

ਡਾਇਰੈਕਟੋਰੇਟ ਸਕੂਲ ਐਜੂਕੇਸ਼ਨ (ਸੈਕੰਡਰੀ), ਪੰਜਾਬ।
ਐਟ ਪੰ.ਸ.ਸਿੱ.ਬੋਰਡ ਕੰਪਲੈਕਸ, ਫੇਜ਼-VIII, ਐਸ.ਏ.ਐਸ. ਨਗਰ।
(ਕੋਆਰਡੀਨੇਸ਼ਨ ਸ਼ਾਖਾ)

(email. dgsecoordination@punjabeducation.gov.in)

ਸੇਵਾ ਵਿਖੇ

1. ਸਮੂਹ ਜਿਲ੍ਹਾ ਸਿੱਖਿਆ ਅਫਸਰ (ਸੈਸਿ/ਐਸਿ), ਪੰਜਾਬ।
2. ਸਮੂਹ ਸਕੂਲ ਮੁਖੀ, ਪੰਜਾਬ।

ਸੀਮੇ ਨੰ. 659542/DPISE/2024/11/Co/2024 63429- 430

ਮਿਤੀ: 06-03-2024

ਵਿਸ਼ਾ:- Suo-Motu Notice to File Comments in the matter of Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors.

ਹਵਾਲਾ: ਪੰਜਾਬ ਸਰਕਾਰ, ਵਿੱਤ ਵਿਭਾਗ (ਸਿੱਖਿਆ-6 ਸ਼ਾਖਾ) ਦਾ ਪੱਤਰ ਨੰ. SED-EDU6011/9/2024-5EDU6/1/792323/2024 ਮਿਤੀ 28.2.2024.

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਤੇ ਹਵਾਲਾ ਅਧੀਨ ਪੱਤਰ ਦੀ ਕਾਪੀ ਆਪ ਨੂੰ ਭੇਜਕੇ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ RPwD Act, 2016 ਦੀਆਂ ਧਾਰਾਵਾਂ ਅਤੇ ਭਾਰਤ ਸਰਕਾਰ ਦੇ ਪੱਤਰ ਮਿਤੀ 30.08.2013 ਵਿੱਚ ਦਰਜ ਹਦਾਇਤਾਂ ਦੀ ਪਾਲਣਾ ਕਰਨੀ ਯਕੀਨੀ ਬਣਾਈ ਜਾਵੇ।

ਸਹਾਇਕ ਡਾਇਰੈਕਟਰ (ਕੋਆਰਡੀਨੇਸ਼ਨ)

ਪਿ.ਅੰ.ਨੰ.ਉਕਤ/2024 63431-435

ਮਿਤੀ 06-03-2024

ਉਤਾਰਾ ਹੇਠ ਲਿਖਿਆ ਨੂੰ ਯੋਗ ਕਾਰਵਾਈ ਹਿੱਤ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ:-

1. ਸੁਪਰਡੈਂਟ, ਸਿੱਖਿਆ-6 ਸ਼ਾਖਾ ਨੂੰ ਹਵਾਲਾ ਪੱਤਰ ਦੇ ਸਬੰਧ ਵਿੱਚ ਅਗਲੇਰੀ ਕਾਰਵਾਈ ਹਿੱਤ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ।
2. ਸਕੱਤਰ, ਪੰਜਾਬ ਸਕੂਲ ਸਿੱਖਿਆ ਬੋਰਡ।
3. ਸਮੂਹ ਅਧਿਕਾਰੀ/ਸ਼ਾਖਾ ਮੁਖੀ, ਦ. ਡੀ.ਐਸ.ਈ. (ਸੈਕੰਡਰੀ/ਐਲੀਮੈਂਟਰੀ), ਪੰਜਾਬ।
4. ਸਮੂਹ ਅਧਿਕਾਰੀ, ਦ. ਡੀ.ਜੀ.ਐਸ.ਈ. ਪੰਜਾਬ।
5. ਸਮੂਹ ਅਧਿਕਾਰੀ/ਸ਼ਾਖਾ ਮੁਖੀ, ਦ. ਐਸ.ਸੀ.ਈ.ਆਰ.ਟੀ. ਪੰਜਾਬ।

ਸਹਾਇਕ ਡਾਇਰੈਕਟਰ (ਕੋਆਰਡੀਨੇਸ਼ਨ)

ਪੰਜਾਬ ਸਰਕਾਰ
ਸਿੱਖਿਆ ਵਿਭਾਗ
(ਸਿੱਖਿਆ-6 ਸ਼ਾਖਾ)

ਸੇਵਾ ਵਿਖੇ

1. ਡਾਇਰੈਕਟਰ ਜਨਰਲ ਸਕੂਲ ਸਿੱਖਿਆ, ਪੰਜਾਬ।
2. ਡਾਇਰੈਕਟਰ, ਸਿੱਖਿਆ ਭਰਤੀ ਬੋਰਡ, ਪੰਜਾਬ।
3. ਡਾਇਰੈਕਟਰ, ਸਕੂਲ ਸਿੱਖਿਆ (ਸੈਕੰਡਰੀ), ਪੰਜਾਬ।
4. ਡਾਇਰੈਕਟਰ, ਐਸ.ਸੀ.ਈ.ਆਰ.ਟੀ., ਪੰਜਾਬ।
5. ਸਕੱਤਰ, ਪੰਜਾਬ ਸਕੂਲ ਸਿੱਖਿਆ ਬੋਰਡ।
6. ਡਾਇਰੈਕਟਰ, ਸਕੂਲ ਸਿੱਖਿਆ (ਐਲੀਮੈਂਟਰੀ), ਪੰਜਾਬ।

ਮਿਤੀ: 28.02.2024

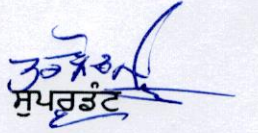
Subject: Suo-Motu Notice to File Comments in the matter of Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors.

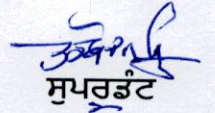
ਉਪਰਕੋਤ ਵਿਸ਼ੇ ਦੇ ਹਵਾਲੇ ਵਿੱਚ।

2. ਆਪ ਨੂੰ ਦਫਤਰ ਰਾਜ ਕਮਿਸ਼ਨਰ ਫਾਰ ਪਰਸਨਜ਼ ਵਿਦ ਡਿਸਏਬਿਲਟੀ ਵੱਲੋਂ ਪ੍ਰਾਪਤ ਪੱਤਰ ਨੰ: SCPWD-SPL / 21 / 2024 - 3DC / 260, ਮਿਤੀ 26.02.2024 ਦੀ ਕਾਪੀ ਸਮੇਤ ਸਹਿ ਪੱਤਰ ਭੇਜਦੇ ਹੋਏ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਉਕਤ ਵਿਸ਼ੇ ਸਬੰਧੀ ਸੂਚਨਾ ਤਿਆਰ ਕਰਕੇ ਦਫਤਰ ਡਾਇਰੈਕਟਰ, ਸਕੂਲ ਸਿੱਖਿਆ (ਸੈਕੰਡਰੀ), ਪੰਜਾਬ ਰਾਹੀਂ ਇਸ ਸ਼ਾਖਾ ਇੱਕ ਹਫਤੇ ਦੇ ਅੰਦਰ ਅੰਦਰ ਭੇਜਣੀ ਯਕੀਨੀ ਬਣਾਈ ਜਾਵੇ।

3. ਇਸ ਨੂੰ ਪਰਮ ਅਗੇਤ ਦਿੱਤੀ ਜਾਵੇ।

ਉਪਰੋਕਤ ਦਾ ਇੱਕ ਉਤਾਰਾ ਵਿਸ਼ੇਸ਼ ਕਾਰਜਕਾਰੀ ਅਫਸਰ (ਲਿਟੀ:) ਨੂੰ ਉਹਨਾਂ ਦੇ ਪੱਤਰ ਨੰ: ਨਿੱਲ, ਮਿਤੀ 27.02.2024 ਦੇ ਹਵਾਲੇ ਵਿੱਚ ਸੂਚਨਾ ਹਿੱਤ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ।


ਸੁਪਰਡੈਂਟ


ਸੁਪਰਡੈਂਟ

ਪੰਜਾਬ ਸਰਕਾਰ

ਦਫਤਰ ਰਾਜ ਕਮਿਸ਼ਨਰ ਫਾਰ ਪਰਸਨਜ਼ ਵਿਦ ਡਿਸਏਬਿਲਟੀ
(ਕਮਰਾ ਨੰ. 510, ਪੰਜਵੀ ਮੰਜਿਲ, ਪੰਜਾਬ ਸਿਵਲ ਸਕੱਤਰੇਤ-2)

ਸੇਵਾ ਵਿਖੇ

1. ਵਿਸ਼ੇਸ਼ ਮੁੱਖ ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ
ਸਮਾਜਿਕ ਸੁਰਖਿਆ ਅਤੇ ਇਸਤਰੀ ਤੇ ਬਾਲ ਵਿਕਾਸ ਵਿਭਾਗ।
2. ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ
ਸਿਹਤ ਤੇ ਪਰਿਵਾਰ ਭਲਾਈ ਵਿਭਾਗ।
3. ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ,
ਗ੍ਰਹਿ ਮਾਮਲੇ ਅਤੇ ਨਿਆਂ ਵਿਭਾਗ।
4. ~~ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ,~~
ਸਕੂਲ ਸਿਖਿਆ ਵਿਭਾਗ।

SSP
27/12/24
12(LC)
5/16
27/12/24

ਮੀਮੇ ਨੰ. SCPWD-SP/L/21/2024-30/L/260
ਮਿਤੀ, ਚੰਡੀਗੜ੍ਹ: 26-12-2024

ਵਿਸ਼ਾ:

Suo-Motu Notice to File Comments in the matter of Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors.

