

Government of Jammu and Kashmir
Social Welfare Department
Civil Secretariat,
Jammu/Srinagar

Notification

Jammu, the 15th March, 2021

S.O 91.-WHEREAS, a draft of the Jammu & Kashmir Rights of Persons with Disabilities Rules, 2020 was published as required by sub section (1) of section 101 of the Rights Persons With Disabilities Act, 2016 on 22.06.2020 inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of thirty days from the date, the draft rules were made available to public.

WHEREAS, objections and suggestions received from the public on the said draft rules were considered by the Government.

Now, THEREFORE, in exercise of the powers conferred by sub section (1) of section 101 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016), read with notification number S.O 3870(E) dated 12th December, 2017 issued by the Government of India, Ministry of Home Affairs, the Lieutenant Governor of Union territory of Jammu and Kashmir hereby makes the following rules; namely:-

CHAPTER-I

PRELIMINARY

1. **Short title and Commencement.-** (1) These rules may be called the Jammu and Kashmir Rights of Persons with Disabilities Rules, 2021.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definitions.-** (1) In these rules, unless the context otherwise requires,-
 - (a) "Act" means the Rights of Persons with Disabilities Act, 2016 (49 of 2016);
 - (b) "Certificate" means a certificate of disability issued by a certifying authority referred to in sub-section (1) of section 57 of the Act;
 - (c) "Certificate of registration" means a certificate of registration issued by the competent authority under section 50 of the Act;
 - (d) "Form" means a form appended to these rules; and
 - (e) "Government" means Government of the Union Territory of

(1) "Section" means the section of the Act.

(2) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER II

RIGHTS AND ENTITLEMENTS

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.

(2) On receipt of a complaint from an aggrieved person regarding discrimination on the ground of disability, the head of the private establishment employing twenty or more persons or a Government establishment 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) If the aggrieved person submits a complaint to the State Commissioner for Persons with Disabilities, the complaint shall be disposed of within a period of thirty days:

Provided that in exceptional cases, keeping in view the urgency of the subject matter of the complaint, such a complaint may be disposed off in a time period of less than thirty days, as decided by the State Commissioner.

(4) No establishment shall compel a person with disability to partly or fully pay the costs incurred for reasonable accommodation.

4. State Committee for Research on Disability.- (1) The Committee for Research on Disability at the State Level shall consist of the following members, namely:-

(a) Administrative Secretary, Health and Medical Education Department, Government of Jammu and Kashmir or Head of an Institution dealing in the field of Science and Medical research to be nominated by the Government of Jammu and Kashmir, ex officio-Chairperson;

(b) Representative from the Directorate of Health Services,

Government of Jammu and Kashmir - Member;

(c) Representative from Government Medical College Jammu/Srinagar, preferably a doctor with disability- Member;

(d) Five members as representatives from a registered Union Territory level organization representing each of the five groups of specified disabilities in the Schedule of the Act, to be nominated by the Government - Members;

Provided that at least one representative of the registered organizations is a woman;

(e) Representative from an autonomous institution in the field of Disability under the Government - Member;

(f) Director Social Welfare Jammu/Kashmir - Member Secretary (as may be notified by Social Welfare Department);

(2) The Chairperson may co-opt any expert in the subject matter of disability in which the research is proposed.

(3) The term of office of the nominated members shall be for a period of three years from the date on which they enter upon office but the nominated members shall be eligible for re-nomination for one more term.

(4) One half of the members shall constitute the quorum of the meeting.

(5) The non-official members and special invitees shall be entitled for travelling allowance and dearness allowance as admissible to a Group A or equivalent officer of the Government.

(6) The Committee shall be provided with such clerical and other staff as the Government may consider necessary.

5. Person with disability not to be a subject of research.- No person with disability shall be considered to be a subject of research except when the research involves physical impact on his body.

6. Procedure to be followed by Executive Magistrate.- For the purposes of dealing with the complaints under section 7 of the Act, the Executive Magistrate shall follow the procedure provided in sections 133 to 143 of the Code of Criminal Procedure, 1973 (2 of 1974).

CHAPTER-III
LIMITED GUARDIANSHIP

7. Limited Guardianship.- (1) The Chief Judicial Magistrate on its own or on an application filed by the person with disability, or through a blood relative or filed on behalf of the person with disability through a Government organization or a Registered organization under whose care the person with disability is residing, shall grant the support of a limited guardian to take a legally binding decision on behalf of the person with disability in consultation with such person.

(2) The Chief Judicial Magistrate, before granting the support of a limited guardian for the person with disability shall satisfy itself that such a person is not in a position to take legally binding decision on one's own.

(3) The Chief Judicial Magistrate shall hold hearings to determine the legal capacity of the person with disabilities; During such hearings, the person with disabilities shall be present. If required, expert opinion shall be sought by the court to determine the legal capacity of the person with disabilities.

(4) The validity period for limited guardianship as appointed under sub-rule (1) shall be initially for a period of three years which can be further extended by the Chief Judicial Magistrate as the case may be;

Provided that the Chief Judicial Magistrate shall follow the same procedure while extending the validity of the limited guardianship as followed while granting the initial guardianship.

