

The Persons with Disabilities (Equal Opportunities, Protection of Rights And Full Participation) Act, 1995

Summary & purpose of the act:

The purpose of this Act which was made law in 1996 (Gazette No.1 of 1996) is to fix responsibilities on the Central and State Government to the extent of their resources permit, to provide services, create facilities and give support to people with disabilities in order to enable them to have equal opportunities in participating as productive and contributing citizens of this country to the fullest extent their abilities. It fixes its responsibilities on the Governments (Centre and State) to ensure that disabilities do not prevent individual citizens of this country from living a full life and making full contribution each in accordance with his/her ability.

This Act provides a frame within which specific demands can be made by the disabled people in order to ensure that the promise made in this Act are honoured by the Government.

Chapter I - Preliminary

In chapter 1, legal definitions of the terms used in the Act are given. Disability means blindness, low vision, leprosy-cured, hearing impairment, Locomotor disability, mental retardation and mental illness.

- i. Blindness – No vision at all
- ii. Low vision – Person capable of execution of a task with appropriate assistive devices.
- iii. Leprosy cured – cured but loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye lid OR manifest deformity, but sufficiently mobile to do normal economic activity or extreme physical deformity and can not do any gainful occupation.
- iv. Hearing Impairment – Loss of 60 decibels or more in the conversational range of frequencies.
- v. Locomotor Disability – Disability of the bone joints or muscles leading to substantial restriction of limb movements or any of cerebral palsy.
- vi. Mental Illness – Any mental disorder other than mental retardation
- vii. Mental Retardation – Condition of arrested or incomplete development of the mind of a person.

A person with disability has to be certified by a medical authority that he or she is suffering from not less than 40% of the disability.

Chapter II - The Central Co-ordination Committee

In the purpose of this Act, the Central Government shall constitute a Central Co-ordination Committee (CCC), headed by the Minister of Social Justice and Empowerment.

The Central Co-ordination Committee consists of 39 persons, 34 will be official members and five nominated by the Government, will represent NGOs and associations concerned with disabilities. Among the five, inclusion of at least one women and one person from SC or ST is envisaged. The term of all the members will be for three years.

The committee shall meet once every six months and the committee shall have a Central Executive Committee which shall carry out the decision of the Central Coordination Committee. The Executive Committee shall meet every three months.

The Central Executive Committee (CEC)

Central Executive Committee will consist of 23 persons, including 5 nominated by the Government, with a composition as laid down in CCC for the group.

The function of the Central Coordination Committee shall be the following

- a. review and coordinate the activities of Government, Governmental and Non-Governmental Organisations, which are dealing with matters relating to persons with disabilities;
- b. develop a national policy;
- c. advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability;
- d. Advocacy with national, international organizations with a view to provide for schemes and projects for the disabled in the national and international plans and programmes;
- e. Review donor funding policies from the perspective of their impact on persons with disabilities;
- f. To ensure barrier free environment;
- g. Monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
- h. To perform such other functions as may be prescribed by the Central Government.

The Central Coordination Committee will be bound by such directions in writing as the Central Government may give it,

Chapter III - The State Coordination Committee

Identical to the Central Coordination Committee, each state shall appoint a State Coordination Committee, consisting of 23 official and 5 non-official members

The State Executive Committee will be akin to (similar to) its central counterpart with 13 official and 5 non official members.

The terms and conditions governing the State Committees shall be the same as those of the Central Coordination Committee, and the functions shall also be the same.

The State Coordination Committee shall be bound by such directions in writing as the Central Coordination Committee or as State Government may give it.

Chapter IV - Prevention and Early Detection of Disabilities

Within the limits of their economic capacity and development, the appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall:

- a. undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
- b. promote various methods of preventing disabilities;
- c. screen all the children at least once in a year for the purpose of identifying at-risk cases;
- d. provide facilities for training to the staff at the primary health centers;
- e. Sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene health and sanitation;
- f. Take measures for pre-natal, peri-natal, and post-natal care of mother and child;
- g. Educate the public through the pre-schools, primary health centers, village level workers and anganwadi workers;
- h. Create awareness amongst masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted.