ਉਪਰੋਕਤ ਵਿਸ਼ੇ ਦੇ ਸਬੰਧ ਵਿੱਚ।

2. ਵਿਸ਼ਾ ਅੰਕਿਤ ਮਾਮਲੇ ਸਬੰਧੀ Court of Commissioner for Persons with Disabilities (Divyangjan) ਵਲੋਂ ਪ੍ਰਾਪਤ Suo-Motu Notice ਮਿਤੀ 14-02-2024 ਦੀ ਕਾਪੀ ਸਮੇਤ Ministry of Home Affairs, ਭਾਰਤ ਸਰਕਾਰ ਦੇ ਪੱਤਰ F.No.15011/66/1023-SC/ST-W(CF-156113) ਮਿਤੀ 30-8-2023 ਦੀ ਕਾਪੀ ਭੇਜਦੇ ਹੋਏ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ Suo-Motu Notice ਵਿੱਚ ਦਰਸਾਏ RPwD Act, 2016 ਦੇ ਸੈਕਸ਼ਨਾਂ ਅਤੇ Ministry of Home Affairs, ਭਾਰਤ ਸਰਕਾਰ ਦੇ ਪੱਤਰ ਮਿਤੀ 30-08-2023 ਵਿੱਚ ਦਰਸਾਈਆਂ ਗਈਆਂ Guidelines/ਹਦਾਇਤਾਂ ਸਬੰਧੀ ਆਪਣੇ ਵਿਭਾਗ ਵਲੋਂ ਕੀਤੀ ਗਈ ਕਾਰਵਾਈ ਸਬੰਧੀ ਸੂਚਨਾ ਸਮੇਤ ਦਸਤਾਵੇਜ਼ ਅਤੇ ਆਪਣੇ ਵਿਭਾਗ ਦੀ ਟਿੱਪਣੀ ਇੱਕ ਹਫਤੇ ਦੇ ਅੰਦਰ-ਅੰਦਰ ਇਸ ਦਫਤਰ ਨੂੰ ਤਿਜਵਾਉਣੀ ਯਕੀਨੀ ਬਣਾਈ ਜਾਵੇ।

ਰਾਜ ਕਮਿਸ਼ਨਰ ਫਾਰ ਪਰਸਨਜ਼ ਵਿਦ ਡਿਸਏਬਿਲਟੀਜ਼ ਪੰਜਾਬ।

Please collect relevant information from DSE(EE) & DSE(EE) & other concerned branches / Directorates & compare the same & send the concerned queries

HA
27/12/2024



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES(DIVYANGJAN)
दिव्यांगजन सशक्तिकरण विभाग/**Department of Empowerment of Persons with Disabilities (Divyangjan)**
सामाजिक न्याय और अधिकारिता मंत्रालय/**Ministry of Social Justice & Empowerment**
भारत सरकार/**Government of India**
5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011)20892364
5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364
Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14758/1141/2024

Notice u/s 75 & 77 of the Rights of the Persons with Disabilities Act, 2016

To

The Secretary
Ministry of Home Affairs
North Block, New Delhi
Delhi – 110001
Email – jscpg-mha@nic.in

Sub: Suo-Motu Notice to File Comments in the matter of measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors

Madam/Sir,

Whereas the Chief Commissioner for Persons with Disabilities has taken Suo-motu cognizance of the availability of acid in the open market despite the guidelines issued by the Hon'ble Supreme Court of India in WP(Crl.)129 of 2006 vide order dated 18.07.2013 and letter no. F.No.15011/66/1023-SC/ST-W (CF-156113) dated 30th August 2013 issued by the Respondent ministry in consequence thereof. Acid attack is a major reason for causing and aggravating various kinds of disabilities.

2. And whereas under Section 75 of the Rights of the Persons with Disabilities Act, 2016, hereinafter referred to as "the Act", the Chief Commissioner for Persons with Disabilities is mandated inter-alia as under:-

"(1) The Chief Commissioner shall—

(a) identify, suo motu or otherwise, the provisions of any law or policy, programme and procedures, which are inconsistent with this Act and recommend necessary corrective steps;

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

.....

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

.....”

3. And whereas for the purpose of discharge of the aforesaid mandate the following powers have been vested with the Chief Commissioner under Section 77 of the Act:

"77. Powers of Chief Commissioner.—(1) The Chief Commissioner shall, for the purpose of discharging his functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—

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

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

4. And whereas Sections 6 & 7 of the Act provides as under:

"6. Protection from cruelty and inhuman treatment.—(1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

.....

7. 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;*
- (b) take steps for avoiding such incidents and prescribe the procedure for its reporting;*
- (c) take steps to rescue, protect and rehabilitate victims of such incidents; and*
- (d) create awareness and make available information among the public.*

5. And whereas Section 25 (2) of the Act provides as under:

“(2) 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

- (a) undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;*
- (b) promote various methods for preventing disabilities;*

.....
(g) educate the public through the pre-schools, schools, primary health centres, village level workers and anganwadi workers;
(h) create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;
.....”

6. And therefore, you are hereby advised to forward your comments/ATR in respect of observations made hereinabove and forward a status/action taken report on implementation of the aforesaid guidelines of your ministry and also action taken to create mass awareness about the guidelines including about the role and responsibility of concerned agencies and officers and penal provisions made thereunder. You are also advised to produce all the requisite documents upon which you base your Comments or Claim and where you rely on any other document as evidence in support of your comments or claim, you shall enter such documents in a list to be annexed to the Comments to this court with 30 days from the date of issue of this communication.

Yours faithfully,

Signed by

Praveen Prakash Ambashta

Date: 14-02-2024 17:39:31

(P. P. Ambashta)
Dy. Chief Commissioner

Copy to:

The Commissioner for Persons with
Disabilities
All State Governments/UT Administrations

With a request to seek status
report of the guidelines
issued by the MHA from the
government of your state/UT
and forward the same to this
Court.

The Chief Secretaries
All State Governments/UT Administrations

For information and with a
request to forward your
comments to the
Commissioner for Persons
with Disabilities of your
State/UT.

**Please quote the Case Number mentioned at the top of this Notice in all
your future correspondence about this case.**

F.No.15011/66/2012-SC/ST-W (CF-156113)
GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA
Centre State Division

5th Floor, NDCC-II Building
Jai Singh Road,
New Delhi, 30th August 2013

To

- 1) The Chief Secretaries of all State Governments/UT Administrations**
- 2) Administrator of Dadra Nagar Haveli, Daman & Diu and Lakshadweep**

Subject: Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors

The Supreme Court case WP(Crl.)129 of 2006 Laxmi vs. U.o.I and States and UTs concerns a PIL filed by a girl who is acid attack survivor who wanted an end to such attacks.

2. As per the directions of the Supreme Court, Draft Model Poison Rules 2013 were formulated by the Ministry based on the Poison Rules of States of Karnataka, Punjab, Maharashtra and Kerala. The Supreme Court after reviewing the Model rules passed an order on the 18/7/2013 (which would have already been communicated to the States/UTs) further gave a series of directions to the Central Government and to States/UTs (**Annexure A**). The list of acids identified are those which have a pH of 0-2 and are strongly acidic and those which are strongly alkaline between pH of 11.5 to 14 and have the ability to cause dermal corrosion. There are other poisons which are not corrosive but are nevertheless toxic to life which may be identified separately and added to the Schedule by the State/UT.

3. A copy of the Poisons Act, 1919 (Act 12 of 1919) is enclosed for guidance (**Annexure B**). The Act now extends to the entire country excluding Jammu and Kashmir. It may be mentioned that the item no.19 in List III (Concurrent List) of the 7th Schedule to the Constitution deals with 'Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium' and hence States are empowered to legislate on this issue and it is well within the competence of the State to amend Section 6 and enhance the punishments if need be and insert a sub-section to make the offences committed under the Act cognizable and non-bailable.

4. In compliance to the directions given by the Supreme Court in its order dated 18/07/2013, a copy of the revised Model Poison Rules 2013 (**Annexure C**) is also enclosed. It may be borne in mind that the **revision/adoption** of the content of the Model Poison Rules should be done within three months from the date of communication of the

Rules by MHA. Since the Rule making power is exclusively with the States u/s 2 of the Poisons Act, hence States would need to exercise this power accordingly.

5. In the interim period, the following actions would need to be taken immediately in the State/UT where rules to regulate sale of acid/corrosive substances is **not operational** to regulate the existing sales through wide publicity in the media including local language:

(i) Banning over the counter sale of acid/corrosives unless the seller maintains a logbook/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall also contain the address of the person to whom it is sold.

(ii) A sale will be made only when the buyer produces a photo ID issued by the Government which also has the address of the person and proves that he/she is above 18 years of age.

(iii) The logbook/register should also specify the reason/purpose for procuring acid.

(iv) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days and in case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose a fine on such seller up to Rs. 50,000/-.

(v) The concerned SDM may impose a fine up to Rs.50,000/- on any person who commits breach of any of the above directions. Educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid/corrosive shall maintain a register of usage of acid and the same shall be filed with the concerned SDM.