(5) The Chief Judicial Magistrate shall take a decision preferably within a period of one month from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to its notice of the need of such limited guardianship; Provided that the consent of the person to act as a limited guardian shall also be obtained before grant of such limited guardianship:-

Provided that the Chief Judicial Magistrate shall follow the same procedure while extending the validity of the limited guardianship as followed while granting the initial guardianship.

(6) While granting the support of such limited guardianship, the Court shall consider a suitable person to be appointed as a limited guardian in the following preference of merit, namely:-

(a) The parents or adult children of the person with disability;

(c) Immediate brother or sister;

(e) Other Blood relatives or care givers or prominent personality of the locality; and

(d) In case the family of the person with disability is not known, Superintendent of the Government Institution or In charge of the Registered organization under whose care the person with disability is residing, may be considered.

(7) Only those individuals who are over the age of 18 years and who have not been previously convicted of any cognizable offence as defined in the Code of Criminal Procedure, 1973 (1 of 1974) shall be appointed as a limited Guardian.

(8) The limited guardian appointed under sub-rule (1) shall consult the person with disability in all matters before taking any legally binding decisions on behalf of the person with disability.

(9) The appointed limited guardian shall ensure that the legally binding decisions taken on behalf of the person with disability are in the interest of the person with disability.

8. **Appellate Authority.** - The Appellate authority to appeal against any decision of the Chief Judicial Magistrate for appointment of limited Guardian under sub- rule (1) of rule 7, shall be the District Court.

9. **Designated authority.**- The Deputy Commissioners of the concerned District, Government of Jammu and Kashmir shall be the designated authority under sub-section (1) of section 15 of the Act to take measures for creating social awareness to support persons with disabilities in exercising their legal capacity.

CHAPTER IV

EDUCATION

10. **Appointment of Nodal Officer.**- A nodal officer shall be designated in each Chief Education Office of the Department of School Education, every urban local body and in both the Directorates of Social Welfare within three months of the notification of these rules, to deal with all matters relating to admission of children with disabilities and the facilities to be provided to them in schools in accordance with the provisions of sections 16 and 31 of the Act.

11. **Terms and conditions of recognition of Educational institutions.**-(1)
The terms and conditions of grant of recognition to the educational institutions by the competent authority in the Union Territory may

✓ include the requirements to comply with the provisions of section 16 of the Act.

(2) The Government shall develop norms for recognition of special schools run by the Government and private institutions within one year of the notification of the rules.

(3) The Board of School Education Jammu and Kashmir shall develop training courses and also facilitate training of teachers in basic Braille, sign language and special education within one year of the notification of the rules.

(4) The Board of School Education Jammu and Kashmir shall take steps to develop the syllabus and learning materials, including material in braille, audio and visual formats, that are required for imparting education to children with special needs, within six months of the notification of these rules.

CHAPTER V

EMPLOYMENT AND VACANCIES FOR PERSONS WITH BENCHMARK DISABILITIES

12. Manner of publication of equal opportunity policy.- (1) Every establishment shall publish equal opportunity policy for persons with disabilities within a period of six months from the notification of these rules.

(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) Facilities and amenities 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;
- (c) 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.

13. Form and manner of maintaining records by the establishments.-

(1) Every establishment covered under sub-rule 3 of rule 12, shall maintain records containing the following particulars, namely:-

- (a) the number of persons with disabilities who are employed and the date from when they are employed;
- (b) the name, gender and address of persons with disabilities;
- (c) the nature of disability of such persons;
- (d) the nature of work being rendered by such employed person with disability; and
- (e) the kind of facilities being provided to such persons with disabilities.

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

14. Manner of maintenance of register of complaints by the Government establishments.- (1) Every Government establishment shall appoint an officer not below the rank of a Gazetted Officer as Grievance Redressal Officer:

Provided that where it is not possible to appoint any Gazetted Officer, the Government establishment may appoint the senior most Officers as a Grievance Redressal Officer.

(2) The Grievance Redressal Officer shall maintain a register of complaints of persons with disabilities with the following particulars, namely:-

- (a) date of complaint;
- (b) name of complainant;
- (c) name of the person who is enquiring the complaint;
- (d) place of incident;

- (e) the name of establishment or person against whom the complaint is made;
- (f) gist of the complaint;
- (g) documentary evidence, if any;
- (h) date of disposal by the Grievance Redressal Officer;
- (i) details of disposal of the appeal by the district level committee; and
- (j) any other information.

15. **Computation of vacancies.**-(1) Every Government establishment in order to give effect to the reservation provided to the Persons with Disability as provided in section 34 of the Act read with SO-127 dated 20th April 2020 shall take into account four percent of the total number of vacancies in the cadre strength in each group of posts, for the purpose of computation of vacancies for the persons with benchmark disabilities:

Provided that the reservation in promotion shall be in accordance with the instructions issued by the appropriate Government from time to time.

(2) Every Government establishment shall maintain a vacancy based roster for the purpose of calculation of vacancies for persons with benchmark disabilities in the cadre strength as per the instructions issued by the appropriate Government from time to time.

