APPENDICES

APPENDIX A

Questionnaires

I. Questionnaire for Consumers

PERSONAL INFORMATION

1. Name and address of the person
2. Age
3. Since how long are you visually impaired? By birth/After birth/Below the age of 25/Above the age of 25
4. Cause of the visual impairment. Hereditary/Any other disease/Accidental
5. What is your status? Student/Unemployed/Employee
6. What is the economic status of you and your family? Poor/Middles/Rich
7. What is the total monthly income of you and your family members?
8. How many brothers and sisters do you have in your family?
9. What is the visual status of your family members, i.e., your brothers and sisters? All are sighted/Some of them are visually impaired/All of them are visually impaired
10. What was the visual status of your parents? Both were sighted/One of them is visually impaired
11. Are you getting unemployment allowance? Yes/No
12. If yes, how much amount do you get?
13. What do you want to be in your life? Joining employment/Doing self-employment
14. Where do you reside? Urban area/Rural area
15. How do you find your family members or other members of the society? Sympathetic/Apathetic/Empathetic/Mixed
16. What do you wish to be for the society? Part of the society/Unconcerned
17. As a visually impaired, do you find any problem with the society? Yes/No
18. If no, do you think that you may achieve the achievable? Yes/No
19. If yes, what kind of problems do you have? Social/Economic/Psychological/all
20. Do you accept those problems as the inseparable part of the life? Yes/No

AWARENESS

1. Do you know that in the post-apartheid South Africa/India certain policies and programmes are being taken up by the government for the visually challenged? Yes/No
2. Is there any equality provision in the constitution of the Republic of South Africa/India? Yes/No
3. If yes, do you know that the disabilities have also been included in the non-discrimination provision? Yes/No
4. Do you know that present government has made some provisions for the education for all? Yes/No
5. If yes, do you know that it implies that the same should be applicable for the education for the visually impaired? Yes/No
6. Do you know that there is something known as affirmative action and for this the Government of the Republic of South Africa/India has brought forth some acts? Yes/No

EDUCATION

1. How many schools for the visually impaired are there in the Republic of South Africa/India? Yes/No
2. What is the average strength of those schools?
3. Do special schools provide free education and boarding and lodging facilities? Yes/No
4. Are you supposed to pay for the special equipments for your studies during your stay in the school? Yes/No
5. Is mathematics and science compulsory till the end of the schooling? Yes/No
6. If yes, is there any special provision for the special equipments for you? Yes/No
7. How do you manage for the experiments relating to the science, particularly experiments in which vision is required? Doing it yourself/Seeking help of others
8. Is there any special equipment for geometry? Yes/No
9. If yes, what is its name? 
10. Do you get the tactile geography maps? Yes/No
11. Is there any Braille library in your school? Yes/No
12. Are you satisfied with its arrangements? Yes/No
13. If no, what are your suggestions for its improvement? Increasing the number of the books/Increasing the variety of the books/Both
14. Is there audio library in your school? Yes/No
15. If yes, are you satisfied with its performance? Yes/No
16. If no, what are your suggestions for its improvement? Increasing the number of the audio books/Increasing the variety of the audio books/Both
17. Is there any provision for physical fitness in your school in terms of regular physical exercises? Yes/No
18. Is there any provision for the in-door games in your school? Yes/No
19. Is there any physical instructor in your school? Yes/No
20. Is there a playground in your school? Yes/No
21. Is there any special provision for the low vision students? Yes/No
22. If yes, are they being provided large print books? Yes/No
23. Are there arrangements of magnifying glass or other lenses for them? Yes/No
24. Are there any regular eye checkups for the preventable visual impairment? Yes/No
25. If yes, is there any provision for free treatment for them? Yes/No
26. If yes, what is your opinion for this provision? Excellent/Satisfactory/Non-satisfactory
27. Is there provision for vocational training along with the education? Yes/No
28. Is there any provision for the inclusive/integrated education? Yes/No
29. If yes, is there any special facility for the physically challenged in general and visually challenged in particular? Yes/No
30. Is education free in the mainstream schools? Yes/No
31. How are they being taught there? Same class/By special provision
32. Is there any special provision in terms of resource room, learning Braille etc.? Yes/No
33. If yes, what type of arrangement is there? 
34. Do they take part in extra-curricular activities? Yes/No
35. If yes, specify some of the events. 
36. Do they take part in sports? Yes/no
37. If yes, specify some of the sports. 
38. How do they appear in the class tests/examinations? With the help of writer/on computer/through Braille
39. Is there any special facility for the visually impaired in the tertiary education? Yes/No
40. If yes, are these facilities sufficient? Sufficient/Needed to be updated
41. Is there any provision of the scholarship/bursary at the tertiary level? Yes/No
42. Is there any provision of the reader allowance for the visually impaired as the part of the bursary or separately at the tertiary level? Yes/No
43. Are these provisions sufficient to meet the cost of the studies? Yes/No
44. Is there any national Braille library to cater the need at the national level? Yes/No
45. Is there any national audio library to cater the need at the national level? Yes/No
46. Is there any subsidy on the purchase of the equipments for the visually impaired? Yes/No
47. If no, is there any voluntary organization which is looking after this problem? Yes/No
48. Is there any provision of interest free loan for the computer for tertiary education/better employment? Yes/No
EMPLOYMENT, TRAINING AND REHABILITATION

1. Is there any special teacher’s training centre for the training of elementary school teachers for the visually impaired children? Yes/No
2. By whom is it being run? Government/Private/Voluntary organization
3. Is possession of recognized degree/certificate mandatory for teaching the visually impaired children? Yes/No
4. Are there special teacher’s training programmes for teaching the visually impaired at the secondary level? Yes/No
5. Who regulates the training of the teachers? Government/Private/Voluntary organization
6. Are there special programmes for training vocational instructors for the visually impaired? Yes/No
7. Are there special aptitude tests to determine what vocational training is given to the visually impaired? Yes/No
8. Is there any national body to regulate and standardize the training of the teachers for the visually impaired at all levels? Yes/No
9. Is there reservation of jobs for the visually impaired? Yes/No
10. If yes, what is the percentage of reservation? Yes/No
11. If no, what are the protective measures to protect their economic interest? Yes/No
12. Have special posts been identified for the visually impaired? Yes/No
13. Are these protective measures available in all jobs? Yes/No
14. Are these measures available even in the private sectors? Yes/No
15. Are they able to obtain employment as lecturers, professors or other white collared jobs? Yes/No
16. Do people take up self-employment? Yes/No
17. Does government provide any financial assistance for the self- employment? Yes/No
18. Do other financial institutions come forward to assist the visually impaired? Yes/No
19. Is there any allocation of fund to assist the self-employment for the visually impaired? Yes/No
20. Is there any reservation in the allotment of the accommodation to the visually impaired? Yes/No
21. Is there any financial support from the banks/government for this purpose? Yes/No
22. Do you think that the private business entertains sufficiently the visually impaired for the employment? Yes/To some extent/To a greater extent/Not at all
23. Is there any special provision of conveyance allowance for the visually impaired which becomes the part of their salary? Yes/No
24. Are health care services available to the visually impaired free of cost? Yes/No
25. Is there any provision for the visually impaired senior citizen? Yes/No
26. Are there homes for the aged? Yes/No
27. What financial assistance is provided by the state to the visually impaired senior citizens?
II. Questionnaire for Different Government Departments

CONSTITUTIONAL PROVISIONS

1. Is there any constitutional provision for the disability/differently challenged/physically handicapped in general and the visually impaired/visually challenged in particular? If yes, please enclose a brief resume in the given space or on a separate sheet.
2. Have the constitutional provisions actually been implemented? Fully implemented/partially implemented/not at all implemented
3. Are the constitutional provisions beneficial to the visually impaired people at all ages and even living in the remote rural areas? Yes/No/To some extent/To a greater extent
4. Is elementary/primary education guaranteed to the visually impaired children by the constitution? Yes/No
5. Is the social security guaranteed to the visually challenged by the constitution? Yes/No
6. Are the constitutional provisions regarding disabilities/physically challenged persons arbitrary or constitute a guiding principles of the state policies?