(vi) A person shall be made accountable for the possession and safe keeping of acid in their premises. The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used. A draft advertisement (**Annexure D**) is enclosed for consideration.

6. States/UTs which have framed or are in the process of framing VCS would also need to implement the direction of the Supreme Court whereby acid attack victims should be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Out of this a sum of Rs 1 lakh shall be paid to such victim within 15 days of the occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs should be paid as expeditiously as may be possible and positively within two months thereafter. States/UTs would need to make changes in the VCS if already notified or incorporate this direction in the proposed VCS. This may be done as soon as possible and intimated to

the MHA. A standard operating procedure (SOP) may be developed which will clarify the procedure by which the victim compensation would be disbursed.

7. All Central Govt. hospitals and establishments had already been directed to treat acid attack victims free of cost. As Health is a State subject, the MoHFW has already circulated an advisory dated 2/5/2013 (**Annexure E**) regarding the provision of free medical treatment and rehabilitation to acid attack victims. Acid attack victims need to undergo a series of plastic surgeries and hence 1-2 beds at the Apex State Tertiary Hospital could be earmarked for the treatment of acid attack victims so that the victims need not run from pillar to post to get these operations performed expeditiously. In addition, private hospitals which have availed the facility of concessional land for setting up the hospital could also be persuaded to earmark 1-2 beds for treatment of under-privileged victims of acid attacks which the State Government can identify for treatment. Apart from the medical facilities, the State should also extend social integration programs to the victims for which a NGO(s) could be funded to exclusively look after their rehabilitative requirements. It is also requested that the contents of section 357C of the Cr.P.C and 166B of the IPC be also brought to the notice of all medical institutions functioning in public or private sector to ensure strict compliance.

8. All the States/UTs are advised to take immediate steps to implement the measures for reduction of acid attacks and treatment and rehabilitation of acid attack survivors as well as any other measure as may be deemed fit.

The receipt of this letter may please be acknowledged.

Yours faithfully,

(S Suresh KUMAR)
Joint Secretary (CS)
Tel. 23438100
E mail: jscs@nic.in

Copy also for information and necessary action to:

- i. All State Governments and Union Territories - Principal Secretary/Secretary (Home)
- ii. The DGs of all State Governments/UTs.
- iii. Director General BPR&D
- iv. Secretary, Ministry of Woman and Child Development
- v. Ld.Solicitor General of India

(S. Suresh KUMAR)
Joint Secretary to Govt. of India

SUBSTANCE OF SUPREME COURT DIRECTIONS IN ITS ORDER DATED 18/07/2013

The directions given inter-alia were as follows:

- The Central Government will circulate the Model Rules to regulate sale of acid and other corrosive substances framed under the Poisons Act, 1919 to all the State Governments and Union Territories within a week from today.
- The Model Rules will include, inter alia, the form of acids (liquids or crystalline and its concentration) that can be stored and sold, issue of licenses, procurement by individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings.
- The States and Union Territories which have not yet framed rules will do well to make rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government. The States, which have framed rules but these rules are not as stringent as the Model Rules framed by the Central Government will make necessary amendments in their rules to bring them in line with the Model Rules. The Chief Secretaries of the respective States and the Administrators of the Union Territories shall ensure compliance of the above expeditiously and in no case later than three months from the receipt of the draft Model Rules from the Central Government.
- The Centre and States/Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.
- In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:
 - i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.
 - (ii) All sellers shall sell acid only after the buyer has shown:
 - a) a photo ID issued by the Government which also has the address of the person.
 - b) specifies the reason/purpose for procuring acid.
 - (iii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.
 - (iv) No acid shall be sold to any person who is below 18 years of age.
 - (v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-

(vi) The concerned SDM may impose fine up to Rs.50,000/- on any person who commits breach of any of the above directions.

- The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

(i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.

(ii) A person shall be made accountable for possession and safe keeping of acid in their premises.

(iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

- The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.
- Acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.
- The Chief Secretaries of the States and Administrators of the Union Territories shall take necessary steps in getting this order translated into local language and publicise the same appropriately for the information of public at large.

THE POISONS ACT, 1919

(Act No. 12 of 1919)

[3rd September 1919]

An Act to consolidate and amend the law regulating the importation, possession and sale of poisons

Whereas it is expedient to consolidate and amend the law regulating the importation,

1. Short title and extent. -

(1) This Act may be called the Poisons Act, 1919.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the-importation into India of any specified poison.

2. Power of the State Government to regulate possession for sale and sale of any poison. -

(1) The State Government may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) The grant of licences to possess any specified poison for sale, wholesale or retail and fixing of the fee (if any) to be charged for such licences;

(b) The classes of persons to whom alone such licences may be granted;

(c) The classes of persons to whom alone any such poison may be sold;

- (d) The maximum quantity of any such poison, which may be sold to any one person;
- (e) The maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;
- (f) The safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold possession for sale; and
- (g) The inspection and examination of any such poison when possessed for sale by any such vendor.

3. Power to prohibit Importation Into India of any poison except under licence. -The Central Government may, by notification in the Official Gazette, prohibit, except under and in accordance with the conditions of a licence, the importation into India across any customs frontier defined by the Central Government of any specified poison, and may by rule, regulate the grant of licences.

4. Power to regulate possession of any poison in certain areas. -

- (1) The State Government may by rule regulate the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.
- (2) In making any rule under subsection (1), the State Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or covering in which the same is found.

5. Presumption as to specified poisons. -Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

6. Penalty for unlawful importation, etc.-Whoever-

- (a) Commits a breach of any rule made under Section 2, or

(b) Imports without a licence into India across customs frontier defined by the Central Government any poison the importation of which is for the time being restricted under Section 3, or

(c) Breaks any condition of licence for the importation of any poison granted to him under Section 3,

Shall be punishable, -

(i) On a first conviction, with imprisonment for a term which may, extend to three months, or with fine which may extend to five hundred rupees or with both, and

(ii) On a second or subsequent conviction, with imprisonment for a term, which may extend to six months, or with fine, which may extend to one thousand, rupees, or with both.

(2) Any poison in respect of which ail offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, shall be liable to confiscation.

7. Power to issue search warrants. -

(1) The District Magistrate, the Sub-divisional Magistrate and, in a presidency-town, the Commissioner of Police, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed.

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1898 (5of 1898), relating to search warrants shall, as far as as may be, be deemed to apply to the execution of the warrant.

8. Rules. -

(1) In addition to any other power to make rules herein before conferred the State Government may make rules generally to carry out the purposes and objects of this Act except Section 3.

(2) Every power to make rules conferred by this Act shall be subject to the condition of the rules being make after previous publication.

(3) All rules made by the Central Government or by the State Government under this Act shall be published in the Official Gazette and on such publication shall have effect as if enacted in this Act.

(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 thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(5) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature].

9. Savings. -

(1) Nothing in this Act or in any licence granted or rule made thereunder shall extend to, or interfere with, anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.

(2) Notwithstanding anything hereinbefore contained, the State Government may by general or special order declare that all or any of the provisions of this Act except Section 3 shall be deemed not to apply to any article or class of articles of commerce specified in such order, or to any poison or class of poisons used for any purpose so specified.

(3) The authority on which any power to make rules under this Act is conferred may, by general or special order, either wholly or partially-

(a) Exempt from the operation of any such rules, or

(b) Exclude from the scope of the exemption provided by subsection (1) any person or class of persons either generally or in respect of any poisons specified in order.

10. Repeal of Act 1 of 1904 [Repealed by the Repealing Act 1927]

THE MODEL POISONS POSSESSION AND SALE RULES, 2013

NOTIFICATION

No.G.S.R.

In exercise of the powers conferred by section 2 and 8 of the Poison Act, (Act 12 of 1919), the Central Government hereby makes the following rules for sale of specified poisons, namely:-

1. SHORT TITLE AND COMMENCEMENT:

- (1) These rules may be called the Poisons Possession and Sale Rules, 2013.
- (2) They shall extend to whole of the country.
- (3) They shall come into force on the date of publication in the Official Gazette.

2. DEFINITIONS: In these rules, unless the context otherwise requires,-

- (a) "Act" means the Poisons Act, 1919.
- (b) "Dealer" means a person holding license under these rules
- (c) "Licensing authority" means the District Magistrate or any other officer authorized by the State Government under sub-section (1) of Section 7 to grant a license.
- (d) "Licensee" means a holder of a license;
- (e) "notification" means a notification published in the Official Gazette
- (f) "Form" means a form appended to these rules;
- (g) "Schedule" means the Schedule appended to these rules;
- (i) "Sale" means any sale by one licensed dealer to another or by a licensed dealer to any educational institution or to any research or medical institution or hospital or dispensary under a qualified medical practitioner (Registered Medical Practitioner) or any recognized public institution or industrial firm requiring poisons for its own use) or to Government Departments or Public Sector Undertakings or to an individual for personal use

3. The poisons specified in the Schedule shall be deemed to be poisons for the purposes of these rules.

4. LICENSE FOR POSSESSION OR SALE: - No person, not exempted under the provisions of the Act shall sell or possess for sale any poison specified in the Schedule except under a license in Form A granted or renewed in that behalf by the licensing authority.

5. EXHIBITION OF RULES ON THE PREMISES: - A copy of these rules shall always be displayed in prominent position at the place of Business specified in the license granted under rule 4.