(3) While issuing advertisement to fill up vacancies, every Government establishment shall indicate the number of vacancies reserved for each class of persons with benchmark disabilities in accordance with the provisions of section 34 of the Act.

(4) The reservation for persons with disabilities in accordance with the provisions of section 34 of the Act shall be horizontal and the vacancies for persons with benchmark disabilities shall be maintained as a separate class.

16. **Interchange of vacancies.**:- The Government establishment shall interchange vacancies in accordance with the provisions of section 34 of the Act, only if due process of recruitment to fill up the vacancies reserved for persons with benchmark disabilities has been complied with.

17. **Submission of Returns on vacancies.**:- Every Government Establishment shall furnish returns on the vacancies as prescribed by the Central Government in the Rights of Persons with Disability Rules, 2017.

18. Form in which Record to be kept by an employer:- Every Government Establishment shall maintained the record of Employee with disabilities as prescribed by the Central Government in the Rights of Persons with Disability Rules, 2017.

CHAPTER VI

ASSISTANCE TO PERSONS WITH HIGH SUPPORT NEEDS

19. (1) Any person with bench mark Disability who is having High support needs or any person or organization on behalf of such person with bench mark disability may approach the District Social Welfare Officer of the district in which he ordinarily resides, who shall refer the case to the Assessment Board consisting of such members as may be prescribed by the Central Government.
- (2) The Government of Jammu and Kashmir shall frame schemes to provide assistance to persons with bench mark disabilities having High Support needs, within six months of the notification of these rules wherein clear time limits are set for provision of the assistance:

Provided that the schemes referred above, shall be framed after the Central Government prescribes the constitution of the Assessment Board and the manner of assessment.

CHAPTER VII

ACCESSIBILITY

20. 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 notified by the Government of India, Ministry of Road Transport and Highways, vide notification 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

- ii. documents to be placed on websites shall be in Electronic Publication (ePUB) or Optical Character Reader (OCR) based pdf format;

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

CHAPTER VIII


Certificate of Registration of Institution

21. The Joint Director in the Directorates of Social Welfare, Kashmir/Jammu Government of Jammu and Kashmir shall be the competent authority under section 49 for the purpose of registration of Institutions for Persons with Disabilities and grants to such Institutions:

Provided that in case no person is occupying the post of Joint Director the competent authority, shall be the person occupying the post next in the hierarchy.

22. Application for, and grant of certificate of registration.- (1) A person desirous of establishing or maintaining an institution for person with disabilities may make an application in Form A to the competent authority referred to in rule 21.

(2) Every application made under sub-rule (1) shall be accompanied with,

- 
- a. documentary evidence of work or proposed work in the area of disability;
 - b. the Constitution or bye laws or regulations governing the institution;
 - c. audited statement annual report and details of grants received if any in the last three years from the Government, preceding the date of application;
 - d. a statement regarding total number of persons employed in the Institution along with their respective duties;
 - e. the number of professionals employed in the Institution;
 - f. a statement regarding qualifications of the professionals employed by the Institution; and
 - g. the proof of residence of the applicant.

(3) Every application made under sub rule (1) shall comply with the following requirements in respect of the concerned institution, namely:-

- a. that the institution is registered under the Indian Societies Registration Act, 1860 (XXI of 1860)/Indian Trust Act and a copy of such registration certificate/trust deed along with the bylaws and memorandum of association of the society shall accompany the application.
- b. that the institution has not been running to profit any individual or a body of individuals;
- c. that the institution has employed professionals registered with the Rehabilitation Council of India to cater to the special needs of Persons with disabilities;
- d. that the institution has adequate teaching and learning material in accessible format for the persons with disabilities;
- e. that the institution is working or proposing to work in the field of rehabilitation of persons with disabilities on the date on which the application is made.

(4) The certificate of registration under this rule, unless revoked under section 52 of the Act, shall remain in force for a period of five years from the date on which it is granted or renewed.

(5) An application for the renewal of certificate of registration shall, be made in the same manner as the application for grant of certificate under sub-rule (1) accompanied with the previous certificate of registration and a statement that the applicant is applying for renewal of the certificate so accompanied:

Provided that such application shall be made before sixty days of the expiry of the validity of such certificate:

Provided further that the competent authority may consider application for renewal of the certificate of registration after 60 days but not later than 120 days, if he is satisfied that sufficient reasons have been provided for such delay.

(6) If the application for renewal of certificate of registration is made before its expiry as specified in the proviso to sub-rule (5), the certificate of registration shall continue to be in force until orders are passed on the application and the certificate of registration shall be deemed to have expired if application for its renewal is not made within sixty days as specified in the said proviso.

(7) Every application made under sub-rule (1) or sub rule (5), in which the competent authority referred to in sub-section (1) of section 51 of the Act, is satisfied that the requirements for grant of certificate of registration under the Act and these rules have been complied with, shall be disposed of by it within a period of ninety days thereafter.


(8) Form of issue of Certificate of Registration, refusal and revocation.-

(a) Upon making suitable enquires into the functioning of the organization and being satisfied that the organization can be registered under the provisions of section 51, the competent authority shall issue the Certificate of registration to the organization in Form-B.