Chapter V - Education

The Central and State Governments and local authorities shall ensure that every child with disability has access to free and adequate education till the age of 18, integrate students with disabilities into normal

schools, set up special schools in government and private sectors for those in need of special education and equip these special schools with vocational training facilities for children with disabilities.

The local authorities shall also introduce schemes for non formal education of children with disabilities who have discontinued their education after 5th class. Conduct special part time classes for functional literacy for children with disabilities in the age group of 16 and above, and provide each child with disability, free of cost, special books and equipments needed for his or her education, including in open schools and Universities.

The Government shall set up adequate number of teacher training institutions, capable of training teachers specialized in disabilities and adequate in number, in order to run both special schools and integrated schools for children with disabilities.

The Government shall provide transport facilities to children with disabilities, remove architectural barriers from schools, colleges and other institution imparting vocational training and education to students with disability, provide books uniform and other materials to children attending schools, grant scholarships to students with disabilities, restructure curriculum for the benefit of students with disabilities.

Government shall promote research for assistive devices to give a child disability equal opportunities in education.

Chapter VI - Employment

Government shall identify posts which can be reserved for persons with disabilities. These reservations shall not be less than 3% of which 1% will be reserved for each of the below mentioned disabilities.

1. Blindness or low vision
2. Hearing Impairment
3. Locomotor disability or Cerebral palsy

Special employment exchange will be the nodal agency for the purpose of employment. If in any year, any of the above vacancy can not be filled then people with other disabilities can be given employment, and finally, if there is no person with disability who can fill the vacancy, then a person other than a person with disability can be given employment.

Appropriate Governments and local authorities shall formulate schemes for ensuring employment of persons with disability and this shall include training of persons with disabilities. All Government educational institutions and those receiving aids from the Government shall reserve not less than 3% seats for persons with disabilities. Not less than 3% of all poverty alleviation schemes shall be reserved for persons with disabilities. Government shall within their economic capacities, give incentives to employers in public and private sectors to ensure that 5% of the work force is composed of persons with disabilities.

Chapter VII - Affirmative Action

The Government shall provide aids and appliances to persons with disabilities and shall provide land at concessional rates for allotment to persons with disabilities for housing, business, special recreation centers, special schools, research centers and factories by entrepreneurs with disabilities.

Chapter VIII - Non Discrimination

Government transport shall take special measures to adopt their facilities and amenities so that they permit easy access to persons with disabilities, inclusive of persons on wheel chairs.

Government and local authorities shall also within their capacity, provide auditory signals along red lights, crossing constructions shall be designed for wheel chair users and engraving on zebra crossing for blind people. Warning signals shall be provided at appropriate places for the people with disabilities etc. Building and toilets shall be constructed with ramps and other features so that wheel chair users can have access to them. No employer shall terminate an employee who acquires a disability during service. No employer shall also deny promotion to an employee on grounds of disability, but provide for circumventing this, based on the type of work.

Chapter IX - Research and Manpower Development

Government and local authorities shall promote and sponsor research in order to prevent disability, rehabilitate the disabled, develop assistive devices, identify jobs for disabled and develop pre-disabled structural features in factories and offices.

Chapter X - Recognition of Institutions for Persons with Disabilities

Within six months of this Act being passed, persons running establishments or institutions for persons with disability shall apply under this Act, for a certificate or registration of the Institution. This certificate shall be issued by a competent authority of the State Government and shall remain in force for such period as granted by the State Government. It shall be renewed through an application of renewal to be submitted not less than 60 days before the expiry of the certificate, the certificate can be denied or revoked for valid reasons and with a proper hearing granted to the applicant. The State Government is the final appellate authority. Government institutions are immune from the provisions of this chapter.

