

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 28th December, 2016

The following Act of Parliament received the assent of the President on the 27th December, 2016, and is hereby published for general information:—

An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto. WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th December, 2006; the aforesaid Convention lays down the following principles for empowerment of persons with disabilities

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.

Chapter 1: Preliminary

- 1) "Care-giver" means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability;
- 2) "Discrimination" in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is 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 and denial of reasonable accommodation.
- 3) "High support" means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy;
- 4) "Inclusive education" means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;
- 5) "Institution" means an institution for the reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities.
- 6) "Person with benchmark disability" means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and

includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

- 7) “Person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others.
- 8) “Reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;
- 9) “Registered organisation” means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature;
- 10) “Rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels;
- 11) “Universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities.

Chapter 2: Rights & Entitlements

Equality and non-discrimination

- 1) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.
- 2) No person shall be deprived of his or her personal liberty only on the ground of disability

Women and children with disabilities

- 1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.
- 2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.”

Community life

The persons with disabilities shall have the right to live in the community.

Protection from cruelty and inhuman treatment

The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

Protection from abuse, violence and exploitation

- 1) The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall— (a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;
- 2) Take steps for avoiding such incidents and prescribe the procedure for its reporting;
- 3) Take steps to rescue, protect and rehabilitate victims of such incidents; and
- 4) Create awareness and make available information among the public.

Protection and safety

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

Home and family

- 1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.
- 2) Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.

Reproductive rights

- 1) The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.
- 2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.

Accessibility in voting

The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.

Accessibility to Justice

- 1) The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having

judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.

- 2) The appropriate Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.

Legal capacity

- 1) The appropriate Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.
- 2) The appropriate Government shall ensure that the 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 any other person before the law.

Chapter 3: Education

Duty of Educational institutions

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

- 1) Admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;
- 2) Make building, campus and various facilities accessible;
- 3) Provide reasonable accommodation according to the individual's requirements;
- 4) Provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;
- 5) Ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;
- 6) Detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;
- 7) Monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;
- 8) Provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.

Specific measures to promote and facilitate inclusive education

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

- 1) To conduct survey of school going children in every five years for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met: Provided that the first survey shall be conducted within a period of two years from the date of commencement of this Act;
- 2) To establish adequate number of teacher training institutions;
- 3) To train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disability;
- 4) To train professionals and staff to support inclusive education at all levels of school education; Designation of authorities to support. Duty of educational institutions. Specific measures to promote and facilitate inclusive education.
- 5) To establish adequate number of resource centres to support educational institutions at all levels of school education;
- 6) To promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to fulfil the daily communication needs of persons with speech, communication or language disabilities and enables them to participate and contribute to their community and society;
- 7) To provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years;
- 8) To provide scholarships in appropriate cases to students with benchmark disability;
- 9) To make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses;
- 10) To promote research to improve learning; and
- 11) Any other measures, as may be required

Chapter 4: Skill development and employment

Vocational training and self-employment

- 1) Inclusion of person with disability in all mainstream formal and non-formal vocational and skill training schemes and programmes;
- 2) To ensure that a person with disability has adequate support and facilities to avail specific training;
- 3) Exclusive skill training programmes for persons with disabilities with active links with the market, for those with developmental, intellectual, multiple disabilities and autism;
- 4) Loans at concessional rates including that of microcredit;
- 5) Marketing the products made by persons with disabilities; and
- 6) Maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities.

Non-discrimination in employment

- 1) No Government establishment shall discriminate against any person with disability in any matter relating to employment.
- 2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.
- 3) No promotion shall be denied to a person merely on the ground of disability.

Chapter 5: Social security, health, rehabilitation and recreation

The appropriate Government shall provide for:

- 1) Community centres with good living conditions in terms of safety, sanitation, health care and counselling;
- 2) Facilities for persons including children with disabilities who have no family or have been abandoned, or are without shelter or livelihood;
- 3) Support during natural or man-made disasters and in areas of conflict;
- 4) Support to women with disability for livelihood and for upbringing of their children;
- 5) Access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas;
- 6) Provisions of aids and appliances, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities with such income ceiling as may be notified;
- 7) Disability pension to persons with disabilities subject to such income ceiling as may be notified;
- 8) Unemployment allowance to persons with disabilities registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation;
- 9) Care-giver allowance to persons with disabilities with high support needs;
- 10) Comprehensive insurance scheme for persons with disability, not covered under the Employees State Insurance Schemes, or any other statutory or Government sponsored insurance schemes;
- 11) Any other matter which the appropriate Government may think fit.