(b) The Competent authority may refuse to grant the certificate of Registration after suitable enquires and the same shall be communicated to the organization within a period of ninety days of its application for registration in Form-C.

Provided that such communication shall be preceded by the granting of opportunity to the applicant organisation to state its case before the competent authority on a date not later than 15 days from the date of issue of the letter intimating the grant of opportunity.

(c) A certificate of Registration granted under section 51 of the Act may be revoked by the competent authority under provisions of sub-section (1) of section 52 of the Act and such revocation shall be communicated to the organization in Form -D.

 23. **Appeal against the order of competent authority:-** Any person aggrieved by the order of the competent authority referred to in sub-section (1) of section 51 of the Act, refusing to grant a certificate of registration or revoking a certificate of registration may, within thirty days from the date of the order, prefer an appeal against that order to the Director, Social Welfare Department Jammu/Kashmir who shall function as appellate authority under sub-section (1) of section 53 of the Act. The Director, Social Welfare Department Jammu/Kashmir as the case may be, may after such enquiry into the matter as is considered necessary and after giving the appellant an opportunity of hearings, make such order as deemed fit:

Provided that where an order is issued by the Director, Social Welfare, as the competent authority, any appeal against such

order shall be heard and decided by the Administrative Secretary, Social Welfare Department.

CHAPTER IX

CERTIFICATE OF DISABILITY

24. Application for certificate of disability.- (1) Any person with specified disability, may apply in Form -I for a certificate of disability, and submit the application to,-

- a. a medical authority or any other notified competent authority to issue such a certificate in the district of residence of the applicant as mentioned in the proof of residence in the application; or
- b. the concerned medical authority in a government hospital where the person with specified disability may be undergoing or may have undergone treatment in connection with such disability;

Provided that where a person with disability is a minor or having intellectual disability or any other disability which renders the person with disability unfit or unable to make such an application, the application on behalf of the person with disability may be made by the legal guardian of such a person with disability or the authorized representative of a Government organization having the person with disability under its care or any organization registered under the Act having the person with disability under its care.

(2) The application shall be accompanied by,-

- (a) proof of residence;
- (b) two recent passport size photographs; and
- (c) Aadhaar number or aadhaar enrollment number, if any.

Note.- No other proof of residence shall be demanded from the applicant who has aadhaar or aadhaar enrollment number.

25. The Department of Health and Family Welfare, Government of Jammu and Kashmir shall notify the certifying authorities who shall be competent to issue a certificate of disability and the jurisdiction and terms and conditions subject to which the certifying authority shall perform its certification functions as per the provisions of sub-sections (1) and (2) of section 57 of the Act.

26. Issue of certificate of disability.- (1) On receipt of an application under rule 24, the medical authority or any other notified competent authority

shall, verify the information as provided by the applicant and shall assess the disability in terms of the relevant guidelines issued by the Central Government and after satisfying itself that the applicant is a person with disability, issue a certificate of disability in favor of the applicant in Form II, III & IV as the case may be.

(2) The medical authority shall issue the certificate of disability within a month from the date of receipt of the application.

(3) The medical authority shall, after due examination,-

(i) issue a permanent certificate of disability in cases where there are no chances of variation of disability over time in the degree of disability; or

(ii) issue a certificate of disability indicating the period of validity, in cases where there is any chance of variation over time in the degree of disability.

(4) If an applicant is found ineligible for issue of certificate of disability, the medical authority shall convey the reasons to the applicant in writing under Form V within a period of one month from the date of receipt of the application.

27. Validity of Certificate issued under rule 26 .- A person to whom the certificate is issued under rule 26 shall be entitled to apply for all facilities, concessions and benefits admissible for persons with disabilities under schemes of the Government and of non-Governmental organizations funded by the Government.

28. Validity of certificate of disability issued under the repealed Act.-The certificate of disability issued under The Jammu and Kashmir Persons with Disabilities Act, 2018 shall continue to be valid after commencement of the Act for the period specified therein.

29. Appeal against the decision of the authority issuing certificate of disability.- (1) Any person aggrieved with the decision of the certifying authority issuing the certificate of disability may within ninety days from the date of the decision, prefer an appeal to the appellate authority as notified by the Government of Jammu and Kashmir for the purpose under sub-section (1) of section 59 of the Act in the following manner:-

a. The appeal shall contain brief background and the grounds for making the appeal;

b. The appeal shall be accompanied by a copy of the order of rejection issued by the certifying authority;

Provided that where a person with disability is a minor or having any disability which renders the person with disability



unfit to make such an appeal, the appeal on behalf of the person with disability may be made by his legal or limited guardian as the case may be.

(2) On receipt of such an appeal, the appellate authority shall provide the appellant an opportunity to present the appellant's case and thereafter pass such reasoned and detailed order as it may deem appropriate.

(3) Every appeal preferred under sub-rule (1) shall be decided as expeditiously as possible and not later than a period of sixty days from the date of receipt of the appeal

CHAPTER X

ALLOWANCES FOR THE MEMBERS OF STATE ADVISORY BOARD

30. The Non-official Members of the State Advisory Board on disability shall be paid an allowance of rupees one thousand per day for each day of the actual meetings of the said Board.

