



Draft Equal Opportunity Policy for Private Sector Companies

Developed for

**National Centre for Promotion of
Employment for Disabled People (NCPEDP)**

By

**Diversity and Equal Opportunity Centre
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Introduction

The Rights of Persons with Disabilities (RPWD) Act, 2016 and Rules, 2017 have specific mandates for private establishments¹. The relevant clauses of the Act and the Rules are given in Annexure 1 of this document.

Broadly, as per the provisions of the Act and Rules, Private Establishments should:

- ❖ Publish an Equal Opportunity Policy for persons with disabilities as stated in the Rules.
- ❖ Register a copy of the above said policy with the Chief Commissioner or the State Commissioner for Persons with Disabilities, as the case may be.
- ❖ Ensure that persons with disability are not discriminated on the ground of disability (It is the responsibility of the Head of the establishment).
- ❖ Display the Equal Opportunity Policy preferably on the company's website or at conspicuous places in the office premises.
- ❖ Aim to ensure that at least five per cent of workforce comprise of persons with benchmark disabilities.
- ❖ Maintain records of employees with disabilities in a manner as detailed in the Rules.
- ❖ Appoint a Liaison Officer (applicable for establishments with 20 or more employees) to oversee the recruitment of persons with disabilities and the provision of facilities and amenities for such employees.
- ❖ Establishments should not compel a person with disability to partly or fully pay the costs incurred for reasonable accommodation.
- ❖ Have a grievance redressal mechanism (applicable to establishments with 20 or more employees) in place to look into any complaints received regarding discrimination on the grounds of disability.
- ❖ Make all existing buildings accessible as per standards by 2022.

¹"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. (Source: The RPWD Act, 2016)

- ❖ Ensure that new buildings are planned and constructed as per accessibility standards (as the builders will not be given permission to build nor will they be issued a certification of completion if they do not meet the standards).
- ❖ Ensure that services are accessible in accordance with the rules on accessibility in two years i.e. by 2019.

The Chief Commissioner and State Commissioners for Persons with Disabilities are responsible for implementing and monitoring The RPWD Act 2016. They have the same power as the Civil Court for trying a suit. Special Courts at the District level would also be notified for speedy trials. There are suitable penalties and punishments for any offences/violations under the Act.

This document provides a Template and a Sample Equal Opportunity Policy, as per Clause 21 (1) of The RPWD Act and the related Rules, which an establishment can adopt or use as a reference in order to create their own policy.

Template -Equal Opportunity Policy for Persons with Disabilities²

Preamble and Overview

It should include establishment's commitment to diversity and inclusion, with specific references to persons with disabilities, highlighting why diversity is important to the organisation and an overview of the Policy.

Policy statement

The policy statement should elucidate the establishment's commitment to:

- ❖ Comply with the provisions of The RPWD Act 2016.
- ❖ Ensuring equal opportunity in all aspects of employment.
- ❖ Creating and maintaining a non-discriminatory and inclusive work environment which ensures a robust career growth path for people with disabilities and for those who acquire disability during their employment tenure.

Scope

Statement mentioning the scope of the policy – who all it covers (job applicants, employees, interns etc.) and what aspects it covers.

Definitions

Define the various terms, like persons with disabilities, discrimination, reasonable accommodation, etc. as per The RPWD Act 2016.

²Equal Opportunity Policy for persons with disabilities should be made available in alternate formats upon request and should be put up on company's website or at conspicuous places in the office premises.

Policy Details

As per the requirement of The RPWD Rules, 2017, the Policy details should include:

- ❖ Facilities and amenities provided to the persons with disabilities to enable them to effectively discharge their duties in the establishment.
- ❖ List of posts identified as suitable for persons with disabilities in the establishment.³
- ❖ The manner of selection of persons with disabilities for various posts, post-recruitment and pre-promotion training, preference in transfer and posting, special leave, preference in allotment of residential accommodation if any, and other facilities.
- ❖ Provisions for assistive devices, barrier-free accessibility and other provisions for persons with disabilities.
- ❖ Appointment of a Liaison Officer by the establishment to look after the recruitment of persons with disabilities and provision of facilities and amenities for such employees.