ROLE OF THE NATIONAL GOVERNMENT

1. Does national government confine itself to policy formulation? Yes/No
2. Does it undertake programme implementation? If so, what kind of programmes is implemented by the National Government? (Please give a brief resume of the programmes).
3. Are the education and rehabilitation of the visually impaired part of the national planning process? If so, what has been the allocation in the last five years and how far has this allocation been utilized? Please give examples of new plan programmes being implemented or proposed to be implemented in the coming years.
4. Is education a significant part of the national plans? If so, what kind of education is being encouraged for the visually impaired? Special education/Inclusive education/Mixed education.
5. Has inclusive education been introduced? Yes/No
6. Is there any fixed percentage or preferential treatment in providing admission for the physically challenged in general and the visually impaired in particular? (Give the detail).
7. What is the percentage of visually impaired children in the primary education/in the high school level/in the tertiary/higher education?
8. Has inclusive education been accepted as a matter of policy? Yes/No
9. How far has education of the visually impaired become a part of the general education system? For all subjects/Confined to some subjects
10. How do the visually impaired persons learn reading, writing and rhetoric in a general school? By a specially trained teacher for this purpose/With the provision of a resource room having a specially trained teacher/By an ordinary routine teacher
11. How the vocational training is imparted to the visually impaired? Through Special Centres/General Centres
12. What is the percentage of the trained visually impaired in the employment even if there is a proviso of the preferential treatment?
14. What assistance is provided by the state to the self-employed visually impaired entrepreneurs? Cent percent/Above 75%/Above 50%/Above 25%/None
15. Has the national government appointed an advisory committee or committees for the education or rehabilitation for people with specially challenged in general and the visually impaired in particular? Yes/No
16. Has the national government adopted special legislation for the education and rehabilitation of the visually impaired? If so, please state the names of major laws along with their brief provisions.

17. Is education compulsory for the visually impaired children? Yes/No

18. If so, up to what standard it is compulsory?

19. Is special equipment needed for the visually impaired manufactured with in the country or imported from abroad? Please specify what equipment is indigenously made and who pays if the child cannot afford?

20. Does the national government provide educational scholarship/bursary to the visually impaired students? If so, at what stages and for what types of courses?

21. Is secondary education usually given in regular schools? If so, are the visually impaired students exempted from appearing in science and mathematics at the secondary level? Yes/No

22. What relaxations are given to the visually impaired for appearing in the examination at the secondary and university levels?

23. How many Braille presses in the country?

24. By whom these presses are being run?

25. Are they able to cater the needs of all visually challenged children? Yes/No

26. Does every visually challenged child have his own Braille textbook? Some of them/Most of them/None of them

27. Are Braille books heavily subsidised? Yes/No

28. Who bears the subsidy? Government/sponsors

29. Is there any service available for low vision students? Yes/No

30. Who is running these services? Government/Voluntary organizations/Private

31. Does the country have an adequate number of assessment clinics for low vision people? If so, what assessment procedures are employed?

32. Is visual efficiency adequately emphasized? Yes/No

33. Does the country makes its own aspheric lenses or are imported from abroad? If they are imported, where are they imported from?

34. What is the ratio of low vision students to severely visually impaired students?

35. Is the number of low vision children increasing? Yes/No

36. What is the total number of visually impaired people in this country and what percentage of the population do they constitute?

37. What is the number of visually impaired children in the country and in what percentage of the child population do they constitute?

38. Is there any legal definition of the visual impairment and low vision? If so, please specify.

39. What percentage of visually impaired students got the university and in what subjects do they usually take up?

40. What assistance does the government provide to the university going visually impaired students?

41. Do they set up special Braille or large print library or recording studios? Yes/No

42. Is there any relaxation in the percentage of marks given to the visually impaired students at the time of admission? If so, please mention the percentage.

43. Are there any other concessions given to the persons with visual impaired students by the universities? Yes/No

44. What are the attitudes of peers in the colleges to the visually impaired students? Sympathetic/Empathetic/Indifferent/Rejecting/Mixed

45. Is there special teacher's training centre for the training of elementary school teachers for visually impaired children? Yes/No

46. By whom it is/are being run? Government/Private/Voluntary organization

47. Is possession of recognized degree or certificate mandatory for teaching the visually challenged children? Yes/No

48. Are there special teacher's training programmes for teaching the visually impaired children at the secondary level? Yes/No

49. Who regulates training of teachers? Government/Private/Voluntary organization
50. Are there special programmes for training vocational instructors for the visually impaired? If so, please specify.
51. Are there special aptitude tests to determine what vocational training is given to the visually impaired person? Yes/No
52. Is there any national body to regulate and standardize the training of the teachers for the visually impaired at all levels? If so, please specify the precise functions of this body.
53. Is there any reservation of jobs for the visually impaired? Yes/No
54. If yes, what is the percentage of reservation?
55. If no, what is the procedure of protecting/ascertaining the economic needs of the visually impaired?
56. Have special posts been identified for the visually impaired? Yes/No
57. Is preferential treatment available in all categories of jobs? Yes/No
58. Is there any special provision for job availability for the visually impaired in the private sector? Yes/No
59. If yes, what is its percentage?
60. What are the categories/classes in which this preferential treatment is given?
61. Are they able to obtain employment as lecturers, professors or other white collared jobs? Yes/No
62. If yes, what is their percentage in the total employment in this category?
63. Are health care services available to the visually impaired free of cost? Yes/No/At the concessional rate
64. Is there any provision for the visually impaired senior citizens? Yes/No
65. If yes, please give the details.
66. Are there homes for the aged? Yes/No
67. What financial assistance is provided by the state to the visually impaired senior citizens?
III. Questionnaire for Non-Governmental Organisations

INFORMATIONS REGARDING THE ORGANISATION

1. Name of the organisation
2. Address of the Organisation
3. Network of the organisation - local/provincial/national
4. Focal point of the organisation - Literacy/Employment/Recreation/All of them/None
5. Numerical strength of the organisation - Below 100/Below 1000/Above 1000
6. Ideology of the organisation - self-help/agency oriented
7. Does the national government treat NGOs as partners in development? If so, in what way?
8. Do NGOs function as trusted agents of the national government in implementing programmes of rehabilitation of the visually impaired? Yes/No
9. Are they funded by the national government? No/Partly/Fully
10. What regulatory control does the national government exercise on NGOs?

