Rights of Persons with Disabilities Act, 2016

(Hindi Summary)

Translated into English

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Summary

The Central Government, by notification in the Official Gazette, has implemented the Rights of Persons with Disabilities Act, 2016 from April 19, 2017 across the country. The Act recognizes 21 disabilities and has 17 chapters, 102 sections and 1 schedule. Various rights and facilities have been provided for the persons with disabilities under the Act. The following are the major provisions of the Act:

(1). Civil and Political Rights - Sections 3 to 15

1. Right to equality and prohibition of discrimination on the basis of disability:

* The government concerned shall ensure that persons with disabilities enjoy the right to live life with dignity, on the basis of equality, like other persons.
* For this, the government will provide a proper environment, so that the potential of the differently-abled can be utilized.
* No person shall be deprived of his right to personal liberty merely on the ground of disability.
* The government will take necessary measures to provide suitable facilities free of cost to the differently-abled.
* No person shall be discriminated against on the basis of disability.
* All concerned Governments shall ensure for women and children with disabilities that they can properly exercise all their rights like others and that they have the right to freely express their views on all matters related to them and to get help.
* Persons with disabilities will also have the right to live in the community and they will not be forced to live in any specific or separate system.

1. Protection from cruelty and inhuman treatment:

* The concerned government will provide protection to the disabled persons from cruelty, harassment and inhuman treatment to them.
* No person with disability shall be made the subject of any research without his own will and approval and prior permission shall be obtained from the State Committee for Research on Disability for conducting such research.

1. Protection from all forms of abuse, violence and exploitation:

* Any person or registered organization which comes to know of or is aware of the possibility of abuse, violence or exploitation against a person with disability, may immediately inform the Executive Magistrate of the area.
* The Executive Magistrate shall act immediately on this report and take measures to prevent the occurrence of the event or possibility of its occurrence and pass appropriate orders for the protection, rehabilitation, maintenance etc.



1. Protection and Security:

* Persons with disabilities shall have equal protection and security as others in the event of risk and armed conflict and human and natural calamities.
* The Disaster Management Authority at the district level shall maintain a record of the district wise details of persons with disabilities and take suitable measures to inform such persons in time in case of any risk situation.
* In the post-disaster reconstruction activities, this authority, in consultation with the State Commissioner for Disability, shall ensure barrier free accessibility for the persons with disabilities concerned.

1. Home and family:

* No disabled child shall be separated from his parents on the ground of disability.
* If the guardian is unable to take care of the child, the child may be placed with a close relative on the orders of a competent court, failing which, in the family environment or in special circumstances in shelters operated by the government or non-governmental organizations concerned.

1. Right to Reproduction:

* The government concerned will ensure that persons with disabilities have access to appropriate information about fertility and family planning.
* No medical procedure which results in infertility (infertility) shall be performed on any person with disability without his/her wish or prior consent.

1. Right to Vote and Access to Justice:

* The Central and State Election Commissions shall ensure that all polling station election procedures are accessible to persons with disabilities.
* The government will also ensure that persons with disabilities can exercise their right to access all judicial systems etc.

1. Right to Property:

* The Government shall ensure that persons with disabilities have proper rights on their own or inherited property, whether immovable (real estate) or movable (such as vehicles, animals, food grains), and in respect of other financial matters,also they should also get enough freedom.
* The government will also ensure that all persons with disabilities have the right to access to bank loans and mortgages and other forms of financial deposits/facilities.

2. Education

In this Act, the provisions related to the education of the disabled are described under sections 16 to 18 and 31 and 32.

1. Responsibilities of Educational Institutions:

* All educational institutions recognized and aided by the government will make every effort to provide inclusive education for children with disabilities without any discrimination.
* The following steps will be taken under these efforts:

a. making the school building, campus and environment accessible;

b. to provide suitable facilities as per the needs of the children;

c. making possible the use of appropriate educational formats and communication/communication tools;

d. To provide transport facilities as per requirement for commuting to and from the school;

e. To create a proper environment for full inclusion.