The Policy details need not be limited to just the above points as per The RPWD Rules. It could definitely include more, like a Reasonable Accommodation Process, Affirmative Action Programmes etc.

Governance Framework

Define the governance framework for implementing the programme.

- ❖ The programme should be led by a representative from the senior management.
- ❖ A Council of Leaders should periodically monitor and review the progress.
- ❖ A Liaison Officer should be appointed for implementing the policy.

³This is given in the Rules under the RPWD Act 2016. However, non-discrimination in employment, which is also a requirement under the Act, clearly means that qualified persons should not be discriminated from applying for any job just because she/he has a disability. The policy should state that all jobs are open to people with disabilities and that detailed job descriptions and reasonable accommodations would be provided.

Maintenance of Records

Mention the procedure for collecting and maintaining records as required under The RPWD Act and the Rules. As per The RPWD Rules, following particulars should be collected and maintained:

- 1) "the number of persons with disabilities who are employed and the date from when they are employed;
- 2) the name, gender and address of persons with disabilities;
- 3) the nature of disability of such persons;
- 4) the nature of work being rendered by such employed person with disability; and the kind of facilities being provided to such persons with disabilities."

Add provisions to ensure that the information collected is kept confidential.

Grievance Redressal

Define a grievance redressal process for employees with disabilities. The Grievance Committee should include an external member who is familiar with the issues of discrimination on the basis of disability.

Affirmative Action

Detail the affirmative action plan for increasing the representation of people with various disabilities in the workforce, with emphasis on hiring and training of people with intellectual impairment, autism, multiple disabilities and those with high support needs. The programmes could impart skill training and conduct special recruitment drives as well as other CSR activities.

Sample Equal Opportunity Policy for Persons with Disabilities

Name of the Establishment

XYZ Corporation

Preamble and Overview

At XYZ Corporation, we recognise the value of a diverse workforce. We are committed to providing equal opportunities in employment and creating an inclusive workplace and work culture in which all employees are treated with respect and dignity.

At XYZ Corporation, workforce diversity is a business imperative. We will strive to ensure that our workforce is representative of all sections of the society. We believe that, by doing so, we would be better equipped to develop and deliver accessible and inclusive products and services. In this way, we hope to be able to meet the needs of our clients and customers better thus producing business excellence. At XYZ, we will proactively work towards ensuring that at least 5% of our workforce is comprised of people with benchmark disability, which is a conservative estimate of their representation in the general population.

This Equal Opportunity Policy is in accordance with the provisions of The Rights of People with Disabilities Act, 2016. At XYZ Corporation, we commit to conform not just to the letter but also to the spirit of the Act.

To ensure seamless implementation of this policy, XYZ Corporation has created a strategic plan and modified the related employee policies and processes. The plan has been devised on the basis of advice from relevant organisations as well as in consultation with appropriate employee representatives.

The CEO has the overall responsibility for the effective operation of the equal opportunity policy. Liaison Officer, Persons with Disabilities, will be in charge for its implementation.

Policy Statement

XYZ Corporation is committed to eliminating all forms of unlawful discrimination (which includes direct discrimination, indirect discrimination and denial of reasonable accommodation), bullying and harassment of people with disabilities.

At XYZ Corporation, we continuously strive to ensure that all our facilities, technologies, information and privileges are accessible to people with disabilities.

We encourage candidates with different disabilities to apply. Our decisions on employment, career progression, training or any other benefits are solely based on merit. We follow an inclusive evaluation process by ensuring that a person with disability is provided with any suitable flexibility and accommodation that may be required so that she/he may be evaluated fairly. Any information shared by employee on disability/medical condition will remain confidential.

If an employee acquires a disability during her/his employment tenure she/he can return to work at the same rank as before. In case the employee is unable to perform the current job, the organization will invest in re-skilling the employee for another position at the same rank or higher.

Scope

The above policy covers all persons with disabilities. They could be job applicants, full time/part time employees, interns/trainees, contractual employees, including temporary employees. It also covers those employees who acquire disability during their work tenure.