II. Is work for the visually impaired in this country largely in the hands of NGOs? Yes/No

GENERAL

1. What is the numerical strength of the visually impaired and how much percentage does it constitute of the total population?
2. What is the percentage of the visually impaired children in the total population of the children?
3. What is your assessment of the medical facilities in terms of prevention of the visual impairment? Best/Satisfactory/Dissatisfactory
4. What are the main causes of the visual impairment in this country? Hereditary/Ignorance/Accidental/All
5. Are these causes preventable? Some/All/None
6. Do the government agencies provide necessary service for the prevention of the visual impairment? Yes/No/To some extent/To a greater extent
7. Has the organisation been playing any role to find the solutions of these causes? Yes/No/To some extent/To a greater extent
8. What is the outcome of the endeavours of the organisation over this issue? Awakening/No effect
9. What role does the organisation play in the case of the visual impairment because of the accident? Arranging medical facility/Arranging crisis courses/Both/None
10. How many persons of this nature are being helped? Below 10 per annum/Above 10 per annum/None
11. Is there any constitutional provision for the disabilities in general and the visual impairment in particular? Yes/No
12. Have the constitutional provisions actually been implemented? Fully implemented/Partially implemented/Not at all implemented
13. Are the constitutional provisions beneficial to the visually impaired people at all ages and even living in the remote rural areas? Yes/No/To some extent/To a greater extent
14. Is the social security guaranteed to the visually impaired by the constitution? Yes/No
15. What is the status of these constitutional provisions? Arbitrary/Part of the Directive Principles of the State Policies
17. Does the government take interest in implementing the programmes which is generally shown on the paper? Yes/No/To a greater extent/To some extent
18. What are the social attitudes towards visually impaired people? Negative/Positive
19. What are family attitudes towards visually impaired children and others? Accepting/Denial/Disguised rejection/Outright rejection/Over protection

479
20. What is the state of public awareness of the potentials of visually impaired people for education and economic rehabilitation? Fairly good/satisfactory/no

21. Is begging common among the visually impaired? Yes/No/To some extent/To a greater extent

22. Are health cares services available to the visually impaired free of cost? Yes/No/Concessional rate

23. Is there any service available for low vision students? Yes/No

24. Who is running these services? Government/Voluntary organisations/Privately

25. Does the country have an adequate number of assessment clinics for low vision people? If so, what assessment procedures are employed?

26. Is visual efficiency adequately emphasized? Yes/no

27. Does the country make its own aspheric lenses or they imported from abroad? If they are imported, where they imported from?

28. What is the ratio of low vision students to severely visually impaired students?

29. Is the number of low vision children increasing? Yes/No

30. Is there legal definition of visual impairment and low vision? If so, please specify.

31. Does the country have a national programme for the prevention of the visual impairment? If so, please describe its objectives and functions briefly.

32. Is it operative by government or NGOs?

33. Are eyes of school children checked during school health inspection? Yes/No

34. Are glasses distributed free of charge to poor children with Myopia or hyperopia? Yes/No

35. Are special cases referred to qualified doctors? Yes/No

36. What arrangement does the country have for later aged eye care?

37. Are there adequate arrangements for cataract operations of the elderly blind people? Yes/No

38. Are there health workers in the country to advice rural population on primary eye care? Yes/No

39. How common is visual impairment caused by vitamin a deficiency (xerophthalmia)? To a greater extent/To some extent/Uncommon

40. Is there any reservation in the government made accommodation for the visually impairment? Yes/No

41. If yes, what is its percentage? 1/2/3/None

42. Is there any soft loan facility for the visually impaired? Yes/No

43. Is there any soft loan scheme for the visually impaired for purchasing aids and appliances meant for them? Yes/No

LITERACY AND EDUCATION

1. Do you have any literacy programme? Yes/No

2. What is your field for this programme? Rural/Urban/both

3. What is the average output in the numerical strength of this endeavour? Below 100/Above 100

4. What are the other steps which the organisation is taking for the literacy? Use of mass media/Guide counsellors

5. Is elementary/primary education guaranteed to the visually impaired children by the constitution? Yes/No

6. Is the education for the visually impaired part of the national planning process? Yes/No

7. Is there any allocation of the funds for the education of the visually impaired? Yes/No

8. Are these funds sufficient? Yes/No

9. What type of education for the visually impaired is in practice? Special schools/Integrated/Inclusive/All of them

10. Is there any fixed percentage in providing admission to the physically challenged for the general and the visually impaired in particular? According to the ratio of the population/Above the ratio of the population/Below the ratio of the population/No fixed percentage
II.

11. What is the percentage of the visually impaired children in the primary education/in the high school level/in the tertiary education?
   According to the ratio of the population/Above the ratio of the population/Below the ratio of the population/no fixed percentage

12. Has inclusive education been accepted as a matter of policy? Yes/No

13. How far has education of the visually impaired become a part of the general education system? For all subjects/Confined to some subjects

14. How do the visually impaired children/youngsters learn reading, writing and rhetoric in a general school?
   By a specially trained teacher for this purpose With the provision of a resource room/By an ordinary routine teacher trained for this purpose

15. Has the national government appointed advisory committee/committees for the education of the disabilities in general and the visually impaired in particular? Yes/No

16. Has the national government adopted special legislation for the education of the visually impaired? Yes/No

17. Is education compulsory for the visually impaired children? Yes/No

18. Up to what standard is this education compulsory? Primary/High school/Tertiary

19. Are the special educational devices for the visually impaired indigenously manufactured or imported? Yes/No

20. Is there any subsidy on it? Yes/No

21. Is there any relaxation on the educational devices if imported? Yes/No, if yes, specify the percentage.

22. Is there any scholarship for the study of the visually impaired students? Yes/No

23. What is the amount of the scholarship at different levels? Yes/No

24. Is it centralised or decentralised? Yes/No

25. Up to what age or educational stage this scholarship is provided? Yes/No

26. Are secondary education usually given in the regular schools? Yes/No

27. Are visually impaired students exempted from appearing in science and mathematics? Yes/No

28. What relaxation is given to the visually impaired for appearing in the examination at the secondary and university level? Yes/No

29. Are there Braille presses in the country? Yes/No

30. By whom these presses are run? Government/Non-Government organisations/Privately/Mixed

31. How many Braille presses are there in the country? Yes/No

32. Are these Braille presses able to cater the needs of all the visually impaired students/youngsters? Yes/No/To some extent/to a greater extent

33. Does every visually impaired child have his Braille textbook? All of them/Most of them/Some of them/None of them

34. Are the Braille books heavily subsidised? Yes/No

35. Who bears the subsidy? Government/Sponsorers

36. Is there any special educational facility for the low vision? Yes/No

37. Who is providing these facilities? Government/Voluntary organisations/Privately

38. What is the percentage of the reservation for the visually impaired students in the university and in what subjects they generally take up? Yes/No

39. What is the special infrastructure provided by the university? Yes/No

40. Do they set up special Braille or large print library or recording studio for them? Yes/No

41. Is there any relaxation in the percentage of marks given to the visually impaired students at the time of admission? If so, please mention the percentage.