6. APPLICATION FOR GRANT OR RENEWAL OF LICENSE:

(1) Every person desiring for the grant of license or renewal of a license shall make a written application to the licensing authority in Form B and such application shall bear a court fee stamp of ten rupee and provided that any application for renewal of a license which is made less than three months prior to the date of the expiry of the license shall bear a court fee stamp of five hundred rupees.

(2) Applications for duplicate licenses, when the original is lost or destroyed shall be made in writing and shall bear a court fee stamp of five hundred rupees.

(3) In the case of any change in the place of business of the licensee, a fresh application for license shall be made to the licensing authority and such application shall bear a court – stamp of five hundred rupees.

(4) The licensee shall prominently display the license in the place of business.

7. DURATION OF LICENSE: Subject to the provisions of rules 8 and 9, a license granted or renewed under these rules shall remain in force for five years from the date of issue.

8. DISCRETION OF LICENSING AUTHORITY: A license may be cancelled or revoked at any time. The grant/renewal/cancellation/revocation of a license shall be in the discretion of the licensing authority.

Provided that the licensing authority shall give an opportunity to the party concerned to show cause if any against the action proposed to be taken and shall record in writing the reasons for refusing to grant or renew a license or for cancelling or revoking a license.

Provided that the applicant for a license or a licensee whose license has been refused renewal or has been cancelled/revoked and is aggrieved by an order of the Licensing Authority can file an appeal with the Appellate Authority notified by the State Government.

9. TERMINATION OF LICENSE: A license shall terminate on the death of the license-holder or on the transfer of his business, or if granted to a firm or company, on the winding up or the transfer of the business of such firm or company.

Provided that, if the business carried on by the licensee as such of the firm or company is transferred as a going concern and the transferee applies for a fresh license, with court fee stamp of hundred rupees, within fourteen days of the date of transfer, the subsisting license shall continue to be in force until a new license has been granted or the application for fresh license is rejected by the licensing authority.

10. DISPOSAL OF STOCK ON TERMINATION, REVOOCATION OR CANCELLATION OF LICENSE: In the event of revocation or cancellation of the license under rule 8 or in the event of the termination of license under rule 9, the stock of poison may be sold to any other license holder within a period of three months from the date of such termination, revocation or cancellation of the license, after which the remaining poison may be destroyed under the orders of the licensing authority. In the case referred to in rule 9, the proceeds of the sale, if any, shall be made over to the legal representative of the deceased license holder or his transferee or, liquidator of the dissolved firm or company of the transferee of the firm or company, as the case may be.

11. POWER TO INSPECT POISONS AND REGISTERS: Any Executive Magistrate or a Police officer of the rank of Sub-Inspector and above or a Medical Officer appointed by the State Government or an Inspector appointed under Section 21 of the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) may at any time visit and inspect the premises of the license holder where a poison is kept for sale and may inspect all poisons found therein and the registers.

12. LICENSE TO WHOM GRANTED:

(1) A license shall be granted only to a person who in the opinion of the licensing authority is competent to conduct business in poisons.

(2) The license issued to a firm or company shall always be in the name of the proprietor or proprietors of the company or a responsible person to be nominated by such proprietor or proprietors for the purpose, or in the case of a public company, in the name of its manager.

(3) The name or names so given may be altered or amended by the licensing authority on a written application from the firm or company and such application shall bear a court fee stamp of hundred rupees.

13. SALE OF POISON:

(1) Every sale of poisons, shall, as far as practicable, be made by the license-holder in person or where the license-holder is a firm or a company, through or under supervision of, an accredited representative or such firm or company.

(2) A person holding license for possession and sale of poisons granted under these Rules shall store and sell from the premises specified in the license.

14. PERSONS TO WHOM POISONS MAY BE SOLD: A license holder shall not sell any poison to any person, unless the latter is personally known to him, or identified to his satisfaction by producing a photo identity card which has his address or substantiate it with a document giving his address. He shall also ascertain before selling any poison the name, telephone and address of the purchaser and the purpose for which the poison is purchased. He shall not sell any poison to any person who appears to him to be under the age of eighteen years, or to any person who does not appear to him to be in full possession of his faculties.

15. REGISTER OF SALES OF POISONS :- (1) Every license holder shall maintain a register in which he shall enter correctly all sales of poison other than those used by a Chemist, Druggist or Compounder dispensing or compounding in compliance with the prescription of a qualified medical or veterinary practitioner. The following details shall be entered in such register in respect of such sale, namely:

(a) Serial No; (b) Name of poison, (c) Quantity sold, (d) Date of sale; (e) Name and address of the purchaser, serial number of the photo-identity card produced and the name of the issuing authority (f) Purposes for which the poison was stated by the purchaser to be required, (g) Signature of purchaser (or thumb impression if illiterate or in the case of purchase by post date on which the letter was written and reference to the original in the file in which it is preserved, (h) Signature of a person identifying the purchaser if any (or thumb impression, if illiterate); and (i) Signature of Dealer.

(2) In a separate portion of the register he shall be enter in separate columns for each poison, the quantity of each poison sold daily, and those entries shall be filled up from day to day.

(3) The signature in the register prescribed under item (i) of sub rule (15) shall be that of the license –holder himself, or, when the license holder is a firm or company, that of an accredited representative of such firm or company and shall be written at the time of sale

or dispatch to the purchaser. Such signature shall be held to imply that the signatory had satisfied himself that the requirements of rule 14 have been fulfilled.

(4) All letters or written orders referred to under item (g) of the above register shall be preserved in original by the license holder for a period not less than two years from the date of the sale.

(5) The daily balance of stock should be entered in the register.

16. CUSTODY OF POISONS KEPT FOR SALE AND LABELLING OF RECEPTACLES IN WHICH THEY ARE KEPT: All poisons kept for sale under these rules by any license-holder shall be kept securely in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a license granted under the Act, and each poison shall be kept securely within such box, almirah, room or building in a separate closed receptacle of glass, metal or earthenware. Every such box, almirah, room or building and every such receptacle shall be marked with the word "POISON" in red letters, both in English and in the local language and in the case of receptacles containing separate poisons, with name of such poison.

17. POISONS SOLD TO BE SECURELY PACKED AND LABELLED: When any poison is sold, it shall be securely packed in a closed receptacle or container (according to the quantity); and every such receptacle or packet shall be labeled by the licensee with a red label bearing in English and in local language giving the name of the poison and the name and address of the licensee. The following universal warning symbols shall also be displayed on the



receptacle.

18. SECURITY, STORAGE & INCIDENT MANAGEMENT OF ACIDS/CORROSIVE SUBSTANCES BY USERS (EXCEPT INDIVIDUALS)

A standard operating procedure (SOP) outlining the measures undertaken for security, storage and incident management of acids/corrosive substances shall be prepared and displayed prominently in the premises of the user.

(1) Security of acid/corrosive substances.

(a) A person shall be made accountable for possession and safe keeping of acid in the premises.

(b) The storage of acid/corrosive shall be under the supervision of this person.

(c) The storage of acid/corrosive shall be under double lock system to ensure more security.

(d) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM every quarter.

(e) There shall be compulsory checking of the students/personnel leaving the laboratories/place of storage where acid/corrosive is used/stored.

(2) Storage of acids/corrosive substances.

(a) The chemicals should be stored in plastic or other suitable containers.

(b) All storage containers should be labeled to indicated the identity of the chemicals and the hazards involved and the precautions to be taken.

(c) Incompatible chemicals should not be stored together.

(d) The inventory of corrosive chemicals should be kept to a minimum.

(e) Protective gloves, aprons, safety glasses and face shields should be worn where appropriate

(f) Acids should be diluted with care – always add acid to water, never add water to acid.

(3) Incident Management

(a) Skin contact: Quickly take off contaminated clothing, shoes and leather goods (e.g. watchbands, belts). Quickly and gently blot or brush away excess chemical. Immediately flush with lukewarm, gently flowing water for at least 30 minutes. DO NOT INTERRUPT FLUSHING. If it can be done safely, continue flushing during transport to hospital. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

(b) Eye contact: Avoid direct contact. Wear chemical protective gloves if necessary. Quickly and gently blot or brush chemical off the face. Immediately flush the contaminated eye(s) with lukewarm, gently flowing water for at least 30 minutes, while holding the eyelid(s) open. If a contact lens is present, DO NOT delay flushing or attempt to remove the lens. Neutral saline solution may be used as soon as it is available. DO NOT INTERRUPT FLUSHING. If necessary, continue flushing during transport to hospital.

(c) Ingestion: Have victim rinse mouth with water. If vomiting occurs naturally, have victim lean forward to reduce risk of aspiration. Have victim rinse mouth with water again. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

(d) Inhalation: Take precautions to ensure your own safety before attempting rescue (e.g. wear appropriate protective equipment). Move victim to fresh air. Keep at rest in a position comfortable for breathing. If breathing is difficult, trained personnel should administer emergency oxygen. DO NOT allow victim to move about unnecessarily. Symptoms of pulmonary edema may be delayed. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

19. Penalties

Any person who breaches a Rule made under Section 2 of the Poisons Act shall be liable for punishment under Section 6 of the Poisons Act.