This policy also applies to all aspects of employment, be it recruitment, training, working conditions, salaries, transfers, employee benefits and career advancement.

Definitions as per The RPWD Act

- ❖ "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.

- ❖ “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. (Refer to Annexure 1 of this documents for the categories of disabilities and as listed in the Schedule of the Act).
- ❖ “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.
- ❖ “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.
- ❖ “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.

Policy Details

1. Facilities and amenities

a) Physical Infrastructure

XYZ Corporation aims to ensure that our physical infrastructure (buildings, furniture, facilities and services in the building/campus and transportation) adheres to the accessibility standards as prescribed by the Government of India. XYZ also aims to revamp its existing buildings by March 2022, to ensure strict compliance with The RPWD Act 2016. Any new facility that is built or renovated or leased or rented will be evaluated for compliance with accessibility standards at different stages of the building construction. Any

employee facing accessibility issues should report to the facilities team at their location or write to the Liaison Officer.

b) Digital Infrastructure

It is XYZ Corporation's continuous endeavour to ensure that all our documents, communication and information technology systems adhere to the accessibility standards. We will ensure that only accessible technologies are procured. Any employee facing accessibility challenges can reach out to the local IT support team or write to Liaison Officer.

c) Reasonable Accommodation

XYZ Corporation will make reasonable accommodations, whenever necessary, for qualified employees or job applicants who have disabilities, as per The RPWD Act. Such accommodation would be provided: 1) to ensure equal opportunity in the application and selection process, 2) to enable an employee with a disability to perform the essential functions of a job, and 3) to enable an employee with a disability to enjoy the same benefits and privileges of employment as non-disabled employees.

Examples of reasonable accommodations may include (but not limited to) acquiring or modifying equipment or devices, modifying assessment and training materials, modifying work schedules, reassignment to a vacant position.

All documents concerning an employee's reasonable accommodations request would be maintained in the employee's confidential file, separate from the employee's official personnel file.

XYZ has formulated Reasonable Accommodation Request Form and Reasonable Accommodation Guidelines in which the process for availing accommodations have been further detailed out.

2. List of positions identified

In XYZ, all positions are open for people with all types of disabilities. The hiring is purely based on merit and the candidates are evaluated based upon

their skills and competence. Flexibility and accommodations will be provided to persons with disabilities on an individual basis as detailed in the subsequent section.

3. Manner of selection

a) Vacancy advertisement and application

- ❖ Wherever possible, all vacancies will be advertised internally and externally.
- ❖ Wherever possible, vacancies will be notified to colleges, polytechnics and disability organisations.
- ❖ All vacancy advertisements will include an appropriate short statement on equal opportunities for people with disabilities.
- ❖ Selection criteria (job description and employee specification) will be kept under constant review to ensure that they are non-discriminatory and that they relate purely to the skills needed for the job and nothing else.
- ❖ Application forms will be made available in alternate formats, based on request.

b) Selection Process

- ❖ For entry level positions up to Manager level, candidates must have a minimum of 10+2+3 years (Degree/Diploma) of education. For Manager level and above, the minimum qualification criterion is to have a post-graduate degree which must be recognised by the University Grants Commission (UGC) or the All India Council for Technical Education (AICTE). This criterion will be relaxed for people with disabilities on a case by case basis as per our reasonable accommodation policy.
- ❖ All candidates considered for entry level positions up to the Manager level, must undergo an aptitude test. The test will examine logical reasoning on quantitative parameters and the English language. There is no aptitude test for positions above Manager level. Persons with disability who need exemptions or substitutions or reasonable accommodations for taking the test should contact the Liaison Officer.
- ❖ Candidates who clear the aptitude test will be interviewed by a panel comprising of two subject matter experts and one HR Manager. The hiring

decision will be based upon the collective decision of the panel. The subject matter expert should be at least two ranks above in hierarchy from the position for which the interview is being conducted. If a person with disability needs any specific reasonable accommodation for the interview she/he should write to the recruiter or the Liaison Officer.