42. Is there any other concession given to the visually impaired students? Yes/No

43. If yes, please give the details.

44. What are the attitudes of the students and lecturers in college to the visually impaired students? Sympathetic/Empathetic/Indifferent/Rejecting
## TRAINING AND EMPLOYMENT

1. Is there any special teacher's training centre to train the persons for teaching the visually impaired at the school level? Yes/No
2. By whom is it being run? Government/Private/Voluntary organisation
3. Is possession of recognised degree/certificate mandatory for teaching the visually impaired children? Yes/No
4. Are there special programmes for training vocational instructors for the visually impaired? Yes/No
5. Are there special training centres to impart vocational training to the visually impaired? Yes/No
6. Are there special aptitude tests to determine what vocational training is given to the visually impaired? Yes/No
7. Is there any national body to regulate and standardise the vocational and teacher's training for the visually impaired? Yes/No
8. Is there any reservation of the jobs for the visually impaired? Yes/No
9. If yes, what is the percentage? 1/2/3/None
10. If no, how the placement of the visually impaired is made? 
11. Have special posts been identified for the visually impaired? Yes/No
12. Does the provision for the employment available in all jobs? Yes/No
13. Is there any job quota in the private sector for the visually impaired? Yes/No
14. If yes, what is its percentage? 1/2/3/None
15. If no, how the placement of the visually impaired is made possible in the private sector? 
16. Are they able to obtain employment as lecturers or professors? Yes/No
17. How many visually impaired persons are working on the post of lecturer/professor in the ordinary colleges/universities? Yes/No
18. Are there special employment exchanges for the visually impaired in country? Yes/No
19. If yes, how many and what exactly do they do? 
20. What is the attitude of the employers to the visually impaired employee? accepting/rejecting
21. Do they take up self-employment? Yes/No
22. Does government provide any financial assistance for the self employment? Yes/No
23. Do other financial institutions come forward to assist them? Yes/No
24. Is there any allocation of funds to assist the visually impaired for their self-employment? Yes/No
25. Are there any sheltered workshops for the visually impaired? Yes/No
26. If yes, on what criteria of visually impaired people place in sheltered employment and do sheltered workshops give the minimum prescribed wage? 
27. Who subsidises the sheltered workshops? Government/Sponsorers/None
28. Are visually impaired people working in the agro-based occupations? Yes/No
29. If yes, what kind of occupations they are able to undertake and what help from the family do they need? 
30. Is community-based rehabilitation propagated by the WHO popular in South Africa? Yes/No
31. If yes, how many such programmes are operating in the country? 
32. Are visually impaired people in this country satisfied with the employment situation? If not, what are their main grievances?

## RECREATION

1. What are the main leisure time activities of the visually impaired? 
2. Are there day care centres or clubs for the elderly visually impaired? Yes/No
3. If yes, who supervises and funds these centres? Government/Voluntary organisations
4. Is there a national cricket team for the visually impaired in South Africa? Yes/No
5. If yes, is it the member of the international blind Sport Association? Yes/No
6. Is there any fee charge for possessing a radio or TV set? Yes/No
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<td>Do visually impaired people play indoor games?</td>
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<td>Is there a special council to encourage development of sports skills among the visually impaired?</td>
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APPENDIX B

THE PERSONS WITH DISABILITIES
(Equal Opportunities, Protection of Rights and
Full Participation) Act, 1995

CHAPTER I
PRELIMINARY

Short Title, Extent And Commencement
1. (1) This Act may be called The Persons With Disabilities (Equal Opportunities, Protection of rights and Full Participation) Act, 1995.
(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force on such date as the Central Government may, by notification, appoint

Definition
2. In this Act, unless the context otherwise requires,--
(a) “appropriate Government” means,--
(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a cantonment Board constituted under the Cantonment Act, 1924, the Central Government (2 of 1924.)
(ii) in relation to a State Government or any establishment wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government;
(iii) in respect of the Central Coordination Committee and the Central Executive Committee, the Central Government;
(iv) in respect of the State Coordination Committee and the State Executive Committee, the State Government;
(b) “blindness” refers to a condition where a person suffers from any of the following conditions namely:--
(i) total absence of sight; or
(ii) visual acuity not exceeding 6/60 or 20/200 (snell en) in the better eye with correcting lenses; or
(iii) limitation of the field of vision subtending an angle of 20 degree or worse;
(c) “Central Coordination Committee” means the Central Coordination Committee constituted under sub-section (1) of section 3;
(d) “Central Executive Committee” means the Central Executive Committee constituted under sub-section (1) of section 9;
(e) “cerebral palsy” means a group of non-progressive conditions of a person characterised by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, perinatal or infant period of development;
(f) “Chief Commissioner” means the Chief Commissioner appointed under sub-section (1)of section 57;
(g) “Commissioner” means the Commissioner appointed under sub-section (1) of section 60;
(h) “competent authority” means the authority appointed under section 50;
(i) “disability” means,--
(i) blindness;
(ii) low vision;
(iii) leprosy-cured;
(iv) hearing impairment;
(v) locomotor disability;
(vi) mental retardation;
(vii) mental illness
(j) “employer” means,--
(i) in relation to a Government, the authority notified by the Head of the Department in this behalf or where no such authority is notified, the Head of the Department; and
(ii) in relation to an establishment, the chief executive officer of that establishment;
(k) "establishment" means a corporation established by or under a Central, Provincial 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 617 of the Companies Act, 1956 and includes Department of a Government; (1 of 1956.)
(l) "hearing impairment" means loss of sixty decibels or more in the better ear in the conversational range of frequencies;
(m) "institutions for persons with disabilities" means an institution for the reception, care, protection, education, training, rehabilitation or any other service of persons with disabilities;
(n) "leprosy-cured person" means any 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 manifests 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 from undertaking any gainful occupation, and the expression "leprosy-cured" shall be construed accordingly;
(o) "locomotor disability" means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy;
(p) "medical authority" means any hospital or institutions specified for the purposes of this Act by notification by the appropriate Government;
(q) "mental illness" means any mental disorder other than mental retardation;
(R) "mental retardation" means a condition of arrested or incomplete development of mind of a person which is specially characterised by sub-normality of intelligence;
(s) "notification" means a notification published in the Official Gazette;
(t) "person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority;
(u) "person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device;
(v) "prescribed" means prescribed by rules made under this Act;
(w) "rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels;
(x) "Special Employment Exchange" means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, respecting—
(i) persons who seek to engage employees from amongst the persons suffering from disabilities;
(ii) persons with disability who seek employment;
(iii) vacancies to which person with disability seeking employment may be appointed;
(y) "State Coordination Committee" means the State Coordination Committee constituted under sub-section (1) of section 13;
(z) "State Executive Committee" means the State Executive Committee constituted under sub-section (1) of section 19.