1. Promoting Inclusive Education:

According to the Act, inclusive education means an education in which persons with disabilities and other students’ study and learn together and in which teaching and learning systems are available for students with disabilities adapted to their needs.

Under this Act, the Government will make the following efforts to improve inclusive education:

* Conducting necessary surveys;
* Establishment of adequate number of teacher-training institutions;
* to appoint teachers trained in the teaching of Braille and sign language and teaching of children with intellectual disabilities;
* To train wage earners and other concerned persons at all levels of school education;
* Providing books and other learning materials and equipment free of cost to the differently-abled students up to the age of 18 years;
* Providing scholarships as needed;
* Modification of syllabus and examination system as per the requirement;
* To continue the programs of adult education for persons with disabilities.

1. Other Educational Provisions:

* Every disabled child in the age group of 6 to 18 years shall have the right to free education in general school or special school as per his wish.
* It will be the responsibility of every government body to make arrangements for free education in a conducive environment for every differently-abled student up to the age of 18 years.
* Five percent seats in all government and government-aided institutions of higher education will be reserved for persons with disabilities.
* Referred disabled students will be given a relaxation upto five years in the maximum age for admission in institutions of higher education.

3.SKILL DEVELOPMENT AND EMPLOYMENT

The rights relating to this subject have been discussed in sections 19 to 23 and 33 to 37 of the Act. The main details are as follows:

* Loans for vocational training and self-employment.
* To include persons with disabilities in all mainstream vocational training programs and also to encourage special programs for them.
* To help in the sale of goods manufactured by persons with disabilities.
* To provide proper facilities and conducive environment to the disabled employees.
* No person to be removed from the post or downgraded from his post due to disability during the service.
* No person to be removed from the post or reduced from his post due to disability during the service.
* Prescribing favourable policies for posting and transfer for the disabled employee.
* Formulation and notifying of equal opportunity policy in every government body.
* To maintain records of disabled employees in every body, in which the facilities provided to them are described.
* Every government body should have a grievance redressal officer, who notes the complaints in a register and disposes them within 15 days (if the complainant is not satisfied with the decision of this officer, he can also approach the district committee).
* To identify such posts every three years by an expert committee which are suitable for the persons with referenced disability and also to give representation to the persons with such referred disability in this committee.
* Reservation of four per cent posts in all government bodies and public establishments for persons with referred disability, of which one per cent for persons with visual impairment and low vision, one per cent for deaf and hard of hearing, one per cent for locomotor disability are forincluding cerebral palsy, disease-free leprosy, dwarfism and acid attack victims and muscular dystrophy, the remaining one percent having autism, intellectual disability, specific learning disabilities, mental illness and multiple disabilities (this includes deafness). (See section 34 for more reservation details).
* Employers in the private sector should be encouraged so that at least five percent of their workforce consists of persons with referred disabilities.
* For persons with disabilities referred for certain specific purposes:

1. Five percent reservation in allotment of land for agriculture and housing, giving priority to women.
2. Five percent reservation for persons with disabilities referred in all schemes related to poverty alleviation and development, giving priority to women.
3. Allotment of land up to five percent at concessional rates, where such land is used for construction work for starting services for the benefit of persons with disabilities.
4. Rights related to social security, health care, rehabilitation etc.

Section 24 to 30 provides for rights like social security, health care, insurance schemes, rehabilitation, research, culture and participation in leisure and sports activities for the persons with disabilities. The brief description is as follows:

Within the limits of its economic capacity and development, the concerned Government shall formulate various schemes and programs for the persons with disabilities to promote their proper standard of living for the purposes given below:The quantum of assistance given to persons with disabilities isat least 25 percent higher than that of other persons:

a. Establishment of safe, clean and hygienic community centers with counseling facilities.

b. Accommodation facilities for destitute or non-sustainable persons with disabilities, especially children.

c. Assistance in natural or human emergency situations.

d. Support for livelihood and child rearing for women with disabilities.

E. Provision of safe drinking water and proper sanitation facilities.

f. To provide equipment, medicines and health facilities free of cost to the referred differently-abled persons up to the prescribed income limit.