31. Notice of the Meeting.- (1) The meetings of the State Advisory Board on disability constituted under sub-section (1) of section 66 of the Act (hereinafter in this Chapter referred to as 'the Board') shall ordinarily be held in the office/ Meeting hall of the Chairperson on such dates as may be fixed by the Chairperson:

Provided that it shall meet atleast once in every six months.

(2) The Chairperson of the Board shall, upon the written request of not less than ten members of the Board, call a special meeting of the Board.

(3) Fifteen clear days notice of an ordinary meeting and five clear days' notice of a special meeting specifying the time and the place at which such meeting to be held and the business to be transacted thereat, shall be given by Member-Secretary of the Board to the members of the Board.

(4) Notice of a meeting may be given to the members of the Board by delivering the same to them by messenger or sending it by registered post to their respective last known places of residence or business or by email or in such other manner as the Chairperson of the Board may, in the circumstances of the case, thinks fit.

(5) No member of the Board shall be entitled to bring forward for the consideration of the meeting any matter of which the member has

not given ten clear days' notice to the Member Secretary of the Board, unless permission is granted to the member to do so on the discretion of the Chairperson of the Board.

(6) The Board may adjourn its meeting from day to day or any particular day as under:

- (a) Where a meeting of the Board is adjourned from day to day, notice of such adjourned meeting shall be given, to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to the rest of the members;
- (b) Where a meeting of the Board is adjourned not from day to day but from the day on which the meeting is to be held to another date, notice of such meeting shall be given to all the members of the Board in the manner as specified in sub-rule(4).

32. **Presiding Officer.-** The Chairperson of the Board shall preside at every meeting of the Board and in the absence of the Chairperson, the Vice-Chairperson thereof shall preside, but when both the Chairperson and the Vice-Chairperson of the Board are not present in the meeting, the Chairperson may nominate any elected representative (member)/Senior most official member to preside over the meeting. Where no such nomination is provided, the members of the Board shall select one of the members to preside at that meeting.

33. **Quorum.-** (1) One-third of the total members of the Board shall form the quorum for any meeting.

(2) If at any time fixed for any meeting or during the course of any meeting less than one-third of the total members of the Board are present, the Chairperson thereof may adjourn the meeting to such hours on the following or on some other future date as may be fixed by the Chairperson.

(3) No quorum shall be necessary for the adjourned meeting of the Board.

(4) No matter which had not been on the agenda of the ordinary or the special meeting of the Board, as the case may be, shall be discussed at its adjourned meeting.

(5) (a) Where a meeting of the Board is adjourned under sub-rule(2) for want of quorum to the following day, notice of such adjourned meeting shall be given to the members of the Board available at the

place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to other members; and

(b) Where a meeting of the Board is adjourned under sub-rule(2) for want of quorum not to the following day, but on a date with sufficient gap, notice of such adjourned meeting shall be given to all the members of the Board in the manner as specified in sub-rule (4) of rule 31.

34. Minutes.- (1) Record shall be kept of the names of all the members of the Board who attended the meeting of the Board and of the proceedings at the meetings in a book to be maintained for that purpose by the Member-Secretary of the Board.

(2) The minutes of the previous meeting of the Board shall be read at the beginning of every succeeding meeting, and shall be confirmed and signed by the presiding officer at such meeting.

(3) The proceedings shall be open to inspection by any member of the Board at the office of the Member-Secretary of the Board during office hours.

35. Business to be transacted at meeting.- Except with the permission of the presiding officer, no business which is not entered in the agenda or of which notice has not been given by a member under sub-rule (5) of rule 31 shall be transacted at any meeting of the Board.

36. Agenda for the meeting of the State Advisory Board.- At any meeting of the Board, business shall be transacted in the order in which it is entered in the agenda, unless otherwise resolved in the meeting with the permission of the presiding officer.

Provided that either at the beginning of the meeting of the Board or after the conclusion of the debate on a motion during the meeting, the presiding officer or a member of the Board may suggest a change in the order of business as entered in the agenda and if the Chairperson of the Board agrees, such a change shall take place.

37. Decision by majority.- All questions considered at a meeting of Board shall be decided by a majority of votes of the members of the Board present and voting and in the event of equality of votes, the Chairperson of the Board, or in the absence of the Chairperson, the Vice-Chairperson of the Board or in the absence of both the Member presiding at the meeting, as the case may be, shall have a second or casting vote.

✓ 38. No proceeding to be invalid due to vacancy or any defect.- No proceeding of the Board shall be invalid by reasons of existence of any vacancy in or any defect in the constitution of the Board.