The Schedule
[See Rule 2 and 3]
List of Poisons

1. Acetic acid (beyond 25% concentration by weight)
2. Acetic Anhydride
3. Sulphuric acid (H_2SO_4)(beyond 5% concentration by weight)
4. Hydrochloric acid (HCl) (beyond 5% concentration by weight)
5. Phosphoric acid (H_3PO_4)
6. Hydrofluoric acid (HF)
7. Perchloric acid ($HClO_4$)
10. Formic Acid (beyond 10% concentration by weight)
11. Hydrocyanic acid except substances containing less than 0.1 per cent weight in weight of Hydrocyanic acid.
12. Hydrochloric acid, except substances containing less than 5 per cent weight in weight of Hydrochloric Acid
13. Nitric acid, except substances containing less than 5 per cent weight in weight of Nitric Acid.
14. Oxalic Acid
15. Perchloride of mercury (corrosive sublimate)
16. Potassium Hydroxide except substances containing less than 2 per cent weight in weight of Potassium Hydroxide
17. Sodium Hydroxide except substances containing less than 2 per cent weight in weight of sodium Hydroxide.
18. Hydrogen peroxide (beyond 50% concentration by weight)
19. Formaldehyde (beyond 25% concentration by weight)
20. Phenol (beyond 3% concentration by weight)
21. Sodium Hypochlorite Solution (beyond 5% concentration by weight)

FORM A
(See rule 4)
License for possession and sale of Poisons

Photograph of License Holder/Authorised Representative

Register No.

Name of Licensee

Locality of shop

Shri _____ son of shri _____ carrying on business as
_____ in the _____ (Name of Local Body) under _____ Police
Station, of _____ District, is hereby licensed to possess for sale by retail and to
sell by retail the following poisons namely:

1. _____
2. _____
3. _____
4. _____
5. _____

This license is subject to the conditions specified on reverse, the breach of any of which shall involve forfeiture of the license as well as liability to the penalties provided by Section 6 of the Poisons Act, 1919.

This license will remain in force from the date of grant for a period of five years unless previously terminated by the death of the license holder or cancelled by the Licensing authority concerned.

Seal and Signature of Licensing Authority

CONDITIONS

1. Subject to the provisions of rules 5(1) and 8, a license granted or renewed on any day shall remain in force for a period of five years. Every applicant for the grant or renewal of a license shall make a written application to the Licensing Authority and such application shall bear a Court-fee stamp of hundred rupees.
2. A license shall terminate on the death of the license-holder or if granted to a Firm or company on the winding up or transfer of the business of such firm or company.
3. The License Authority may for any sufficient cause revoke or cancel any license.

4. Every sale of a poison shall so far as possible be conducted by the License-holder in person or where the license-holder is a Firm or a Company, through or under the supervision of an accredited representative of such firm or company.
5. A License-holder shall not sell any poison to any person unless the later is personally known to him or identified to this satisfaction by producing photo-identity card. He shall not sell any poison to any person who appears to him to be under the age of 18 or to any person who does not appear to him to be in full possession of his faculties.
6. (i) Every license-holder shall maintain a register in which he shall enter all sales of poison other than those used by a chemist and druggist for dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner. The following particulars shall be entered in such register in respect of each sale, namely:
 - a) Serial No.
 - b) Date of sale
 - c) Name, telephone number and address of the purchaser
 - d) Name of the poison
 - e) Quantity sold
 - f) Purpose for which the poison was stated by the purchaser to be required.
 - g) Signature of purchaser or thumb impression if illiterate or in case of purchase by post, date of letter or written order and reference to the origins in the file in which is preserved.
 - h) Signature of dealer
- (2) In a separate portion of the register shall be entered, in separate column for each, poison the quantity of each such poison sold daily and these entries shall be filed in from day to day.
- (3) The signature under column(h) of the register shall be that of the License-holder himself or when the license-holder is a Firm or company that of an accredited representative of such Firm or company and shall be entered at the time of sale or dispatch to the purchaser. Such signature shall be held to imply that the writer has satisfied myself that the requirements of rule 15 have been fulfilled.
- (4) All letters or written orders referred in column (g) of the register shall be preserved in original by the license-holder or a period of not less than two years from the date of the sale.
- 7(1) A license-holder shall maintain in respect of each poison a stock register, in form II which shall contain the following particulars:
 - a) Serial No.
 - b) Date
 - c) Amount received name and address of person from whom received
 - d) Name and address of person from whom received

- e) Amount sold
- f) Balance in stock
- g) (g) Remarks.

(2) The stock register shall be balanced daily.

8. Any Magistrate or any Officer of Drugs Control Department of or above the rank of Drugs Inspector or police officer of or above the rank of Sub-Inspector or any medical officer of or above the rank of Assistant Medical Officer may at any time visit and inspect all poisons found there and the register maintained under rules 15 and 16.

9. All poisons kept for sale by any license-holder under these rules (except those kept by a chemist and druggist for the purpose of dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner) shall be kept in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a license granted under the Act and each poison shall be kept within such box, almirah, room or building in a separate closed receptacle of glass, plastic, metal, or earthen-ware. Every such box, almirah, room or building and every such receptacle shall be marked with the word "Poison" in red characters in English and local language and in the case of receptacles containing separate poisons with the name of such poisons.

10. (a) When any poison is sold, it shall be securely packed in closed receptacle or packet (according to the quantity) and every such receptacle or packet shall be labelled by the vendor with a label bearing the name of the poison in English and local language and the number and date of the entry in the register of sales specified in rule 18.

11. The license shall be held subject to the conditions mentioned above and to the provisions of the Act and of any rules from time to time made under the Act.

12. The licensee, if he intends to sell or possess for sale any poison for medicine use will first obtain a requisite license as required under section 18 (C) of the Drugs and Cosmetics Act, 1940.

Note- A poison for medicine use means a drug as defined in section 3 of the Drugs and Cosmetics Act, 1940.

FORM B
(See rule 6)

Application for Grant/Renewal of License for possession and sale of Poisons¹

1. Name of the Applicant/firm:
2. Age of the Applicant:
3. Office and Residence Address:
4. License No. and Copy of License (applicable for renewal applications)
5. Documents regarding constitution of the applicant firm including nomination of the authorized representative:
6. Full Address of the place of business or shop or of storage for which a license is applied for, number of the flat and the name of the building with house number and the street or the road where it is situated:
7. Copy plan of the premises
8. Documents pertaining to the right of possession of the premises
9. Name of the poison proposed to be sold:

(Applicant should furnish three copies of self-attested photographs along with the application)

¹ To be accompanied with a court fee stamp of Rs.10/-

Annexure D

PUBLIC NOTICE

Whereas, the Hon'ble Supreme Court in WP(Crl.)129 of 2006 Laxmi vs. U.o.I and others on 18/07/2013 had passed certain directions regarding the sale of acid/corrosive substances.

Whereas, the _____ State/UT is yet to notify the appropriate Poison Rules under the Poisons Act, 1919.

3. As per the directions of the Hon'ble Supreme Court, it is hereby brought to the notice of the general public which includes individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings or sellers of the following acids and corrosive substances, namely that henceforth their sale would be regulated until the new Poison Rules are promulgated: Acetic acid (beyond 25% concentration by weight), Acetic Anhydride, Sulphuric acid (H_2SO_4)(beyond 5% concentration by weight), Hydrochloric acid (HCl) (beyond 5% concentration by weight), Phosphoric acid (H_3PO_4), Hydrofluoric acid (HF), Perchloric acid ($HClO_4$), Formic Acid (beyond 10% concentration by weight), Hydrocyanic acid except substances containing less than 0.1 per cent weight in weight of Hydrocyanic acid, Nitric acid, except substances containing less than 5 per cent weight in weight of Nitric Acid, Oxalic Acid, Perchloride of mercury (corrosive sublimate), Hydrogen Peroxide (beyond 50% concentration by weight), Formaldehyde (beyond 25% concentration by weight), Phenol (beyond 3% concentration by weight), Potassium Hydroxide except substances containing less than 2 per cent weight in weight of Potassium Hydroxide, Sodium Hydroxide except substances containing less than 2 per cent weight in weight of sodium Hydroxide.

4. It is hereby directed that:

i) Over the counter, sale of acid is completely prohibited unless the **seller** maintains a **log/register** recording the sale of acid which will contain the **details of the person(s)** to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the **address of the person** to whom it is sold. No acid shall be sold to any person who is **below 18 years** of age.

(ii) All sellers shall sell acid only after the **buyer** has shown:

- a) a **photo ID issued by the Government** which also has the address of the person.
b) specifies the **reason/purpose** for procuring acid.

(iii) All stocks of acid must be declared by the **seller** with the concerned Sub-Divisional Magistrate (SDM) **within 15 days** of this notice.

(iv) In case if any undeclared stock of acid is detected, the concerned SDM will confiscate the stock and suitably impose **fine on such seller up to Rs. 50,000/-**.

(v) The concerned SDM may impose **fine up to Rs.50,000/-** on any person who commits breach of any of the above directions.

It is further directed that the educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

(i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.

(ii) A person shall be made accountable for possession and safe keeping of acid in their premises.

(iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.

All the buyers and sellers of acids and corrosive substances are requested to follow the above directions scrupulously.

Dated:

()

Home Secretary

State/UT

ANNEXURE E

**ADVISORY OF THE MOHFW REGARDING THE FREE TREATMENT OF ACID
ATTACK VICTIMS**

No. 2.28015/46/2013 – H

Government of India

Ministry of Health and Family Welfare

(Hospital Section)

Nirman Bhawan, New Delhi

Dated 02.5.2013

To

The Principal Secretaries / Secretaries (Health)

All the States / UTs

(As per list)

Subject : Providing free medical treatment to acid attack victims – regarding

Sir,

I am directed to refer to a Writ Petition (Criminal) no. 129 of 2006 in the matter of Laxmi through her father vs. Union of India and others filed before Hon'ble Supreme Court in the context of acid attack. Hon'ble Supreme Court in its judgment dated 31.08.2012 directed the Union Home Secretary to discuss the enactment of appropriate provisions for effective regulation of sale of acids in States/UTs. One of the reliefs prayed for by the petitioner was to direct the respondent to appoint and constitute a committee for adopting measures for proper treatment, after care and rehabilitation of the victims of acid attack.