G. To facilitate disability pension and unemployment allowance on the prescribed conditions.

h. Special allowance to caregivers for referred disabled persons dependent on extreme support.

i. To provide comprehensive insurance plans on prescribed terms.

j. To provide free health facilities to the referred differently-abled persons with notified family income, especially in rural areas.

K. To provide barrier free access to all hospitals.

l. To give priority to disabled persons in treatment and care.

m. To conduct research related to the causes of disability and its diagnosis.

n. To create awareness about disability and its prevention among the employees of primary health centres, rural workers and anganwadi workers and general public.

o. To take care of mother and child before, during and after delivery.

p. To conduct screening of all children once in a year for easy identification of disability.

q. To provide necessary medical facilities for life saving emergency treatment.

r. Sexual and reproductive health care for women with disabilities.

The concerned Government shall, within the limits of its economic capacity and development, conduct necessary programs for the rehabilitation of all persons with disabilities, especially in the areas of their health, education and employment, and provide financial assistance to NGOs. The Government concerned will consult the NGOs working in the field of disability while deciding the rehabilitation policies.

The concerned government will conduct research and developmental activities on such subjects through individuals and institutions, which are necessary for the empowerment of persons with disabilities. The concerned government will provide assistance to the disabled artists and writers according to their aptitude and talent. Museums showing the history of disability will be set up. Efforts will be made to make art accessible to the disabled. Scouting, Dance, Art-classes, Camps in Police Stations and measures will be taken for participation of persons with disabilities inadventure activities. Support will be provided for access and participation of persons with disabilities in all cultural activities and recreation centers will be promoted for them.

All governments will recognize and promote the right of persons with disabilities to participate in sports. Measures will be taken to ensure access and participation of persons with disabilities in all sports activities. Necessary technical facilities will be made available to all persons with disabilities to develop interest, talent and ability in sports activities. Funds will be allocated to develop modern facilities for sports training of persons with disabilities. Promotion of sports events related to differently abledand prizes and incentives will be given to the winning players and other participants.

1. Special provision for referred differently-abled persons in need of higher assistance--section 38

Provision has also been made in this Act for such persons who require higher assistance due to extreme severity of their disability. The definition of higher aid is given in Section 2, Chapter L of the Act. An application for such assistance shall be forwarded to the Authority and the Assessing Board notified or constituted by the Central Government and assistance shall be provided as per their recommendation.

1. Awareness Campaign--Section 39

Various governments will organize necessary awareness programs for the rights and capabilities of persons with disabilities. Values ​​for inclusion, tolerance, empathy and respect for diversity will be at the core of these programs for persons with disabilities. Awareness programs will be organized for the following purposes:

* To disseminate information about the skills, qualities, abilities and contributions of persons with disabilities.
* To respect the decisions of persons with disabilities regarding family life.
* To organize awareness programs on the human condition of disability and rights of persons with disabilities in schools, colleges, universities and vocational level training centers and for employers, administrators and colleagues.
* To ensure that the rights of persons with disabilities are included in the curriculum of schools and colleges.

1. Accessibility-Section 40 to 46

* The Central Government shall, in consultation with the Chief Commissioner, determine the standards of accessibility for the physical environment, transport, information and communication technologies, including in the field of appropriate technologies and facilities and services provided to the public in urban and rural areas.
* Bus stands, railway stations and airports and facilities available there such as parking space, ticket counters, equipment etc. will be made accessible to persons with disabilities.
* Measures will be taken to provide access to all modes of transport, which are convenient and accessible for persons with disabilities.
* The concerned Government shall take measures to ensure that all information/materials available in audio, print and electronic media are available in an accessible format. For this, access to material available in electronic media will be ensured for persons with disabilities through accessible means such as audio description, sign language and closed captioning.
* Also, measures will be taken to make available everyday use electronic goods and equipment in a universal design.
* The concerned Governmentshall take measures to promote the development, production and distribution of consumer products and accessories universally designed for the general use of persons with disabilities.
* No body shall be allowed to construct any building if the building does not conform to the rules laid down by the Central Government. No body shall be issued a completion certificate or allowed to use the building unless it complies with the rules made by the Central Government.
* The concerned Government shall take such measures that within 5 years from the date of issue of the notification, all public buildings shall be made accessible as per the rules fixed by the Government. Provided that the Central Government may grant extension to the time-limit for the States to comply with this provision on a case-by-case basis depending upon the stage of their preparedness and other relevant parameters.
* The service providers, whether Government or private, shall provide accessible services in accordance with the rules made by the Central Government within a period of two years from the date of issue of the notification. Provided that the Central Government may, in consultation with the Chief Commissioner, grant extension of time for rendering services to certain categories in accordance with the relevant rules.