39. District level Committee.- (1) The District Level Committee on disability referred to in section 72 of the Act, shall consist of the following persons, namely:-

- (i) District Magistrate/Deputy Commissioner, concerned District Ex- officio Chairperson
- (ii) Chief District Medical Officer Member;
- (iii) Psychiatrist of a District Hospital Member;
- (iv) Public Prosecutor of the District Member;
- (v) Assistant Labour Commissioner Member
- (vi) One Representative from each Local Body, ICDS Project, and Public Works Department of the Government of Jammu and Kashmir Member
- (vii) Representative of a Registered Organization having at least five years experience of working in the field of disability to be nominated by District Social Welfare Officer concerned Member
- (viii) Person with disability as defined in clause(s) of section 2 of the Act Member
- (ix) Any other member as invited by the Chairperson Member
- (x) District Social Welfare Officer, concerned District Member
Secretary

(2) The District Level Committee for each District shall be by an order issued by the Deputy Commissioner of the District and its tenure shall be for a period of three years from the date of its constitution.

40. Functions of the Committee.- The District-Level Committee on disability shall perform the following functions, namely:-

- a. advise the District authorities on matters relating to


✓
rehabilitation and empowerment of persons with disabilities;

- b. monitor the implementation of the provisions of the Act and the rules;
- c. assist the District authorities in implementation of schemes and programmes of the Government for empowerment of persons with disabilities;
- d. look into the complaints relating to non-implementation of the provisions of the Act by the District authorities and recommend suitable remedial measures to the concerned authority to redress such complaints;
- e. look into the appeal made by the employees of Government establishments aggrieved with the action taken by the District level establishments under sub-section (4) of section 23 of the Act and recommend appropriate measures; and
- f. any other functions as may be assigned by the Government of Jammu and Kashmir.

CHAPTER XI

STATE COMMISSIONER FOR PERSONS WITH DISABILITIES

41. Qualification for appointment of State Commissioner.— A person shall not be qualified to be appointed as a State Commissioner for Persons with Disability under sub-section (1) of section 79 of the Act unless the person:-

- 
- (i) has special knowledge or practical experience in respect of the matters relating to rehabilitation of persons with disabilities;
 - (ii) has not attained the age of sixty years on the 1st January of the year in which the last date for receipt of applications, as specified in the advertisement inviting applications for appointment of the Union Territory Commissioner, occurs;
 - (iii) if in service under the Central Government or a State/Union Territory Government, shall seek retirement from such service before being appointed to the post; and
 - (iv) possesses the following educational qualifications and experience, namely:-
 - (a) Educational qualifications:-
 - (i) Essential: Graduate from a recognized university;

(a) desirable: recognized degree or diploma in social work or law or management or human rights or rehabilitation or education of disabled persons.

(b) Experience: at least twenty years experience in a Group 'A' level or equivalent post:-

(i) in Central or State Government or

(ii) Public Sector Undertakings or Semi Government or Autonomous Bodies dealing with disability related matters or social sector or

(iii) works in the capacity of a senior level functionary in a registered Union Territory or national or international level voluntary organization working in the field of disability or social development:

Provided that out of the total twenty years experience mentioned in this sub-clause, at least ten years of experience in the recent past had been in the field of empowerment of persons with disabilities.

42. **Mode of appointment of the State Commissioner.**- (1) At least six months before the post of State Commissioner is due to fall vacant, an advertisement shall be published in at least two national or Union Territory level daily newspapers, one in English and the other in the vernacular language inviting applications for the post from eligible candidates fulfilling the criteria mentioned in rule 41.

(2) A Search-cum-Selection Committee shall be constituted by the Government of Jammu and Kashmir to recommend to it a panel of three suitable candidates for the post of the State Commissioner.

(3) **Composition of the Search-cum-Selection Committee.**- The Search cum Selection committee shall be headed by the Chief Secretary and shall consist of Administrative Secretary, Social Welfare Department, Health & Family Welfare Department, School Education Department and Divisional Commissioner Jammu/Kashmir.

(4) The panel recommended by the Search-cum-Selection Committee under sub-rule (2) may consist of persons from amongst those who have applied in response to the advertisement made under sub-rule (1) as well as from other willing eligible persons in the employment of Central or State Government whom the Committee may consider suitable.

(5) The Government shall appoint one of the candidates out of the panel recommended by the Search-cum-Selection Committee under sub-rule (2) as the State Commissioner.

43. **Term of the State Commissioner.-** (1) The State Commissioner shall be appointed on full-time basis for a period of three years from the date of assumption of office, or till the attainment of the age of sixty-five years, whichever is earlier.

(2) A person may serve as State Commissioner for a maximum of two terms, subject to the upper age limit of sixty-five years.

44. **Salary and allowances of the State Commissioner.-** (1) salary and allowances of the State Commissioner shall be the salary and allowances as admissible to a Secretary to the Government of Jammu and Kashmir.

(2) Where a State Commissioner, being a retired government servant or a retired employee of any institution or autonomous body funded by the Central or State Government, is in receipt of pension in respect of such previous service, the salary admissible to the State Commissioner under these rules shall be reduced by the amount of the pension, and if in lieu of a portion of the pension, the commuted value thereof has been received, by the amount of such commuted portion of the pension.