Chapter XI - Institution for Persons with Severe Disabilities

Person having eighty per cent or more of one or more disabilities are considered persons with severe disability. Governments shall establish and maintain institutions for them. Where private institutions exists, which meet Government standards, they shall be recognized as institutions fit for persons with severe disabilities.

Chapter XII - The Chief Commissioner and Commissioners for Persons with Disabilities

The Central Government shall appoint a Chief Commissioner for persons with disabilities for the implementation of this Act. The Chief Commissioner shall coordinate the work of the Commissioners, monitor the utilization of funds given by the Central Government for persons with disabilities, ensure that rights and facilities made available to persons with disabilities are protected, and submit an annual report to the Central Government on the implementation of this Act.

Commissioner shall have similar responsibilities at the state level. The Chief Commissioner and the Commissioner shall take up any complaint regarding deprivation of rights of persons with disabilities and non implementation of laws, rules, orders, instructions issued by the Government or local authorities for the welfare and protection of rights of persons with disabilities.

The Chief Commissioners have the same powers as are vested in a court under the Code of Civil Procedure, 1908 for summoning and enforcing attendance of witness, receiving evidence on affidavits etc.

The Chief Commissioners shall prepare an annual report giving full account of his activities during the previous financial year to the Central Government and this report shall be laid before each house of parliament. Similarly, the Commissioner shall submit an annual report to the State Government.

Chapter XIII - Social Security

The Government shall within their economic limits, undertake rehabilitation of all persons with disabilities and grant financial assistance to NGOs undertaking rehabilitation programmes for persons with disabilities. Where possible, give unemployment allowance to persons with disabilities registered with the special employment exchange for more than 2 years, and would could not be placed in any gainful occupation. Insurance schemes for the unemployed, and if needed, insurance schemes for non- employed by the Government is also mentioned.

Chapter XIV - Miscellaneous

Whoever attempts to commit fraud and avail of benefits for persons with disabilities shall be punished upto two years imprisonment and upto Rs. 20,000/- fine.

The Government shall have the authority to make all rules and regulations necessary for carrying out the provisions of this act. These rules and regulations shall be issued in the form of Government Orders (G.O's) which shall have approval of both houses of parliament.

The Chief Commissioner, the Commissioners, Officers and staff provided to implement this Act shall be deemed to be public servant within the meaning of Section 21 of IPC, no suit, prosecution or other legal proceedings shall be allowed against the Government and local authorities and the officers in respect of anything which was done in good faith or intended to be done in pursuance of this Act, and any rules or orders made there under.

The Act is in addition to and not in derogation of any other law, rules order, instruction currently in force. Ministry of Social Justice and Empowerment have initiated action of implementation of "The Persons with Disabilities" (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in the right earnest. Several measures have been taken for the creation of necessary institutional arrangements which includes, notification of rules, constitution of Central Coordination Committee and constitution of Central Executive Committee for ensuring the implementation of the provision of the Act. Five core Groups of experts for recommending suitable schemes of people with disabilities in various areas viz.

- i. prevention, early detection and intervention.
- ii. education including pre-school education.
- iii. barrier free environment.
- iv. women, children and aged with disabilities.
- v. vocational training and employment have been set up. Three core groups have since submitted their reports and action is in hand.

The "National programme for Rehabilitation of People with Disabilities" has prepared for setting up suitable delivery system for people with disabilities specially in the rural areas. All the Central Ministries/Departments, State Governments and UT Administrations have been impressed upon time and again to initiate appropriate action for implementation of the provisions of the Act. Due to the efforts of the Ministry of Social Justice and Empowerment, a greater understanding on the approach of multi sectoral collaborative action for people with disabilities under which each sectoral Ministry have to play a greater role for including the concerns of the disabled persons in their mainstream policies has got wider appreciation. Efforts have also been made to have linkages with the National Open School to accredit the special study centers for people with disabilities. An Inter-Ministerial Committee set up under the chairmanship of Additional Secretary, Ministry of Social Justice and Empowerment is keeping a regular watch over the implementation of the Act.