CHAPTER II
THE CENTRAL COORDINATION COMMITTEE

Central Coordination Committee
3. (1) The Central Government shall by notification constitute a body to be known as the Central Coordination Committee to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.
(2) The Central Coordination Committee shall consist of--
(a) the Minister in-charge of the Department of Welfare in the Central Government, Chairperson, ex officio;
(b) The Minister of State in-charge of the Department of Welfare in the Central Government, Vice-Chairperson, ex officio;
(d) Chief Commissioner, member, ex officio;
(e) Chairman Railway Board, Member, ex officio;
(f) Director-General of Labour, Employment and Training, Member, ex officio;
(g) Director, national Council for Educational, Research and Training, Member, ex officio;
(h) three Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of the States, Members;
(i) three persons to be nominated by the Central Government to represent the interests, which in the opinion of that Government ought to be represented, Members;
(j) Directors of the—
(i) National Institute for the Visually Handicapped, Dehra Dun;
(ii) National Institute for the Mentally Handicapped, Secundrabad;
(iii) National Institute for the Orthopaedically handicapped, Calcutta;
(iv) Ali Yavar Jung National Institute for the Hearing Handicapped, Bombayk, Members, ex officio;
(k) four members to be nominated by the Central Government by rotation to represent the States and the Union Territories in such manner as may be prescribed by the Central Government: Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union Territory;
(l) five persons as far as practicable, being persons with disabilities, to represent non-governmental organisations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members: Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
(m) Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, ex officio.
(3) The office of the Member of the Central Coordination Committee shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.

TERM OF OFFICE OF MEMBERS
4. (1) Save as otherwise provided by or under this Act a Member of Central Coordination Committee nominated under clause (i) or clause (l) of sub-section (2) of section 3 shall hold office for a term of three years from the date of his nomination: Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.
(2) The term of office of an ex officio Member shall come to an end as soon as he ceases to hold office by virtue of which he was so nominated.
(3) The Central Government may if it thinks fit remove any Member nominated under clause (i) or clause (l) of sub-section (2) of section 3, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.
(4) A Member nominated under clause (i) or clause (l) of sub-section (2) of section 3 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.
(5) A casual vacancy in the Central Coordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.
(6) A Member nominated under clause (i) or clause (l) of sub-section (2) of section 3 shall be eligible for re-nomination.
(7) Members nominated under clause (i) and clause (l) of sub-section (2) of section 3 shall receive such allowances as may be prescribed by the Central Government.
DISQUALIFICATIONS
5. (1) No person shall be a Member of the Central Coordination Committee who—
   (a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has
       compounded with his creditors, or
   (b) is of unsound mind and stands so declared by a competent court, or
   (c) is or has been convicted of an offence which, in the opinion of the Central Government, involves
       moral turpitude, or
   (d) is or at any time has been convicted of an offence under this Act, or
   (e) has so abused in the opinion of the Central Government his position as a Member as to render his
       continuance in the Central Coordination Committee detrimental to the interests of the general public.
(2) No order of removal shall be made by the Central Government under this section unless the
     Member concerned has been given a reasonable opportunity of showing cause against the same.
(3) Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 4, a Member who
     has been removed under this section shall not be eligible for re-nomination as a Member.

VACATION OF SEATS BY MEMBERS
6. If a Member of the Central Coordination Committee becomes subject to any of the disqualifications
   specified in section 5, his seat shall become vacant.

MEETINGS OF THE CENTRAL COORDINATION COMMITTEE
7. The Central Coordination Committee shall meet at least once in every six months and shall observe
   such rules of procedure in regard to the transaction of business at its meetings as may be prescribed
   by the Central Government.

FUNCTIONS OF THE CENTRAL COORDINATION COMMITTEE
8. (1) Subject to the provisions of this Act, the function of the Central Coordination Committee shall
   be to serve as the national focal point on disability matters and facilitate the continuous evolution of a
   comprehensive policy towards solving the problems faced by persons with disabilities.
   (2) In particular and without prejudice to the generality of the foregoing, the Central Coordination
       Committee may perform all or any of the following functions, namely:—
       (a) Review and coordinate the activities of all the Departments of Government and other
           Governmental and non-governmental Organisations which are dealing with matters relating to persons
           with disabilities;
       (b) Develop a national policy to address issues faced by persons with disabilities;
       (c) Advise the Central Government on the formulation of policies, programmes, legislation and
           projects with respect to disability;
       (d) take up the cause of persons with disabilities with the concerned authorities and the international
           organisations with a view to provide for schemes and projects for the disabled in the national plans and
           other programmes and policies evolved by the international agencies;
       (e) Review in consultation with the donor agencies their funding policies from the perspective of their
           impact on persons with disabilities;
       (f) take such other steps to ensure barrier free environment in public places, work places, public
           utilities, schools and other institutions;
       (g) monitor and evaluate the impact of policies and programmes designed for achieving equality and
           full participation of persons with disabilities;
       (h) to perform such other functions as may be prescribed by the Central Government.

CENTRAL EXECUTIVE COMMITTEE
9. (1) The Central Government shall constitute a Committee to be known as the Central Executive
     Committee to perform the functions assigned to it under this Act.
(2) The Central Executive Committee shall consist of—
   (a) the Secretary to the Government of India in the Ministry of Welfare, Chairperson, ex officio;
   (b) the Chief Commissioner, member, ex officio;
   (c) the Director-General for Health Services, Member, ex officio;
(d) the Director-General, Employment and Training, Member *ex officio*;
(e) six persons not below the rank of a Joint Secretary to the government of India, to represent the Ministries or Departments of rural Development, Education, Welfare, Personnel and Public Grievances and Pension and Urban Affairs and employment, Science and Technology, Members, *ex officio*;
(f) the Financial Advisor, Ministry of Welfare in the Central Government, Member, *ex officio*;
(g) Advisor (tariff) Railway Board, Member, *ex officio*;
(h) four members to be nominated by the Central Government, by rotation, to represent the State Governments and the Union Territories in such manner as may be prescribed by the Central Government;
(i) one person to be nominated by the Central Government to represent the interest, which in the opinion of the Central Government ought to be represented, member;
(j) five persons, as far as practicable, being persons with disabilities, to represent non-governmental organisations or associations which are concerned with disabilities, to be nominated by the Central Government, one for each area of disability, Members: Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes and Scheduled Tribes;
(k) Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, *ex officio*;
(l) Members nominated under clause (i) and clause (j) of sub-section (2) shall receive such allowances as may be prescribed by the Central Government.

(4) A Member nominated under clause (i) or clause (j) of sub-section (2) may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.

FUNCTIONS OF THE CENTRAL EXECUTIVE COMMITTEE
10. (1) The Central Executive Committee shall be the executive body of the Central Coordination Committee and shall be responsible for carrying out the decisions of the Central Coordination Committee.
(2) Without prejudice to the provisions of sub-section (1), the Central Executive Committee shall also perform such other functions as may be delegated to it by the Central Coordination Committee.

MEETINGS OF THE CENTRAL EXECUTIVE COMMITTEE
11. The Central Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meeting as may be prescribed by the Central Government.