1. Human Resource Development and Social Accounting

The concerned Government shall ensure that:

1. Panchayati Raj members, legislators, administrators, police officers, judges, lawyers, school, college and university teachers, sports teachers, doctors, nurses, paramedical personnel, social welfare officers, rural development officers, ASHA workers, anganwadi workers, engineers. The subject related to disability and disability rights must be included in all the educational courses prescribed for architects, other employees and community workers.
2. Proper guidance should be made available to family members and caring assistants.
3. Free living training should be made accessible to the differently-abled.
4. Disability study centers should be established in all universities and work on subjects like disability teaching and research should be encouraged in them.

The concerned Government shall conduct a need-based analysis every five years and prepare plans for the training of personnel appointed to perform various responsibilities under this Act.

The concerned Government will conduct a social audit of all schemes and programs benefitting persons with disabilities to ensure that the schemes and programs are commensurate with the expectations and concerns of persons with disabilities.

1. Certificate of Registration of Institutions for Persons with Disabilities and Grants to such Institutions

The provisions relating to this subject have been discussed in section 49 to 55 of the Act.

The State Government shall appoint such authority as it thinks fit to be the competent authority for the provisions of the subject.

If a person wants to start or run an organization for the disabled, then he has to obtain a registration certificate and send an application to the competent authority for this. Such officer will have to give his decision (acceptance or rejection) on this application within 90 days.

Before the expiry of the issued certificate, an application will also have to be made for its renewal.

If the application for the certificate or renewal thereof is rejected, the officer concerned shall inform the reasons thereof in writing and the person aggrieved by such order may prefer an appeal against such order before the Appellate Authority within such period as may be fixed by the State Government.

The registration certificate will not be required for the institutions run by the State or Central Government.

The concerned Government may provide financial assistance for implementing schemes and programs in accordance with the provisions of this Act for rendering services to registered entities within the limits of its economic status and development.

1. Certification of Referred Disabilities

The provisions relating to this subject have been mentioned in section 56 to 59 of the Act. The main points are as follows:

The Central Government shall issue guidelines for determining the extent of disability referred to in a person.

This certificate is mandatory for proof and verification of disability. One has to apply for this certificate with the health authority notified by the state government. The application will be submitted in the prescribed format. The decision regarding certificate or its rejection should be given within one month. The certificate so issued should ordinarily be acceptable for all purposes.

1. Arrangements for monitoring the implementation of the Act and protection of rights

These arrangements are described in sections 60 to 85 and such arrangements will be at the central, state and district levels.

1. Chief Commissioner (Disability) at the Central level and Commissioner (Disability) at the State level:

These officers are discussed in sections 74 to 83. At the Central level, there is a provision for a Chief Commissioner and two Commissioners to assist him, one of whom should be self-referred disabled. There will also be an advisory committee of 11 members for the Chief Commissioner, to be nominated by the Central Government. The post of Chief Commissioner shall be equivalent to that of a Secretary to the Central Government and the rank of Commissioners shall be equivalent to that of an Additional Secretary. The term of office shall be three years. There shall be a Disability Commissioner at the State level and there will be an advisory committee of 5 members nominated by the State Government to assist him.