- ❖ Each interviewer is mandated to record her/his comments on the candidate's capability in the Interview Evaluation Form. Reasons for rejection must be objective and not related to the person's disability.
- ❖ There is no age limit for applying for any job. However, the candidate must not have more than two years of gap in employment during her/his entire career. For persons with disabilities, this gap could be extended as per our reasonable accommodation policy.
- ❖ Wherever possible, more than one person must be involved in the selection interview and recruitment process, and all should have received appropriate training on the topic of equal opportunities for people with disabilities.

4. Other facilities

a) Training and Career development

XYZ Corporation will endeavour to provide course materials meant for induction and training in accessible formats on request. The request for reasonable accommodation, such as assistive aids, accessible training venue, accessible materials, interpreter, scribe, etc. should be placed at least one week prior to the scheduled date of commencement of induction/training.

The company has an accessible and inclusive appraisal process. Any employee/Manager requiring any accommodations for an appraisal process must place a request with the Liaison Officer at least two days in advance.

The establishment conducts yearly training programmes on 'Objective Performance Appraisal Process' for all Managers.

b) Disability Leave

An employee's request for extra leave, for a reason related to her/his disability, will be treated as a request for reasonable accommodation and will be evaluated accordingly.

XYZ Corporation provides an option of unpaid special leave for a maximum period of three months for employees with disabilities who plan to undergo medical treatment. The procedure for availing the leave is detailed out in the company's Leave Policy.

c) Travel, stay and transport

For official travel, employees with disabilities will be provided accessible modes of transport - air travel (in case road/train travel is inaccessible), and accessible guest houses and hotels and allowing a personal attendant to travel along, as per our reasonable accommodation guidelines. An employee can place a written/email request for this with the Travel Officer.

d) Employee Engagement and social inclusion

XYZ Corporation will endeavour to make all company events and meetings inclusive by ensuring that these are conducted at accessible venues with a provision of reasonable accommodation being available to employees with disabilities.

Governance Framework

The CEO is responsible for ensuring that the establishment operates in compliance with The RPWD Act, 2016 and to fulfil the terms of this policy. The HR Head takes a lead in implementing the programme and is responsible for planning, monitoring and reviewing the programme's progress to ensure compliance with the policy.

1. Disability Leadership Council

Disability Leadership Council comprises of representatives of all business units/functions, two elected representatives from employees with disabilities, and one external member who has extensive knowledge of disability issues.

The charter of the Disability Council is to:

- ❖ Collect periodic feedback from various stakeholders on disability barriers.
- ❖ Create an annual action plan based upon the feedback received.
- ❖ Allocate budget to implement the plan.
- ❖ Monitor the progress of the plan to ensure that the required targets are met.

The Council reports annually on the various equal opportunity activities undertaken.

2. Liaison Officer

As per the mandate of The RPWD Act, XYZ Corporation has appointed ABCD as a Liaison Officer who will be responsible for taking initiative and providing the requisite support needed to realise the goals of an inclusive and accessible workplace and reasonable accommodation.

The Liaison Officer is responsible for:

- ❖ Implementing the action plan for making the workplace and IT systems accessible for people with disabilities by liaising with the various departments in the organisation.
- ❖ Ensuring that all employees are aware of the Equal Opportunity Policy and knows their duties and rights in relation to the Equal Employment Opportunity policy.
- ❖ Developing proactive strategies to prevent discrimination and harassment.

The Liaison Officer will share the quarterly progress report with the HR Head who would then present the progress report to the CEO/MD and the Disability Leadership Council.

All employees have the responsibility to comply with the Equal Opportunity Policy. Managers and team members need to monitor the work environment to ensure that it is free from discrimination and harassment and encourages inclusion and respect for others.

All employees are encouraged to report any incidents of violation of this policy and Managers should act promptly when concerns arise or complaints are made.

Maintenance of Records

XYZ will collect and maintain data regarding employees with disabilities in relation to their employment, facilities provided and other necessary information as per The RPWD Act. All employees will be asked to fill the Voluntary Disability Self Identification Form in order to give information regarding any disability that she/he may have. An employee can edit the information at any time during her/his tenure. There will be no penalties imposed because she/he did not share information regarding her/his disability earlier. An employee who acquires disability can also edit and update the form.