TEMPORARY ASSOCIATION OF PERSONS WITH CENTRAL EXECUTIVE COMMITTEE FOR PARTICULAR PURPOSES
12. (1) The Central Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the Central Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
(2) A person associated with the Central Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the Central Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.
(3) A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the Central Government.
CHAPTER III
THE STATE COORDINATION COMMITTEE

STATE COORDINATION COMMITTEE

13. (1) Every State Government shall, by notification, constitute a body to be known as the State Coordination Committee to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

(2) The State Coordination Committee shall consist of--

(a) The Minister in-charge of the Department of Social Welfare in the State Government, Chairperson, ex officio;

(b) the Minister of State in-charge of the Department of Social Welfare, if any, Vice-Chairperson, ex officio;


(d) Secretary of any other Department which the State Government considers necessary, Member, ex officio;

(e) Chairman Bureau of Public Enterprises (by whatever name called) member, ex officio;

(f) five persons, as far as practicable being persons with disabilities, to represent non-governmental organisations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members. Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;

(g) three Members of State Legislature, of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any;

(h) three persons to be nominated by that State Government to represent agriculture, industry or trade or any other interest, which in the opinion of State Government ought to be represented, Members, ex officio;

(i) the Commissioner, Member, ex officio;

(j) Secretary to the State Government dealing with the welfare of the handicapped, Member-Secretary, ex officio.

(3) Notwithstanding anything contained in this section, no State Coordination Committee shall be constituted for a Union Territory and in relation to a Union Territory, the Central Coordination Committee shall exercise the functions and perform the functions of a State Coordination Committee for the Union Territory: Provided that in relation to a Union Territory, the Central Coordination Committee may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

TERMS AND CONDITIONS OF SERVICE OF MEMBERS

14. (1) Save as otherwise provided by or under this Act, a Member of a State Coordination Committee nominated under clause (f) or clause (h) of sub-section (2) of section 13 shall hold office for a term of three years from the date of his nomination: Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The term of office of an ex officio member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.

(3) The State Government may, if it thinks fit, remove any Member nominated under clause (f) or clause (h) of sub-section (2) of section 13, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.

(4) A Member nominated under clause (f) or clause (h) of sub-section (2) of section 13 may, at any time, resign his office by writing under his hand addressed to the State Government and seat of the said Member shall thereupon become vacant.
(5) A casual vacancy in the State Coordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place who was so nominated.

(6) A Member nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall be eligible for re-nomination.

(7) Members nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall receive such allowances as may be prescribed by the State Government.

DISQUALIFICATIONS
15. (1) No person shall be a Member of the State Coordination Committee, who—
(a) is, or at any time, has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or
(b) is of unsound mind and stands so declared by a competent court, or
(c) is or has been convicted of an offence which in the opinion of State Government involves moral turpitude, or
(d) is or at any time has been convicted of an offence under this Act, or
(e) has so abused, in the opinion of the State Government, his position as a Member as to render his continuance in the State Coordination Committee detrimental to the interests of the general public.

(2) No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 14, a Member who has been removed under this section shall not be eligible for re-nomination as a Member.

VACANCY OF SEATS
16. If a Member of the State Coordination Committee becomes subject to any of the disqualifications specified in section 15, his seat shall become vacant.

MEETINGS OF THE STATE COORDINATION COMMITTEE
17. The State Coordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

FUNCTIONS OF THE STATE COORDINATION COMMITTEE
18. (1) Subject to the provisions of this Act, the functions of the State Coordination Committee shall be to serve as the state focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.

(2) In particular and without prejudice to the generality of the foregoing function the State Coordination Committee may, within the State perform all or any of the following functions, namely:—
(a) review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to persons with disabilities;
(b) develop a State policy to address issues faced by persons with disabilities;
(c) advise the State Government on the formulation of policies, programmes, legislation and projects with respect to disability;
(d) review, in consultation with the donor agencies, their funding policies from the perspective of their impact on persons with disabilities;
(e) take such other steps to ensure barrier free environment in public places, work places, public utilities, schools and other institutions;
(f) monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
(g) to perform such other functions as may be prescribed by the State Government.
STATE EXECUTIVE COMMITTEE

19. (1) The State Government shall constitute a committee to be known as the State Executive Committee to perform the functions assigned to it under this Act.

(2) The State Executive Committee shall consist of—
(a) the Secretary, Department of Social Welfare, Chairperson, ex officio;
(b) the Commissioner, Member, ex officio;
(c) nine persons not below the rank of a Joint Secretary to the State Government, to represent the Departments of Health, Finance, Rural Development, Education, Welfare, Personnel Public Grievances, Urban Affairs, Labour and Employment, Science and Technology, Members, ex officio;
(d) one person to be nominated by the State Government to represent the interest, which in the opinion of the State Government ought to be represented, Member;
(e) five persons, as far as practicable being persons with disabilities, to represent non-governmental organisations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members: Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
(f) Joint Secretary dealing with the disability division in the Department of Welfare, Member- Secretary, ex officio.

(3) Members nominated under clause (d) or clause (e) of sub-section (2) shall receive such allowances as may be prescribed by the State Government.

(4) A Member nominated under clause (d) or clause (e) may at any time resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.

FUNCTIONS OF THE STATE EXECUTIVE COMMITTEE

20. (1) The State Executive Committee shall be the executive body of the State Coordination Committee and shall be responsible for carrying out the decisions of the State Coordination Committee.

(2) Without prejudice to the provisions of sub-section (1), the State Executive Committee shall also perform such other functions as may be delegated to it by the State Coordination Committee.

MEETINGS OF THE STATE EXECUTIVE COMMITTEE

21. The State Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government.

TEMPORARY ASSOCIATION OF PERSONS WITH STATE EXECUTIVE COMMITTEE FOR PARTICULAR PURPOSES

22. (1) The State Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the State Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

(2) A person associated with the State Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussion of the State Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.

(3) A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the State Government.

POWER TO GIVE DIRECTIONS

23. In the performance of its functions under this Act—
(a) the Central Coordination Committee shall be bound by such directions in writing, as the Central Government may give to it; and
(b) the State Coordination Committee shall be bound by such directions in writing, as the Central Coordination Committee or the State Government may give to it:

491
Provided that where a direction given by the State Government is inconsistent with any direction given by the Central Coordination Committee, the matter shall be referred to the Central Government for its decision.

**VACANCIES NOT INVALIDATE PROCEEDINGS**

24. No act or proceeding of the Central Coordination Committee, the Central Executive Committee, a State Coordination Committee or a State Executive Committee shall be called in question on the ground merely on the existence of any vacancy in or any defect in the constitution of such Committees.

**CHAPTER IV**

**PREVENTION AND EARLY DETECTION OF DISABILITIES**

**APPROPRIATE GOVERNMENTS AND LOCAL AUTHORITIES TO TAKE CERTAIN STEPS FOR THE PREVENTION OF OCCURRENCE OF DISABILITIES**

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

(a) undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;

(b) promote various methods of preventing disabilities;

(c) screen all the children at least once in a year for the purpose of identifying “at risk” cases;

(d) provide facilities for training to the staff at the primary health centres;

(e) sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;

(f) take measures for pre-natal, perinatal and post-natal care of mother and child;

(g) educate the public through the pre-schools, schools, primary health centres, village level workers and anganwadi workers;

(h) create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted.

**CHAPTER V**

**EDUCATION**

**APPROPRIATE GOVERNMENTS AND LOCAL AUTHORITIES TO PROVIDE CHILDREN WITH DISABILITIES FREE EDUCATION, ETC.**

26. The appropriate governments and the local authorities shall—

(a) ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;

(b) endeavour to promote the integration of students with disabilities in the normal schools;

(c) promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;

(d) endeavour to equip the special schools for children with disabilities with vocational training facilities.