45. **Other terms and conditions of service of the State Commissioner.-** The other terms and conditions of service of State Commissioner shall be such as specified below, namely:

a. **Leave:** The State Commissioner shall be entitled to such leave as is admissible to Group 'A' officer under the relevant provisions of the Jammu and Kashmir Civil Service Rules applicable on them.

b. **Leave Travel Concession:** The State Commissioner shall be entitled to such Leave Travel Concession as is admissible to Group 'A' officers under relevant provisions of the Jammu and Kashmir Civil Service Rules applicable on them.

c. **Medical Benefits:** The State Commissioner shall be entitled to such medical benefits as is admissible to Group 'A' officers under the relevant provisions of the Jammu and Kashmir Civil Service Rules applicable on them.

46. **Resignation and removal.-** (1) The State Commissioner may resign from the post by giving a notice in writing, addressed to the

Government. However, the Commissioner shall continue to remain in office until his/her resignation is accepted by the Government.

(2) The Government shall remove the person appointed to the office of the State Commissioner, if the person:-

- (a) becomes an undischarged insolvent; or
- (b) engages during the term in office in any paid employment or activity outside the duties of the office; or
- (c) is convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude; or
- (d) is in the opinion of the Government, unfit to continue in office by reason of serious default in the performance of functions of the State Commissioner as laid down in the Act; or
- (e) without obtaining leave of absence from the Government of Jammu and Kashmir remains absent from duty for a consecutive period of fifteen days or more; or
- (f) has, in the opinion of the Government so abused the position of the State Commissioner as to render continuance in the office detrimental to the interest of persons with disability:

Provided that no State Commissioner shall be removed from office under this rule except after following the procedure, mutatis mutandis, applicable for removal of a Group 'A' officer of the Government.

(3) The Government may suspend a State Commissioner, in respect of whom proceedings for removal have been commenced in accordance with sub-rule (2), pending conclusion of such proceedings.

47. **Residuary provision.**- The other conditions of service of the State Commissioner, in respect of which no express provision has been made in these rules, shall be determined by the rules and orders for the time being applicable to the Secretary to the Government.

48. **Advisory Committee to assist the State Commissioner.**- (1) The Government of Jammu and Kashmir shall appoint an Advisory Committee comprising five experts to represent each of the five groups of specified disabilities mentioned in the Schedule to the Act, of whom two shall be women.

(2) The State Commissioner may invite subject or domain expert as per the need who shall assist the State Commissioner in meeting or hearing and in preparation of the report.

(3) The tenure of the members of the Advisory Committee shall be for a period of three years and the members shall not be eligible for re-nomination.

(4) The non-official members of the Advisory Committee shall be paid an allowance of rupees one thousand per day for each day of the actual meeting. The revision of allowances shall be considered after two years or at such interval as Government may deem appropriate, whichever is later.

49. Procedure to be followed by State Commissioner.- (1) A complainant may present a complaint containing the following particulars in person or through an agent to the State Commissioner or send it by registered post or by email addressed to the Union Territory Commissioner, namely:-

- a. the name, description and the address of the complainant;
- b. the name, description and the address of the opposite party or parties, as the case may be, so far as they may be ascertained;
- c. the facts relating to complaint and when and where it arose;
- d. documents in support of the allegations contained in the complaint; and
- e. the relief which the complainant claims.

(2) The State Commissioner on receipt of a complaint shall refer a copy of the complaint to the opposite party or parties mentioned in the complaint directing to submit their version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the State Commissioner.

(3) On the date of hearing or any other date to which hearing could be adjourned, the parties or their agents shall appear before the State Commissioner.

(4) Where the complainant or the complainant's agent fails to appear before the State Commissioner on such days, the State Commissioner may either dismiss the complaint on default or decide on merits.

(5) Where the opposite party or the opposite party's agent fails to appear on the date of hearing, the State Commissioner may take such necessary action under section 82 of the Act as he deems fit for summoning and enforcing the attendance of the opposite party.

(6) The State Commissioner may dispose of the complaint ex-parte, if necessary.

(7) The State Commissioner may on such terms as deemed fit and at any stage of the proceedings, adjourn the hearing of the complaint.

(8) The State Commissioner shall decide the complaint as far as possible within a period of three months from the date of receipt of notice by the opposite party.

50. Submission of annual reports.- (1) The State Commissioner shall as soon as may be possible after the end of the financial year, but not later than the 30th day of September in the next year ensuing, prepare and submit to the Government, an annual report giving a complete account of activities of the office of the State Commissioner during the said financial year.=

(2) In particular, the annual report referred to in sub-rule (1) shall be in the form so that the details of separate matters be provided under separate heads inter-alia containing therein information in respect of each of the following matters, namely:-

- (a) names of officers and employees in the office of the State Commissioner and a chart showing the organizational set up;
- (b) the functions which the State Commissioner has been empowered with under the Act and the highlights of the performance in this regard;
- (c) the main recommendations made by the Union Territory Commissioner;
- (d) progress made in the implementation of the Act in the State of Jammu and Kashmir ; and
- (e) any other matter deemed appropriate for inclusion by the State Commissioner or specified by the Government from time to time to be included in the report.

CHAPTER XII

PUBLIC PROSECUTOR

51. Appointment of Public Prosecutor.- (1) The Public Prosecutor to be appointed under section 85 of the Act in every Special Court shall have,-

- a. practical experience of handling cases preferably of persons with disabilities;
- b. experience at the Bar of not less than seven years; and
- c. shall be well versed with local language and customs.