2. Attention is drawn to the Criminal Law (Amendment) Act 2013 (No. 13 of 2013), which came into force on 3rd February, 2013 and has been gazetted on 2nd April, 2013. As per the section 357-C inserted in Code of Criminal Procedure, 1973 by the amendment, it has been provided that "All Hospitals, public or private whether run by the Central Government, the State Government, Local Bodies or any other person shall immediately, provide the first aid or medical treatment, free of cost, to the victims of any offence covered under section 326-A, 376, 376-A, 376-B, 376-C, 376-D or Section 376-E of the Indian Penal Code and shall immediately inform the police of such incident."

Section 326A provides that "Whosoever causes permanent or partial damage or deformity to, or burns or maims, disfigures or disables, any part or parts of the body of a person or causes grievous hurt by

throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause any such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine :

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim :

Provided further that any fine imposed under this section shall be paid to the victim”

3. This issue was discussed in a meeting held under Home Secretary recently. It has been decided that all the State Governments / UTs may be requested to ensure free medical treatment to the victims of any offence covered under 326-A, 376, 376-A, 376-B, 376-C, 376-D or Section 376-E of the Indian Penal Code. Further the fines imposed and collected would meet the medical expenses of treatment of the victim and shall be paid to the victim.

4. Since Health is state subject, it is responsibility of State Government / UT administration to provide adequate medical treatment and rehabilitation of the acid attack victims.

5. Against the above background, the States Governments / UT Administrations are requested to issue necessary instructions to all concerned such as State/UT officials, all hospitals irrespective of run by Government, autonomous institutions, private institutions etc. for compliance of the above said provisions in right earnest manner.

6. This issues with the approval of Secretary (HFW).

Yours faithfully,

(Sanjay Pant)

Under Secretary to Government of India

Tel : 23061521

Email : san_pan_99@yahoo.com

Copy for similar action to :

- (i) Director General Health Services, Dte. GHS, New Delhi
- (ii) Director AIIMS, New Delhi
- (iii) Director JIPMER, Puducherry
- (iv) Director PGIMER, Chandigarh
- (v) Medical Superintendent, Safdarjung Hospital, New Delhi
- (vi) Medical Superintendent, Dr. RML Hospital, New Delhi

- (vii) Director, LHMC and associated Hospitals, New Delhi
- (viii) All Joint Secretaries in the Ministry of Health and Family Welfare
- (ix) Director CGHS, New Delhi

(Sanjay Pant)

Under Secretary to Government of India

Copy for information :

- (i) Shri S. Suresh Kumar, Joint Secretary (CS), Ministry of Home Affairs, New Delhi, NDCC – II Building, Jaisingh Road, New Delhi – 110001
- (ii) PPS to Secretary (HFW) / AS & DG(CGHS)/AS & MD (NHRM) / AS & FA

(Sanjay Pant)

Under Secretary to Government of India

THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

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THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016
ACT NO. 49 OF 2016

[27th December, 2016]

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 day of December, 2006.

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

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

(b) non-discrimination;

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

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

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

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

AND WHEREAS India is a signatory to the said Convention;

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

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

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

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Rights of Persons with Disabilities Act, 2016.

(2) It shall come into force on such ¹date as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) “appellate authority” means an authority notified under sub-section (3) of section 14 or sub-section (1) of section 53 or designated under sub-section (1) of section 59, as the case may be;

(b) “appropriate Government” means,—

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

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

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

1. 19th April, 2017, *vide* notification no. S.O. 1215 (E) dated 19th April, 2017, *see* Gazette of India, Extraordinary, Part II, Section 3 (ii).

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

(e) “certifying authority” means an authority designated under sub-section (1) of section 57;

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

(g) “competent authority” means an authority appointed under section 49;

(h) “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;

(i) “establishment” includes a Government establishment and private establishment;

(j) “Fund” means the National Fund constituted under section 86;

(k) “Government establishment” means a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 (18 of 2013) and includes a Department of the Government;

(l) “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;

(m) “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;

(n) “information and communication technology” includes all services and innovations relating to information and communication, including telecom services, web based services, electronic and print services, digital and virtual services;

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

(p) “local authority” means a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution; a Cantonment Board constituted under the Cantonments Act, 2006 (41 of 2006); and any other authority established under an Act of Parliament or a State Legislature to administer the civic affairs;

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

(r) “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;

(s) “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;

(t) “person with disability having high support needs” means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support;

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

(v) “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the appropriate Government may, by notification, specify;

(w) “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or platforms, roadways bus stands or terminus, airports or waterways;

(x) “public facilities and services” includes all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation;

(y) “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;

(z) “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;

(za) “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;

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

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

(ii) persons with benchmark disability who seek employment;

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

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

(zd) “transportation systems” includes road transport, rail transport, air transport, water transport, para transit systems for the last mile connectivity, road and street infrastructure, etc;

(ze) “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 II RIGHTS AND ENTITLEMENTS

3. Equality and non-discrimination.—(1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) 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.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

4. 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.”

5. Community life.—(1) The persons with disabilities shall have the right to live in the community.

(2) The appropriate Government shall endeavour that the persons with disabilities are,—

(a) not obliged to live in any particular living arrangement; and

(b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender.

6. Protection from cruelty and inhuman treatment.—(1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

(2) No person with disability shall be a subject of any research without,—

(i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and

(ii) prior permission of a Committee for Research on Disability constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (z) of section 2.

7. 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;

(b) take steps for avoiding such incidents and prescribe the procedure for its reporting;

(c) take steps to rescue, protect and rehabilitate victims of such incidents; and

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

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

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

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

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

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

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

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

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

(c) the right to free legal aid; and

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

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

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code (45 of 1860), or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter.

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

(2) The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 (53 of 2005) for the safety and protection of persons with disabilities.

(3) The District Disaster Management Authority constituted under section 25 of the Disaster Management Act, 2005 (53 of 2005) shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness.

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

9. 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.

10. 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.

11. 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.

12. Access 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.

(3) The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987) shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.

(4) The appropriate Government shall take steps to—

(a) ensure that all their public documents are in accessible formats;

(b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and

(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.

13. 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.

(3) 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:

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

(4) A person with disability may alter, modify or dismantle any support arrangement and seek the support of another:

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

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

14. Provision for guardianship.—(1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the State Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his behalf in consultation with such person, in such manner, as may be prescribed by the State Government:

Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

Explanation.—For the purposes of this sub-section, “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian.

(3) Any person with disability aggrieved by the decision of the designated authority appointing a legal guardian may prefer an appeal to such appellate authority, as may be notified by the State Government for the purpose.

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

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

CHAPTER III EDUCATION

16. 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—

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

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

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

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

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

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

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

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

17. 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:—

(a) 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;

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

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

(d) to train professionals and staff to support inclusive education at all levels of school education;

(e) to establish adequate number of resource centres to support educational institutions at all levels of school education;

(f) to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to

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;

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

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

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

(j) to promote research to improve learning; and

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

18. Adult education.—The appropriate Government and the local authorities shall take measures to promote, protect and ensure participation of persons with disabilities in adult education and continuing education programmes equally with others.

CHAPTER IV

SKILL DEVELOPMENT AND EMPLOYMENT

19. Vocational training and self-employment.—(1) The appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

(2) The schemes and programmes referred to in sub-section (1) shall provide for—

(a) inclusion of person with disability in all mainstream formal and non-formal vocational and skill training schemes and programmes;

(b) to ensure that a person with disability has adequate support and facilities to avail specific training;

(c) exclusive skill training programmes for persons with disabilities with active links with the market, for those with developmental, intellectual, multiple disabilities and autism;

(d) loans at concessional rates including that of microcredit;

(e) marketing the products made by persons with disabilities; and

(f) maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities.

20. Non-discrimination in employment.—(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

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

(2) Every 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.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.

21. Equal opportunity policy.—(1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.

(2) Every establishment shall register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

22. Maintenance of records.—(1) Every establishment shall maintain records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information in compliance with the provisions of this Chapter in such form and manner as may be prescribed by the Central Government.

(2) Every employment exchange shall maintain records of persons with disabilities seeking employment.

(3) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in their behalf by the appropriate Government.

23. Appointment of Grievance Redressal Officer.—(1) Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 and shall inform the Chief Commissioner or the State Commissioner, as the case may be, about the appointment of such officer.

(2) Any person aggrieved with the non-compliance of the provisions of section 20, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.

(3) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be inquired within two weeks of its registration.

(4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability.

CHAPTER V

SOCIAL SECURITY, HEALTH, REHABILITATION AND RECREATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) barrier-free access in all parts of Government and private hospitals and other healthcare institutions and centres;

(c) priority in attendance and treatment.

(2) 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—

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

(b) promote various methods for preventing disabilities;

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

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

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

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

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

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

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

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

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

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

27. 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.

28. 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.

29. 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,—

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

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

(c) making art accessible to persons with disabilities;

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

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

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

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

(h) ensuring that persons with hearing impairment can have access to television programmes with sign language interpretation or sub-titles.

30. 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.