**APPROPRIATE GOVERNMENTS AND LOCAL AUTHORITIES TO MAKE SCHEMES AND PROGRAMMES FOR NON-FORMAL EDUCATION, ETC.**

27. The appropriate Governments and the local authorities shall by notification make schemes for—

(a) conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;

(b) conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;

(c) imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;

(d) imparting education through open schools or open universities;

(e) conducting class and discussions through interactive electronic or other media;
(f) providing every child with disability free of cost special books and equipments needed for his education.

RESEARCH FOR DESIGNING AND DEVELOPING NEW ASSISTIVE DEVICES, TEACHING AIDS, ETC.

28. The appropriate Governments shall initiate or cause to be initiated research by official and non-governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.

APPROPRIATE GOVERNMENTS TO SET UP TEACHERS' TRAINING INSTITUTIONS TO DEVELOP TRAINED MANPOWER FOR SCHOOLS FOR CHILDREN WITH DISABILITIES

29. The appropriate Governments shall set up adequate number of teachers' training institutions and assist the national institutes and other voluntary organizations to develop teachers training programmes specializing in disabilities so that requisite trained man-power is available for special schools and integrated schools for children with disabilities.

APPROPRIATE GOVERNMENTS TO PREPARE A COMPREHENSIVE EDUCATION SCHEME PROVIDING FOR TRANSPORT FACILITIES, SUPPLY OF BOOKS, ETC.

30. Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme which shall make provision for—
(a) transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
(b) the removal of architectural barriers from schools, colleges or other institutions imparting vocational and professional training;
(c) the supply of books, uniforms and other materials to children with disabilities attending schools;
(d) the grant of scholarship to students with disabilities;
(e) setting up of appropriate for a for the redressal of grievances of parents regarding the placement of their children with disabilities;
(f) suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
(g) restructuring of curriculum for the benefit of children with disabilities;
(h) restructuring of curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

EDUCATIONAL INSTITUTIONS TO PROVIDE AMANUENSIS TO STUDENTS WITH VISUAL HANDICAP

31. All educational institutions shall provide or cause to be provided amanuensis to blind students and students with low vision.

CHAPTER VI
EMPLOYMENT

IDENTIFICATION OF POSTS WHICH CAN BE RESERVED FOR PERSONS WITH DISABILITIES

32. Appropriate Governments shall—
(a) identify posts, in the establishments, which can be reserved for the persons with disability;
(b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.

RESERVATION OF POSTS

33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent. For persons or class of persons with disability of which one per cent. Each shall be reserved for persons suffering from—

493
(i) blindness or low vision;
(ii) hearing impairment;
(iii) locomotor disability or cerebral palsy, in the posts identified for each disability: Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, a may be specified in such notification, exempt any establishment from the provision of this section.

SPECIAL EMPLOYMENT EXCHANGE
34. (1) The appropriate Government may, by notification, required that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.
(2) The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.

POWER TO INSPECT RECORD OR DOCUMENT IN POSSESSION OF ANY ESTABLISHMENT
35. any person authorized by the Special Employment Exchange in writing, shall have access to any relevant record or document in the possession of any establishment and may enter at any reasonable time and premises where he believes such record or document to be, and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information.

VACANCIES NOT FILLED UP TO BE CARRIED FORWARD
36. Where in any recruitment year any vacancy under section 33, cannot be filled up due to non-availability of a suitable person with disability or, for any other sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability: Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government.

EMPLOYERS TO MAINTAIN RECORDS
37. (1) Every employer shall maintain such record in relation to the person with disability employed in his establishment in such form and in such manner as may be prescribed by the appropriate Government.
(2) The records maintained under sub-section (1) shall be opened to inspection at all reasonable hours by such person as may be authorized in this behalf by general or special order by the appropriate Government.

SCHEMES FOR ENSURING EMPLOYMENT OF PERSONS WITH DISABILITIES
38. (1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for—
(a) the training and welfare of persons with disabilities;
(b) the relaxation of upper age limit;
(c) regulating the employment;
(d) health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
(e) the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
(f) constituting the authority responsible for the administration of the scheme.

494
ALL EDUCATIONAL INSTITUTIONS TO RESERVE SEATS FOR PERSONS WITH DISABILITIES.

39. All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent. Seats for persons with disabilities.

VACANCIES TO BE RESERVED IN POVERTY ALLEVIATION SCHEMES

40. The appropriate Governments and local authorities shall reserve not less than three per cent. In all poverty alleviation schemes for the benefit of persons with disabilities.

INCENTIVES TO EMPLOYERS TO ENSURE FIVE PER CENT. OF THE WORK FORCE IS COMPOSED OF PERSONS WITH DISABILITIES.

41. The appropriate Governments and the local authorities shall, with in the limits of their economic capacity and development, provide incentives to employers both in public and private sectors to ensure that at least five per cent. Of their work force is composed of persons with disabilities.

CHAPTER VII
AFFIRMATIVE ACTION

AIDS AND APPLIANCES TO PERSONS WITH DISABILITIES

42. The appropriate Government shall by notification make schemes to provide aids and appliances to persons with disabilities.

SCHEMES FOR PREFERENTIAL ALLOTMENT OF LAND FOR CERTAIN PURPOSES

43. The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates for—
(a) house;
(b) setting up business;
(c) setting up of special recreation centres;
(d) establishment of special schools;
(e) establishment of research centres;
(f) establishment of factories by entrepreneurs with disabilities.

CHAPTER VIII
NON-DISCRIMINATION

NON-DISCRIMINATION IN TRANSPORT

44. Establishment 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.

NON-DISCRIMINATION ON THE ROAD

45. 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 edges of railway platforms for the blind or for persons with low vision;
(e) devising appropriate symbols of disability;
(f) warning signals at appropriate places.
NON-DISCRIMINATION IN THE BUILT ENVIRONMENT
46. 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 centres and other medical care and rehabilitation institutions.

NON-DISCRIMINATION IN GOVERNMENT EMPLOYMENT
47. (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:
Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.
(2) No promotion shall be denied to a person merely on the ground of his disability: Provided that the appropriate Government may, having regarded to the type of work carried on in any establishment by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

CHAPTER IX
RESEARCH AND MANPOWER DEVELOPMENT

RESEARCH
48. The appropriate Governments and local authorities shall promote and sponsor research inter alia, in the following areas:--
(a) prevention of disability;
(b) rehabilitation including community-based rehabilitation;
(c) development of assistive devices including their psycho-social aspects;
(d) job identification;
(e) on site modifications in offices and factories.

FINANCIAL INCENTIVES TO UNIVERSITIES TO ENABLE THEM TO UNDERTAKE RESEARCH
49. The appropriate Governments shall provide financial assistance to universities, other institutions of higher learning, professional bodies and non-governmental research-units or institutions, for undertaking research for special education, rehabilitation and manpower development.

CHAPTER X
RECOGNITION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES

COMPETENT AUTHORITY
50. The State Government shall appoint any authority as it deems fit to be a competent authority for the purposes of this Act.