The information that an employee shares about her/his disability will be kept confidential. It will be maintained in a separate file and not in her/his personal file.

Exceptions to the confidentiality clause:

- 1) Managers/Supervisors may be given information about an employee's disability for allowing/providing any accommodations.
- 2) Security personnel may be given information about an employee's disability so as to facilitate obtaining any necessary support during an emergency.
- 3) Government officials who are investigating the compliance with The RPWD Act may be given information about an employee's disability.

Grievance Redressal

Employees with disability have the right to file a complaint concerning any discrimination with the Grievance Officer who then reports to the Grievance Committee. Any policy violation i.e. when any person with disability is discriminated against or not provided reasonable accommodation or denied access to any company facility, will be regarded as a grievance.

The Grievance Committee shall consist of:

- ❖ A senior management official as the Chairperson of the Committee.
- ❖ Two employees at or above the General Manager level (one male and one female employee).
- ❖ Two employee representatives with disabilities (one male and one female employee).
- ❖ One external member from a disability organisation who is familiar with issues of discrimination on the basis of disability.

The tenure of the members of the Committee will be 3 years.

<Name, designation> is appointed as the Grievance Officer. She/he is trained in handling grievances related to disability discrimination and harassment. The Grievance Officer will maintain all records related to grievances.

The Grievance Officer and the Committee will follow the procedure of Grievance redressal as outlined in the Guidelines for conducting the Enquiry.

On investigation, if the employee against whom the complaint has been made is found guilty of discriminatory behaviour, she/he will be subjected to disciplinary actions. Possible action taken against the employee may include a reprimand, deduction of benefits for a definite or indefinite time period, demotion, denial of promotion and suspension or termination for more serious offences. Involuntary or indirect discrimination will be resolved through training, counselling and suitable modification of procedures when required to ensure fair treatment.

Affirmative Action

XYZ Corporation, for the purpose of promoting equality of opportunity, seeks to increase the representation of people with disabilities using suitable recruitment and outreach efforts. These include, but is not limited to:

- 1) Participation in job fairs, training and scholarship programmes and organising special recruitment drives and training and employment of people with disabilities who have high support needs.
- 2) All training programmes conducted for people from lower socio-economic backgrounds will be inclusive.

- 3) A certain percentage of the CSR budget will be allocated for supporting disability programmes.

Equal Opportunity Policy for establishments with less than 20 employees

As per the RPWD Rules, 2017, "The equal opportunity policy of the private establishment having less than twenty employees shall contain facilities and amenities to be provided to the persons with disabilities to enable them to effectively discharge their duties in the establishment." Their policy can be derived from the Sample Equal Opportunity Policy given in this document. It should include the establishment's commitment to ensure non-discrimination, provision of reasonable accommodations, accessible workspace, information and technology, inclusive work culture, procedure for maintaining record of employees with disabilities and a governance framework to ensure its effective implementation.

Annexure 1

The Rights of Persons with Disabilities Act, 2016⁴

Some relevant portions of the Rights of Persons with Disabilities Act, 2016 are stated below.

Chapter I: Definitions

- ❖ "establishment" includes a Government establishment and private establishment.
- ❖ "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.
- ❖ "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.
- ❖ "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.
- ❖ "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.
- ❖ "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.

⁴The Rights of Persons with Disabilities Act, 2016, accessed from the website of the Department of Empowerment of Persons with Disabilities (Divyangjan) at <http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/RPWD%20ACT%202016.pdf>

- ❖ “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.
- ❖ “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.
- ❖ “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.
- ❖ “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.
- ❖ “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.(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.

Chapter IV: Skill Development and Employment

21. (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.

21. (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. (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.

22. (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.

Chapter VI: Special Provisions for Persons with Benchmark Disabilities

35. 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 workforce is composed of persons with benchmark disability.