The principal responsibilities of the Chief Commissioner and State Commissioners will be:

a. Review the implementation of the Act and allied schemes;

b. inquiry into complaints of discrimination or violation of rights of persons with disabilities and, as far as possible, disposal of complaints within three months from the date of receipt of reply to the notice from the opposite party;

c. Monitoring of other matters relating to the Act.

It is not mandatory to follow the orders of the Chief Commissioner and the State Commissioners, but they are generally accepted.

1. Chief Commissioner (Disability) at the Central level and Commissioner (Disability) at the State level:

Advisory Boards will be set up at the Central and State levels to advise on the implementation of the Act and to review the progress made in the sector, which are mentioned in Sections 60 to 71. The central board will have about 100 members, while the state-level boards will be smaller in size. These boards will be headed by the ministers who lead the matters related to disability. Among its members, apart from others, there will be 5 experts in the field of disability and 10 such persons, who (as far as possible) have self-referred disabilities and represent major NGOs in the disability sector. They will be nominated by the respective governments and their tenure will be for three years. Representatives of five districts will also be nominated on a rotational basis in the state boards.

1. District-Level Bodies on disability:

The State Governments shall constitute a Disability Committee in each district to discharge the notified functions, the details of which shall be mentioned in the rules to be made by the concerned Government. For speedy disposal of cases, the State Governments shall, in consultation with the Chief Justice of the High Court, by notification, designate one Session Court for each district as a Special Court for the trial of offenses under this Act.

The State Government shall, by notification, appoint for each Special Court a Public Prosecutor for the conduct of the cases of that Court or an advocate who has worked as a Public Prosecutor for not less than seven years. Has been or is working as an advocate.

1. National and State Funds for Persons with Disabilities

This type of fund is mentioned in sections 86 and 88 of the Act. Various funds and funds available for the disabled, as per the decisions of the Hon'ble Supreme Court, all moneys received by banks, corporations and financial institutions, grants, gifts, donations, bequests, etc., funds received by the Central Government as grants. All sums received from other sources as may be determined by the Government shall come into existence as a fund for whichthe name 'National Fund for Persons with Disabilities' shall be given. Similarly, at the state level also, a fund shall be formed for the disabled. The accounts of these two funds shall be properly audited by the Comptroller and Auditor General of India.

1. Crime and punishment

These provisions are described in section 89 to section 95. Accordingly, punishment has been arranged in the following situations:

a. such blatant contravention of the provisions of the Act or the Regulations causing direct injury to a person with disability;

b. any contravention by companies in certain circumstances;

c. fraudulently obtaining any benefit earmarked for persons with disabilities;

d. openly humiliating or intimidating a person with disability with intent to humiliate; attacking him or exploiting him in any way;

e. grossly insulting the decency of a woman with a disability or abusing her status to sexually exploit her.

It may be mentioned that according to section 94, such charges against a Government servant can be brought before the court only if the prior approval of the competent authority has been obtained for the same.

1. Repeal of earlier act

As per section 102, the erstwhile “Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995” stands repealed by the present Act. However, any work done under the earlier Act shall be considered acceptable under/conforming to the relevant provisions of the present Act.

Schedule-Specified Disability

1. Physical Disability:
   1. Motion Disability:
2. Leprosy free person
3. Cerebral palsy
4. dwarfism (individuals less than 147 cm tall);
5. muscular dystrophy
6. Acid Attack Victims.

B. Vision loss:

a. Blindness;

b. Low vision (Low-vision).

C: Hearing loss:

1. deaf
2. Hearing impaired (Hard of hearing).

D: Speech and language disability.

1. Intellectual Disability:
   1. specified learning disabilities;
   2. Autism Spectrum Disorder.
2. Psychotic behavior or mental illness.
3. Disability due to:
4. Chronic neurological conditions
5. multi-sclerosic (multi-sclerosis);
6. Parkinson's disease.
7. Blood disorders--
8. hemophilia;
9. Thalassemia;
10. Sickle cell disease (sickle cell anemia)
11. Multiple Disabilities.
12. Any other category as may be notified by the Central Government.

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