

THE PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995

CHAPTER VIII

NON-DISCRIMINATION

44. Non-discrimination in transport - Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to

- a. adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons;
- b. adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.

45. Non-discrimination on the road - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for

- a. installation of auditory signals at red lights in the public roads for the benefit of persons with visually handicap;
- b. causing curb cuts and slopes to be made in pavements for the easy access of wheel chair users;
- c. engraving on the surface of the zebra crossing for the blind or for persons with low vision;
- d. engraving on the edge of railway platforms for the blind or for persons with low vision;
- e. devising appropriate symbols of disability;
- f. warning signals at appropriate places.

46. Non-discrimination in the built environment - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for

- a. ramps in public buildings;
- b. adaptation of toilets for wheel chair users;
- c. braille symbols and auditory signals in elevators or lifts;
- d. ramps in hospitals, primary health centers and other medical care and rehabilitation institutions.

THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006;

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

- (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) non-discrimination;
- (c) full and effective participation and inclusion in society;
- (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) equality of opportunity;
- (f) accessibility;
- (g) equality between men and women;
- (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

AND WHEREAS India is a signatory to the said Convention;

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

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

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Rights of Persons with Disabilities Act, 2016.

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

2. Definitions

- (b) “appropriate Government” means the Central or State Government;
- (c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society;
- (h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;
- (i) “establishment” includes a Government establishment and private establishment;
- (k) “Government establishment” means a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes a Department of the Government;
- (v) “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the appropriate Government may, by notification, specify;
- (p) “local authority” means a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution; a Cantonment Board constituted under the Cantonments Act, 2006; and any other authority established under an Act of Parliament or a State Legislature to administer the civic affairs;
- (s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;
- (w) “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement

agencies, reformatories or judicial foras, railway stations or platforms, roadways bus stands or terminus, airports or waterways;

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

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

(ze) “universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive devices including advanced technologies for a particular group of persons with disabilities.

CHAPTER II

RIGHTS AND ENTITLEMENTS

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

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

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

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

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

CHAPTER VIII

DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENTS

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

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

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

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

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

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.

(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.

(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.

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

1. Short title, extent and commencement. - (1) These rules may be called the Rights of Persons with Disabilities Rules, 2017.

(2) They extend to the whole of India.

(3) They shall come into force from the date of their publication in the Official Gazette.

CHAPTER VI

ACCESSIBILITY

15. Rules for Accessibility. - (1) Every establishment shall comply with the following standards relating to physical environment, transport and information and communication technology, namely: -

(a) standard for public buildings as specified in the Harmonised Guidelines and Space Standards for Barrier Free Built Environment for Persons with Disabilities and Elderly Persons as issued by the Government of India, Ministry of Urban Development in March 2016;

(b) standard for Bus Body Code for transportation system as specified in the notification of the Government of India in the Ministry of Road Transport and Highways, vide number G.S.R. 895(E), dated the 20th September 2016;

(c) Information and Communication Technology-

(i) website standard as specified in the guidelines for Indian Government websites, as adopted by Department of Administrative Reforms and Public Grievances, Government of India;

(ii) documents to be placed on websites shall be in Electronic Publication (ePUB) or Optical Character Reader (OCR) based pdf format: Provided that the standard of accessibility in respect of other services and facilities shall be specified by the Central Government within a period of six months from the date of notification of these rules.

(2) The respective Ministries and Departments shall ensure compliance of the standards of accessibility specified under this rule through the concerned domain regulators or otherwise.

Central Motor Vehicle Rules 1989:

125C. Body building and approval.-

(1) On a date to be notified, the testing and approval for body building of buses shall be in accordance with AIS:052:2001 as amended from time to time for vehicles mentioned therein, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986 (63 of 1986)."

(2) The testing and approval for the body building of school buses shall be in accordance with AIS:063:2005 as amended from time to time for vehicles mentioned therein, till the corresponding BIS specifications are notified under the Bureau of Indian Standards Act, 1986 (63 of 1986).]

Paras from the Petition that refer to the old Act

- 4) By this petition the petitioner is raising serious concerns about the state of mobility for persons with disabilities in the cities of Pune and Pimpri-Chinchwad and the utter failure of the public authorities concerned to provide a barrier-free environment especially with respect to the public realm (streets, roads and road infrastructure) and public transport services – **thereby egregiously violating the provisions of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as “the Act”)** and attendant policies, guidelines and actions plans prepared at various levels of Government.
- 5) The petitioner considers that it is important that the respondents understand the spirit of the **Persons with Disabilities Act**, in its true sense. **The Act seeks to ensure that there shall not be any discrimination against people living with disability while using any mode of public transportation or using any road or bridge (section 44 and section 45, Chapter VIII of the Act)** and to ensure that their right to livelihood is not denied or restricted. All the Govt. agencies concerned with providing public transport services and the design and building of road infrastructure are responsible to follow the directives mentioned in the Act.
- 6) The Central Public Works Department (CPWD) of the Ministry of Urban Development, Govt. of India which is the nodal Ministry for implementation of barrier-free building structures and environment for the disabled and elderly persons **as envisaged in Section 46 of the Persons with Disabilities Act**, has published “Guidelines and Space Standards for Barrier Free Built Environment for Disabled and Elderly Persons (1998)” (attached as “Annexure-B”) and provides detailed designs, along with dimensions, of footpaths, public toilets, ramps, lifts, bus stops and other such structures.

Some other paras also refer to the old Act in passing and may not even require to be changed.