✓
(2) The fee and other remunerations of the Special Public Prosecutor specified or appointed under sub-section (1) of section 85 of the Act shall be such as may be notified by the Government.


CHAPTER XIII

UNION TERRITORY FUND FOR PERSONS WITH DISABILITIES

52. Union Territory Fund for Persons with Disabilities and its management.- (1) There shall be credited to the State Fund for persons with disabilities hereinafter referred to as 'the Union Territory Fund -

- a. all sums received by State Commissioner by way of grant, gifts, donations, benefactions, bequests or transfers;
- b. all sums received from the Government including grants-in-aid; and
- c. all sums received from Corporate houses/ PSUs under CSR or from such other sources as may be decided by the Government.
- d. All sums received from the Government by way of 'Permanent Corpus'

(2) There shall be a governing body consisting of following members to manage the Union Territory Fund, namely:-

- 
- (a) Administrative Secretary, Department of Social Welfare - Chairperson;
 - (b) One representative from the Department of Finance
 - (c) One representative from the Department of Planning Development and Monitoring Department.
 - (d) One representative of the Department of Health and Family Welfare,
 - (e) One representative of the Department of School Education.
 - (f) One representative of the Department of Rural Development,
 - (g) One representative of the Department of Housing & Urban Development, (not below the rank of a Additional Secretary).....Members;
 - (h) two persons representing different types of disabilities to be nominated by the Government of Jammu and Kashmir, by rotation - Members;
 - (i) Director(s), Social Welfare Jammu/ Kashmir - Convener and Chief Executive Officer(as may be notified by the UT Government).

(3) The governing body shall meet as often as necessary, but at least once in every financial year.

(4) The nominated members shall hold office for not more than three years.

(5) No member of the governing body shall be a beneficiary of the Fund during the period such Member holds office.

(6) The nominated non-official members shall be eligible for payment of travelling allowance and dearness allowance as admissible to a Group A officer of the Government for attending the meetings of the governing body.

(7) No person shall be nominated under clause (b) and (c) of sub-rule 2 as a member of the governing body who-

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

(b) is, or at any time has been, adjudicated as an insolvent.

53. Utilization of the Union Territory Fund.- (1) The Union Territory Fund shall be utilized for the following purposes, namely:-

a. financial assistance in the areas which are not specifically covered under any scheme and programme of the Government of Jammu and Kashmir;

b. administrative and other expenses of the Fund, as may be required to be incurred by or under the Act; and

c. such other purposes as may be decided by the governing body.

(2) Every proposal of expenditure shall be placed before the governing body for its approval.

(3) The governing body may appoint secretarial staff including accountants with such terms and conditions as it may think appropriate to look after the management and utilization of the Union Territory Fund based on need based requirement.

(4) The Union Territory Fund shall be invested in such manner as may be decided by the governing body.

54. Budget.- The Chief Executive Officer of the Union Territory Fund shall prepare the budget for incurring expenditure under the Union Territory Fund in each financial year showing the estimated receipt and

expenditure of the Fund, in January every year and shall place the same for consideration of the governing body.

55. **Annual Report.**- The annual report prepared by the Union Territory Commissioner for persons with Disabilities shall include a chapter on the Union Territory Fund.

By Order of the Lieutenant Governor of Jammu and Kashmir.

Sd/-

(Bipul Pathak) IAS

Principal Secretary to the Government

Dated: 15-03-2021

No: SW/Adm/29/I

Copy to:-

1. All Financial Commissioners.
2. Director General of Police, J&K.
3. All Principal Secretaries to the Government.
4. Principal Resident Commissioner, J&K Government, New Delhi.
5. Principal Secretary to the Lieutenant Governor.
6. All Commissioners/Secretaries to the Government.
7. Chief Electoral Officer, J&K.
8. Chairman, J&K Special Tribunal.
9. Joint Secretary (J&K), Ministry of Home Affair, Government of India.
10. Divisional Commissioner, Jammu/Kashmir.
11. Director General, J&K Institute of Management, Public Administration and Rural Development.
12. All Heads of Departments/Managing Directors
13. All Deputy Commissioners.
14. Director, Information, J&K.
15. Secretary, J&K Public Service Commission.
16. Director, Estates, J&K.
17. Director, Archives, Archaeology and Museums, J&K.
18. Private Secretary to the Lieutenant Governor.
19. Secretary, J&K Services Selection Board.
20. General Manager, Government Press, Jammu/Srinagar.
21. Private Secretary to Advisor (F) to Lieutenant Governor.
22. Private Secretary to Advisor (B) to Lieutenant Governor.
23. Private Secretary to Advisor (BK) to Lieutenant Governor.
24. Private Secretary to the Chief Secretary.
25. Private Secretary to Commissioner/Secretary to the Government, General Administration Department.
26. In-charge Website, Social Welfare Department.
27. Stock file.

(Mohammad Iqbal Mir) KAS
Under Secretary to Government
Social Welfare Department