Healthcare

The appropriate Government and the local authorities shall take necessary measures for the persons with disabilities to provide:

- 1) Free healthcare in the vicinity especially in rural area subject to such family income as may be notified;
- 2) Barrier-free access in all parts of Government and private hospitals and other healthcare institutions and centres;
- 3) Priority in attendance and treatment

The appropriate Government and the local authorities shall take measures and make schemes or programmes to promote healthcare and prevent the occurrence of disabilities and for the said purpose shall:

- 1) Undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
- 2) Promote various methods for preventing disabilities;
- 3) Screen all the children at least once in a year for the purpose of identifying “at-risk” cases;
- 4) Provide facilities for training to the staff at the primary health centres;
- 5) Sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;
- 6) Take measures for pre-natal, perinatal and post-natal care of mother and child;
- 7) Educate the public through the pre-schools, schools, primary health centres, village level workers and anganwadi workers;
- 8) Create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;
- 9) Healthcare during the time of natural disasters and other situations of risk;
- 10) Essential medical facilities for life saving emergency treatment and procedures; and
- 11) Sexual and reproductive healthcare especially for women with disability.

Rehabilitation

- 1) The appropriate Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities.
- 2) For the purposes of sub-section (1), the appropriate Government and the local authorities may grant financial assistance to non-Governmental Organisations.
- 3) The appropriate Government and the local authorities, while formulating rehabilitation policies shall consult the non-Governmental Organisations working for the cause of persons with disabilities.

Research and development

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

Culture and recreation

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

- 1) Facilities, support and sponsorships to artists and writers with disability to pursue their interests and talents;
- 2) Establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities;
- 3) Making art accessible to persons with disabilities;
- 4) Promoting recreation centres, and other associational activities;
- 5) Facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities;
- 6) Redesigning courses in cultural and arts subjects to enable participation and access for persons with disabilities;
- 7) Developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities; and
- 8) Ensuring that persons with hearing impairment can have access to television programmes with sign language interpretation or sub-titles.

Sporting activities

- 1) The appropriate Government shall take measures to ensure effective participation in sporting activities of the persons with disabilities.
- 2) The sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provisions for the inclusion of persons with disabilities in their schemes and programmes for the promotion and development of sporting talents.

Chapter 6: Special provisions for persons with benchmark disabilities

Free education for children with benchmark disabilities

- 1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.
- 2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

Reservation

Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:— (a) blindness and low vision; (b) deaf and hard of hearing; (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy; (d) autism, intellectual disability, specific learning disability and mental illness; (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities: Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time: Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

Chapter 8: Duties and responsibilities of appropriate Governments

Awareness campaigns

- 1) The appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities provided under this Act are protected.
- 2) The programmes and campaigns specified under sub-section (1) shall also,— (a) promote values of inclusion, tolerance, empathy and respect for diversity; (b) advance recognition of the skills, merits and abilities of persons with disabilities and of their contributions to the workforce, labour market and professional fee.

Accessibility

The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.

Access in transport

The appropriate Government shall take suitable measures to provide:

- 1) Facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines;
- 2) Access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design;
- 3) Accessible roads to address mobility necessary for persons with disabilities.
- 4) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for, incentives and concessions and also for retrofitting of vehicles; and personal mobility assistance.

Mandatory observance of accessibility norms

- 1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.
- 2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.
- 3) All existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the date of notification.

Chapter 9: Registration of institutions for persons with disabilities and grants to such institutions

Chapter 10: Certification of specified disabilities

Guidelines for assessment of specified disabilities

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

Appeal against a decision of certifying authority

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

Chapter 13: Special Court

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

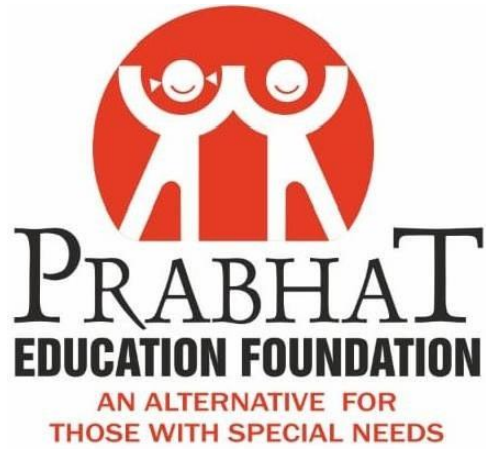
Chapter 16: Offences and penalties

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

Whoever

- 1) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;
- 2) Assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;
- 3) Having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;
- 4) Being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;
- 5) Voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;
- 6) Performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability,

Shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.



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