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the appropriate Government and the sports authorities 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 organise disability specific sporting events for persons with disabilities and also facilitate awards to the winners and other participants of such sporting events.

CHAPTER VI
SPECIAL PROVISIONS FOR PERSONS WITH BENCHMARK DISABILITIES

31. Free education for children with benchmark disabilities.—(1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009 (35 of 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.

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

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

33. Identification of posts for reservation.—The appropriate Government shall—

(i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;

(ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and

(iii) undertake periodic review of the identified posts at an interval not exceeding three years.

34. Reservation.—(1) 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.

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

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

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit.

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

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

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

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

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

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

CHAPTER VII

SPECIAL PROVISIONS FOR PERSONS WITH DISABILITIES WITH HIGH SUPPORT NEEDS

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

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

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

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

CHAPTER VIII

DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENTS

39. 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;

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

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

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

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

40. 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.

41. Access to transport.—(1) The appropriate Government shall take suitable measures to provide,—

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

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

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

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

(a) incentives and concessions;

(b) retrofitting of vehicles; and

(c) personal mobility assistance.

42. Access to information and communication technology.—The appropriate Government shall take measures to ensure that,—

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

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

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

43. Consumer goods.—The appropriate Government shall take measures to promote development, production and distribution of universally designed consumer products and accessories for general use for persons with disabilities.

44. 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.

45. Time limit for making existing infrastructure and premises accessible and action for that purpose.—(1) 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 of such rules:

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

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

46. Time limit for accessibility by service providers.—The service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules:

Provided that the Central Government in consultation with the Chief Commissioner may grant extension of time for providing certain category of services in accordance with the said rules.

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

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

(b) induct disability as a component for all education courses for schools, colleges and University teachers, doctors, nurses, para-medical personnel, social welfare officers, rural development officers, asha workers, *anganwadi* workers, engineers, architects, other professionals and community workers;

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

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

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

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

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

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

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

CHAPTER IX

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

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

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

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

51. Application and grant of 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 on being satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder, it shall grant a certificate of registration to the applicant within a period of ninety days of receipt of application and if not 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 the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in writing.

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

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

(a) shall, unless revoked under section 52 remain in force for such period as may be prescribed by the State Government;

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

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

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

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

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

52. Revocation of registration.—(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 51 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 of registration shall not be revoked.

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

Provided that where an appeal lies under section 53 against the order of revocation, such institution shall cease to function,—

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

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

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

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

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

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

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

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

54. Act not to apply to institutions established or maintained by Central or State Government.—Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.

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

CHAPTER X

CERTIFICATION OF SPECIFIED DISABILITIES

56. Guidelines for assessment of specified disabilities.—The Central Government shall notify guidelines for the purpose of assessing the extent of specified disability in a person.

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

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

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

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 56, and shall, after such assessment, as the case may be,—

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

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

(3) The certificate of disability issued under this section shall be valid across the country.

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

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

CHAPTER XI

CENTRAL AND STATE ADVISORY BOARDS ON DISABILITY AND DISTRICT LEVEL COMMITTEE

60. 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 shall consist of,—

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

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

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

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

(e) Secretaries to the Government of India in charge of the Ministries or Departments of Disability Affairs, Social Justice and Empowerment, School Education and Literacy, and Higher Education, Women and Child Development, Expenditure, Personnel and Training, Administrative Reforms and Public Grievances, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Communications and Information Technology, Legal Affairs, Public Enterprises, Youth Affairs and Sports, Road Transport and Highways and Civil Aviation, Members, *ex officio*;

(f) Secretary, National Institute of Transforming India (NITI) Aayog, Member, *ex officio*;

(g) Chairperson, Rehabilitation Council of India, Member, *ex officio*;

(h) Chairperson, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, Member, *ex officio*;

(i) Chairman-cum-Managing Director, National Handicapped Finance Development Corporation, Member, *ex officio*;

(j) Chairman-cum-Managing Director, Artificial Limbs Manufacturing Corporation, Member, *ex officio*;

(k) Chairman, Railway Board, Member, *ex officio*;

(l) Director-General, Employment and Training, Ministry of Labour and Employment, Member, *ex officio*;

(m) Director, National Council for Educational Research and Training, Member, *ex officio*;

(n) Chairperson, National Council of Teacher Education, Member, *ex officio*;

(o) Chairperson, University Grants Commission, Member, *ex officio*;

(p) Chairperson, Medical Council of India, Member, *ex officio*;

(q) Directors of the following Institutes:—

(i) National Institute for the Visually Handicapped, Dehradun;

(ii) National Institute for the Mentally Handicapped, Secunderabad;

(iii) Pandit Deen Dayal Upadhyay Institute for the Physically Handicapped, New Delhi;

(iv) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai;

(v) National Institute for the Orthopaedically Handicapped, Kolkata;

(vi) National Institute of Rehabilitation Training and Research, Cuttack;

(vii) National Institute for Empowerment of Persons with Multiple Disabilities, Chennai;

(viii) National Institute for Mental Health and Sciences, Bangalore;

(ix) Indian Sign Language Research and Training Centre, New Delhi, Members, *ex officio*;

(r) Members to be nominated by the Central Government,—

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

(ii) ten Members, as far as practicable, being persons with disabilities, to represent non-Governmental Organisations concerned with disabilities or disabled persons organisations:

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

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

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

61. Terms and conditions of Service of members.—(1) Save as otherwise provided under this Act, a Member of the Central Advisory Board nominated under clause (r) of sub-section (2) of section 60 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 (r) of sub-section (2) of section 60, 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 (r) of sub-section (2) of section 60 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 Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (r) of sub-section (2) of section 60 shall be eligible for renomination.

(6) The Members nominated under sub-clause (i) and sub-clause (ii) of clause (r) of sub-section (2) of section 60 shall receive such allowances as may be prescribed by the Central Government.

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

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

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

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

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

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

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

(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 61, a Member who has been removed under this section shall not be eligible for renomination as a Member.

63. Vacation of seats by Members.—If a Member of the Central Advisory Board becomes subject to any of the disqualifications specified in section 62, his seat shall become vacant.

64. 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.

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

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

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

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

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

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

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

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

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

66. 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 shall consist of—

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

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

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

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

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

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

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

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

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

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

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

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

67. Terms and conditions of service of Members.—(1) Save as otherwise provided under this Act, a Member of the State Advisory Board nominated under clause (e) of sub-section (2) of section 66, 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 State Government may, if it thinks fit, remove any Member nominated under clause (e) of sub-section (2) of section 66, 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 (e) of sub-section (2) of section 66 may at any time resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.

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

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (e) of sub-section (2) of section 66 shall be eligible for renomination.

(6) The Members nominated under sub-clause (i) and sub-clause (ii) of clause (e) of sub-section (2) of section 66 shall receive such allowances as may be prescribed by the State Government.

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

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

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

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

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

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

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

(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 67, a Member who has been removed under this section shall not be eligible for renomination as a Member.

69. Vacation of seats.—If a Member of the State Advisory Board becomes subject to any of the disqualifications specified in section 68 his seat shall become vacant.

70. Meetings of 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 by the State Government.

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

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

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

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

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

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

(e) recommend steps to ensure accessibility, reasonable accommodation, non-discrimination for persons with disabilities, services and the built environment and their participation in social life on an equal basis with others;

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

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

72. District-level Committee on disability.—The State Government shall constitute District-level Committee on disability to perform such functions as may be prescribed by it.

73. Vacancies not to invalidate proceedings.—No act or proceeding of the Central Advisory Board on disability, a State Advisory Board on disability, or a District-level Committee on disability shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of such Board or Committee, as the case may be.

CHAPTER XII

CHIEF COMMISSIONER AND STATE COMMISSIONER FOR PERSONS WITH DISABILITIES

74. Appointment of Chief Commissioner and Commissioners.—(1) The Central Government may, by notification, appoint a Chief Commissioner for Persons with Disabilities (hereinafter referred to as the “Chief Commissioner”) for the purposes of this Act.

(2) The Central Government may, by notification appoint two Commissioners to assist the Chief Commissioner, of which one Commissioner shall be a persons with disability.

(3) A person shall not be qualified for appointment as the Chief Commissioner or Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

(4) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chief Commissioner and Commissioners shall be such as may be prescribed by the Central Government.

(5) The Central Government shall determine the nature and categories of officers and other employees required to assist the Chief Commissioner in the discharge of his functions and provide the Chief Commissioner with such officers and other employees as it thinks fit.

(6) The officers and employees provided to the Chief Commissioner shall discharge their functions under the general superintendence and control of the Chief Commissioner.

(7) The salaries and allowances and other conditions of service of officers and employees shall be such as may be prescribed by the Central Government.

(8) The Chief Commissioner shall be assisted by an advisory committee comprising of not more than eleven members drawn from the experts from different disabilities in such manner as may be prescribed by the Central Government.

75. Functions of Chief Commissioner.—(1) The Chief Commissioner shall—

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

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

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

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

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

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

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

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

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

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

(2) The Chief Commissioner shall consult the Commissioners on any matter while discharging its functions under this Act.

76. Action of appropriate authorities on recommendation of Chief Commissioner.—Whenever the Chief Commissioner makes a recommendation to an authority in pursuance of clause (b) ¹[of subsection (1)] of section 75, that authority shall take necessary action on it, and inform the Chief Commissioner 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 Chief Commissioner within a period of three months, and shall also inform the aggrieved person.

