of the regulations, the State Commission shall make available the draft rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

143. Repeal and Saving

- (1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act of 1995 (Act No.1 of 1996) is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Act insofar as such thing or action is not inconsistent with the provisions of this Act, shall be deemed to be have been done or taken under the corresponding provisions of this Act and shall continue in force until superseded by anything done or any action taken under this Act.

SCHEDULE

[See Clause (hh) of Section 2]

Definitions of Specified Disabilities

1. 'Autism Spectrum Disorder' refers to 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 behaviors.
2. 'Blindness' refers to a condition where a person has any of the following conditions, after best correction:
 - a) Total absence of sight; or
 - b) Visual acuity not exceeding 3/60 or 10/200 (Snellen) in the better eye, or
 - c) Limitation of the field of vision subtending an angle of 10 degree or worse.
3. 'Cerebral Palsy' refers to a Group of non-progressive neurological condition 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' refers to 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' refers to a condition in which people may have a combination of hearing and visual impairments causing severe communication, developmental, and educational problems. Deafblindness may include:
 - Moderate to profound hearing and significant visual impairments;
 - Moderate to profound hearing and significant visual impairments and other significant disabilities;
 - Central processing problems of vision and hearing;
 - Progressive sensory impairments/ significant visual impairment; and

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- Possible loss of auditory processing mechanisms (associated with severe physical disability or severe cognitive disability) and severe communication delay”
- 6.** ‘Hemophilia’ refers to an inheritable disease, usually affecting only males but transmitted by women to their male children, characterized by loss or impairment of the normal clotting ability of blood so that a minor would may result in fatal bleeding.
 - 7.** ‘Hearing Impairment’ refers to loss of 60 decibels hearing level (HL) or more in the better ear in the conversational range of frequencies.
 - 8.** ‘Intellectual Disability’ refers to a condition characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills.
 - 9.** ‘Leprosy cured person’ refers to any person who has been cured of leprosy but is suffering from:
 - a) 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;
 - b) Manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;
 - c) Extreme physical deformity as well as advanced age which prevents him/her from undertaking any gainful occupation, and the expression “leprosy cured” shall construed accordingly.
 - 10.** ‘Locomotor Disability’ refers to a person's inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal and/or nervous system.
 - 11.** ‘Low-vision’ refers to a condition where a person has any of the following conditions, namely:
 - a) 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
 - b) Limitation of the field of vision subtending an angle of more than 10 degree and up to 40 degree.
 - 12.** ‘Mental Illness’ refers to a chronic disturbance of mood, thought, perception, orientation or memory which causes significant impairment in a person’s behavior, judgement and ability to recognize

reality or impairs the persons' ability to meet the demands and activities of daily life.

- 13.** 'Multiple Dystrophy' refers to a group of hereditary genetic muscle disease that weakens the muscles that move the human body. People with MD have incorrect or missing information in their genes, which prevents them from making the proteins they need for healthy muscles. It is characterized by progressive skeletal muscle weakness, defects in muscle proteins, and the death of muscle cells and tissue.
- 14.** 'Multiple Sclerosis' refers to 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' refers to 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. The term includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia.
- 16.** 'Speech & 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' refers to a group of inherited disorders characterized by reduced or absent amounts of hemoglobin.
- 18.** 'Multiple disability' mean two or more of the specified disabilities listed at S.No.1 to 17 above, occurring in a person at the same time.

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