Chapter VIII: Duties and Responsibilities of Appropriate Governments

44. (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.

44. (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. (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.

45. (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. 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.

Chapter XII: Chief Commissioner and State Commissioner for Persons with Disabilities

74. (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.

74(2) The Central Government may, by notification, appoint two Commissioners to assist the Chief Commissioner, of which one Commissioner shall be a person with disability.

77. (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 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.

77. (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 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.

79. (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.

82. (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 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.

82. (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 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.

Chapter XIII: Special Court

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

Chapter XVI: Offences and Penalties

89. 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. (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.

90. (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.

91. 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. 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. 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 thereunder, 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.

The Schedule

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 conditions, namely: —
 - (i). visual acuity not exceeding 6/18 or less than 20/60 up to 3/60 or up to 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 sub normality of intelligence.
4. Disability caused due to—
- A. chronic neurological conditions, such as—
 - (a) "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;

(b) "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—

(a) "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;

(b) "thalassemia" means a group of inherited disorders characterised by reduced or absent amounts of haemoglobin.

(c) "sickle cell disease" means a haemolytic disorder characterised by chronic anaemia, painful events, and various complications due to associated tissue and organ damage; "haemolytic" refers to the destruction of the cell membrane of red blood cells resulting in the release of haemoglobin.

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.

The Rights of Persons with Disabilities Rules, 2017⁵

Chapter II: Rights and Entitlements

Section 3: Establishment not to discriminate on the ground of disability

(1). The head of the establishment shall ensure that the provision of sub-section (3) of section 3 of the Act are not misused to deny any right or benefit to persons with disabilities covered under the Act.

⁵The Rights of Persons with Disabilities Rules, 2017, Gazette accessed from the website of Department of Empowerment of Persons with Disabilities (Divyangjan) at <http://disabilityaffairs.gov.in/content/page/rpwds-rules.php>

- (2). If the head of the Government establishment or a private establishment employing twenty or more persons receives a complaint from an aggrieved person regarding discrimination on the ground of disability, he shall –
 - a. initiate action in accordance with the provisions of the Act; or
 - b. inform the aggrieved person in writing as to how the impugned act or omission is a proportionate means of achieving a legitimate aim.
- (3). No establishment shall compel a person with disability to partly or fully pay the costs incurred for reasonable accommodation.

Chapter IV- Employment

Section 8: Manner of publication of equal opportunity policy

- (1). Every establishment shall publish equal opportunity policy for persons with disabilities.
- (2). The establishment shall display the equal opportunity policy preferably on their website, failing which, at conspicuous places in their premises.
- (3). The equal opportunity policy of a private establishment having twenty or more employees and the Government establishments shall inter alia, contain the following, namely: -
 - a) facility and amenity to be provided to the persons with disabilities to enable them to effectively discharge their duties in the establishment;
 - b) list of posts identified suitable for persons with disabilities in the establishment;
 - c) the manner of selection of persons with disabilities for various posts, post-recruitment and pre-promotion training, preference in transfer and posting, special leave, preference in allotment of residential accommodation if any, and other facilities;
 - d) provisions for assistive devices, barrier-free accessibility and other provisions for persons with disabilities;
 - e) appointment of liaison officer by the establishment to look after the recruitment of persons with disabilities and provisions of facilities and amenities for such employees.
- (4). The equal opportunity policy of the private establishment having less than twenty employees shall contain facilities and amenities to be provided to the

persons with disabilities to enable them to effectively discharge their duties in the establishment.

Section 9: Form and manner of maintaining records by the establishments

(1). Every establishment covered under sub-rule (3) of rule 8 shall maintain records containing the following particulars, namely:-

1. the number of persons with disabilities who are employed and the date from when they are employed;
2. the name, gender and address of persons with disabilities;
3. the nature of disability of such persons;
4. the nature of work being rendered by such employed person with disability; and
5. the kind of facilities being provided to such persons with disabilities.

(2). Every establishment shall produce for inspection on demand, records maintained under these rules, to the authorities under this Act and shall supply such information which may be required for the purpose of ascertaining whether the provisions have been complied with.