77. Powers of Chief Commissioner.—(1) The Chief Commissioner shall, for the purpose of discharging his functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any documents;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

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

1. Ins. by Act 4 of 2018, s. 3 and the second Schedule (w.e.f. 5-1-2018).

78. Annual and special reports by Chief Commissioner.—(1) The Chief Commissioner shall submit an annual report to the Central Government and may at any time submit special reports on any matter, which, in his opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.

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

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

79. Appointment of State Commissioner in States.—(1) The State Government may, by notification, appoint a State Commissioner for Persons with Disabilities (hereinafter referred to as the “State Commissioner”) for the purposes of this Act.

(2) A person shall not be qualified for appointment as the State Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

(3) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the State Commissioner shall be such as may be prescribed by the State Government.

(4) The State Government shall determine the nature and categories of officers and other employees required to assist the State Commissioner in the discharge of his functions and provide the State Commissioner with such officers and other employees as it thinks fit.

(5) The officers and employees provided to the State Commissioner shall discharge his functions under the general superintendence and control of the State Commissioner.

(6) The salaries and allowances and other conditions of service of officers and employees shall be such as may be prescribed by the State Government.

(7) The State Commissioner shall be assisted by an advisory committee comprising of not more than five members drawn from the experts in the disability sector in such manner as may be prescribed by the State Government.

80. Functions of State Commissioner.—The State Commissioner shall—

(a) identify, *suo motu* or otherwise, provision of any law or policy, programme and procedures, which are in consistent with this Act, and recommend necessary corrective steps;

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

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

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

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

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

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

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

(i) perform such other functions as the State Government may assign.

81. Action by appropriate authorities on recommendation of State Commissioner.—Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 80, that authority shall take necessary action on it, and inform the State Commissioner 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 State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person.

82. Powers of State Commissioner.—(1) The State Commissioner shall, for the purpose of discharging their functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—

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

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

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

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

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

CHAPTER XIII SPECIAL COURT

84. 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.

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

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

CHAPTER XIV
NATIONAL FUND FOR PERSONS WITH DISABILITIES

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

(a) all sums available under the Fund for people with disabilities, constituted *vide* notification No. S.O. 573 (E), dated the 11th August, 1983 and the Trust Fund for Empowerment of Persons with Disabilities, constituted *vide* notification No. 30-03/2004-DDII, dated the 21st November, 2006, under the Charitable Endowment Act, 1890 (6 of 1890).

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

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

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

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

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

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

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

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

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

CHAPTER XV
STATE FUND FOR PERSONS WITH DISABILITIES

88. State Fund for persons with disabilities.—(1) There shall be constituted a Fund to be called the State Fund for persons with disabilities by a State Government in such manner as may be prescribed by the State Government.

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

(3) Every State Government shall maintain proper accounts and other relevant records of the State Fund for persons with disabilities including the income and expenditure accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

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

(5) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Fund for persons with disabilities 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 right to demand production of books of accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Fund.

(6) The accounts of the State Fund for persons with disabilities as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of the State Legislature where it consists of two Houses or where such Legislature consists of one House before that House.

CHAPTER XVI OFFENCES AND PENALTIES

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

92. Punishment for offences of atrocities.—Whoever,—

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

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

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

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

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

(f) performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability,

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.

93. Punishment for failure to furnish information.—Whoever, fails to produce any book, account or other documents or to furnish any statement, information or particulars which, under this Act or any order, or direction made or given there under, 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, 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.

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

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

CHAPTER XVII MISCELLANEOUS

96. Application of other laws not barred.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

97. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any officer of the appropriate Government or any officer or employee of the Chief Commissioner or the State Commissioner for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

98. 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 or give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

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

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

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

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

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

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

(a) the manner of constituting the Committee for Research on Disability under sub-section (2) of section 6;

(b) the manner of notifying the equal opportunity policy under sub-section (1) of section 21;

(c) the form and manner of maintaining records by every establishment under sub-section (1) of section 22;

(d) the manner of maintenance of register of complaints by grievance redressal officer under sub-section (3) of section 23;

(e) the manner of furnishing information and return by establishment to the Special Employment Exchange under section 36;

(f) the composition of the Assessment Board under sub-section (2) and manner of assessment to be made by the Assessment Board under sub-section (3) of section 38;

(g) rules for person with disabilities laying down the standards of accessibility under section 40;

(h) the manner of application for issuance of certificate of disability under sub-section (1) and form of certificate of disability under sub-section (2) of section 58;

(i) the allowances to be paid to nominated Members of the Central Advisory Board under sub-section (6) of section 61;

(j) the rules of procedure for transaction of business in the meetings of the Central Advisory Board under section 64;

(k) the salaries and allowances and other conditions of services of Chief Commissioner and Commissioners under sub-section (4) of section 74;

(l) the salaries and allowances and conditions of services of officers and staff of the Chief Commissioner under sub-section (7) of section 74;

(m) the composition and manner of appointment of experts in the advisory committee under sub-section (8) of section 74;

(n) the form, manner and content of annual report to be prepared and submitted by the Chief Commissioner under sub-section (3) of section 78;

(o) the procedure, manner of utilisation and management of the Fund under sub-section (2) of section 86; and

(p) the form for preparation of accounts of Fund under sub-section (1) of section 87.

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

101. Power of State Government to make rules.—(1) The State Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act, not later than six months from the date of commencement of this Act.

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

(a) the manner of constituting the Committee for Research on Disability under sub-section (2) of section 5;

(b) the manner of providing support of a limited guardian under sub-section (1) of section 14;

(c) the form and manner of making an application for certificate of registration under sub-section (1) of section 51;

(d) the facilities to be provided and standards to be met by institutions for grant of certificate of registration under sub-section (3) of section 51;

(e) the validity of certificate of registration, the form of, and conditions attached to, certificate of registration under sub-section (4) of section 51;

(f) the period of disposal of application for certificate of registration under sub-section (7) of section 51;

(g) the period within which an appeal to be made under sub-section (1) of section 53;

(h) the time and manner of appealing against the order of certifying authority under sub-section (1) and manner of disposal of such appeal under sub-section (2) of section 59;

(i) the allowances to be paid to nominated Members of the State Advisory Board under sub-section (6) of section 67;

(j) the rules of procedure for transaction of business in the meetings of the State Advisory Board under section 70;

(k) the composition and functions of District Level Committee under section 72;

(l) salaries, allowances and other conditions of services of the State Commissioner under sub-section (3) of section 79;

(m) the salaries, allowances and conditions of services of officers and staff of the State Commissioner under sub-section (3) of section 79;

(n) the composition and manner of appointment of experts in the advisory committee under sub-section (7) of section 79;

(o) the form, manner and content of annual and special reports to be prepared and submitted by the State Commissioner under sub-section (3) of section 83;

(p) the fee or remuneration to be paid to the Special Public Prosecutor under sub-section (2) of section 85;

(q) the manner of constitution of State Fund for persons with disabilities under sub-section (1), and the manner of utilisation and management of State Fund under sub-section (2) of section 88;

(r) the form for preparation of accounts of the State Fund for persons with disabilities under sub-section (3) of section 88.

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

102. Repeal and savings.—(1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 (1 of 1996) is hereby repealed.

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

THE SCHEDULE

[See clause (zc) of section 2]

SPECIFIED DISABILITY

1. Physical disability.—

A. Locomotor disability (a person's inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both), including—

(a) "leprosy cured person" means a person who has been cured of leprosy but is suffering from—

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

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

(iii) extreme physical deformity as well as advanced age which prevents him/her from undertaking any gainful occupation, and the expression "leprosy cured" shall construed accordingly;

(b) "cerebral palsy" means 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;

(c) "dwarfism" means a medical or genetic condition resulting in an adult height of 4 feet 10 inches (147 centimeters) or less;

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

(e) "acid attack victims" means a person disfigured due to violent assaults by throwing of acid or similar corrosive substance.

B. Visual impairment—

(a) "blindness" means a condition where a person has any of the following conditions, after best correction—

(i) total absence of sight; or

(ii) visual acuity less than 3/60 or less than 10/200 (Snellen) in the better eye with best possible correction; or

(iii) limitation of the field of vision subtending an angle of less than 10 degree.

(b) "low-vision" means a condition where a person has any of the following conditons, namely:—

(i) visual acuity not exceeding 6/18 or less than 20/60 upto 3/60 or upto 10/200 (Snellen) in the better eye with best possible corrections; or

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

C. Hearing impairment—

(a) "deaf" means persons having 70 DB hearing loss in speech frequencies in both ears;

(b) “hard of hearing” means person having 60 DB to 70 DB hearing loss in speech frequencies in both ears;

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

2. Intellectual disability, a condition characterised by significant limitation both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour which covers a range of every day, social and practical skills, including—

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

(b) “autism spectrum disorder” means a neuro-developmental condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.

3. Mental behaviour,—

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

4. Disability caused due to—

(a) chronic neurological conditions, such as—

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

(ii) “parkinson's disease” means a progressive disease of the nervous system marked by tremor, muscular rigidity, and slow, imprecise movement, chiefly affecting middle-aged and elderly people associated with degeneration of the basal ganglia of the brain and a deficiency of the neurotransmitter dopamine.

(b) Blood disorder—

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

(ii) “thalassemia” means a group of inherited disorders characterised by reduced or absent amounts of haemoglobin.

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

5. Multiple Disabilities (more than one of the above specified disabilities) including deaf blindness which means a condition in which a person may have combination of hearing and visual impairments causing severe communication, developmental, and educational problems.

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