NO PERSON TO ESTABLISH OR MAINTAIN AN INSTITUTION FOR PERSONS WITH DISABILITIES EXCEPT IN ACCORDANCE WITH A CERTIFICATE OF REGISTRATION
51. Save as otherwise provided under this Act, no person shall establish or maintain any institution for person with disabilities except under and in accordance with a certificate or registration issued in this behalf by the competent authority: Provided that a person maintaining an institution for persons with disabilities immediately before the commencement of this Act may continue to maintain such institution for a period of six months from such commencement and if he has made an application for such certificate under this section within the said period of six months, till the disposal of such application.
CERTIFICATE OF REGISTRATION

52. (1) Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the State Government.

(2) On receipt of an application under sub-section (1), the competent authority shall make such inquiries as it may deem fit and where it is satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder it shall grant a certificate of registration to the applicant and where it is not so satisfied the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate the competent authority shall give the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in such manner as may be prescribed by the State Government.

(3) No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and maintain such standards as may be prescribed by the State Government.

(4) A certificate for registration granted under this section:—

(a) shall, unless revoked under section 53, remain in force for such period as may be prescribed by the State Government.

(b) may be renewed from time to time for a period; and

(c) shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.

(5) An application for renewal of a certificate of registration shall be made not less than sixty days before the period of validity.

(6) The certificate of registration shall be displayed by the institution in a conspicuous place.

REVOCATION OF CERTIFICATE

53.(1) The competent authority may, if it has reasonable cause to believe that the holder of the certificate of registration granted under sub-section (2) of 52 has—

(a) made a statement in relation to any application for the issue on renewal of the certificate which is incorrect or false in material particulars; or

(b) committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted, it may, after making such inquiry, as it deems fit, by order, revoke the certificate: Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate should not be revoked.

(2) Where a certificate in respect of an institution has been revoked under sub-section (1) such institution shall cease to function from the date of such revocation: Provided where an appeal lies under section 54 against the order of revocation, such institution shall cease to function—

(a) where no appeal has been preferred immediately on the expiry of the period prescribed for the filing of such appeal, or

(b) where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.

(3) On the revocation of a certificate in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be—

(a) restored to the custody of her or his parent, spouse or lawful guardian, as the case may be, or

(b) transferred to any other institution specified by the competent authority.

(4) Every institution which holds a certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.

APPEAL

54. (1) Any person aggrieved by the order of the competent authority refusing to grant a certificate or revoking a certificate may, within such period as may be prescribed by the State Government, prefer an appeal to that Government against such refusal or revocation.

(2) The order of the State Government on such appeal shall be final.
ACT NOT TO APPLY TO INSTITUTIONS ESTABLISHED OR MAINTAINED BY THE CENTRAL OR STATE GOVERNMENT

55. Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.

CHAPTER XI
INSTITUTIONS FOR PERSONS WITH SEVERE DISABILITIES

INSTITUTIONS FOR PERSONS WITH SEVERE DISABILITIES

56. (1) The appropriate Government may establish and maintain institutions for persons with severe disabilities at such places as it thinks fit.

(2) Where, the appropriate Government is of opinion that any Institution other than an institution, established under sub-section (1), is fit for the rehabilitation of the persons with severe disabilities, the Government may recognize such institution as an institution for persons with severe disabilities for the purposes of this Act: Provided that no institution shall be recognized under this section unless such institution has complied with the requirements of this Act and the rules made thereunder.

(3) Every institution established under sub-section (1) shall be maintained in such manner and satisfy such conditions as may be prescribed by the appropriate Government.

(4) For the purposes of this section “person with severe disability” means a person with eighty per cent. Or more of one or more disabilities.

CHAPTER XII
THE CHIEF COMMISSIONER AND COMMISSIONERS FOR PERSONS WITH DISABILITIES

APPOINTMENT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

57. (1) The Central Government may, by notification, appoint a Chief Commissioner for persons with disabilities for the purposes of this Act.

(2) A person shall not be qualified for appointment as the Chief Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

(3) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chief Commissioner shall be such as may be prescribed by the Central Government.

(4) The Central Government shall determine the nature and categories of officers and other employees required to assist the Chief Commissioner in the discharge of his functions and provide the Chief Commissioner with such officers and other employees as it thinks fit.

(5) The officers and employees provided to the Chief Commissioner shall discharge their functions under the general superintendence of the Chief Commissioner.

(6) The salaries and allowances and other conditions of service of officers and employees provided to the Chief Commissioner shall be such as may be prescribed by the Central Government.

FUNCTIONS OF THE CHIEF COMMISSIONER

58. The Chief Commissioner shall—

(a) coordinate the work of the commissioners;

(b) monitor the utilization of funds disbursed by the Central Government;

(c) take steps to safeguard the rights and facilities made available to persons with disabilities;

(d) submit reports to the Central Government on the implementation of the Act at such intervals as that Government may prescribe.

CHIEF COMMISSIONER TO LOOK INTO COMPLAINTS WITH RESPECT TO DEPRIVATION OF RIGHTS OF PERSONS WITH DISABILITIES

59. Without prejudice to the provisions of section 58 the Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to:
(a) deprivation of rights of persons with disabilities;
(b) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities, and take up the matter with the appropriate authorities.

**APPOINTMENT OF COMMISSIONERS FOR PERSONS WITH DISABILITIES**

60. (1) Every State Government may, by notification appoint a Commissioner for persons with disabilities for the purposes of this Act.

(2) A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

(3) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Commissioner shall be such as may be prescribed by the State Government.

(4) The State Government shall determine the nature and categories of officers and other employees required to assist the Commissioner in the discharge of his functions and provide the Commissioner with such officers and other employees as it thinks fit.

(5) The officers and employees provided to the Commissioner shall discharge their functions under the general superintendence of the Commissioner.

(6) The salaries and allowances and other conditions of service of officers and employees provided to the Commissioner shall be such as may be prescribed by the State Government.

**POWERS OF THE COMMISSIONER**

61. The Commissioner within the State shall—

(a) coordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities;

(b) monitor the utilization of funds disbursed by the State Government;

(c) take steps to safeguard the rights and facilities made available to persons with disabilities;

(d) submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

**COMMISSIONER TO LOOK INTO COMPLAINTS WITH RESPECT TO MATTERS RELATING TO DEPRIVATION OF RIGHTS OF PERSONS WITH DISABILITIES**

62. Without prejudice to the provisions of section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to—

(a) deprivation of rights of persons with disabilities;

(b) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities; and take up the matter with the appropriate authorities.

**AUTHORITIES AND OFFICERS TO HAVE CERTAIN POWERS OF CIVIL COURT**

63. (1) The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, (5 of 1908.) namely:—

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(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.

(2) Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860.) and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purposes of section 195 and Chapter xxvi of the Code of Civil Procedure, 1973. (2 of 1974.)
ANNUAL REPORT TO BE PREPARED BY THE CHIEF COMMISSIONER
64. (1) The Chief Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the Central Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the Central Government.

(2) The Central Government shall cause the annual report to be laid before each House of Parliament along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein in so far as they relate to the Central Government and the reasons for non-acceptance, if any, for any such recommendation or part.

ANNUAL REPORTS TO BE PREPARED BY THE COMMISSIONERS
65. (1) The Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the State Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the State Government.

(2) The State Government shall cause the annual report to be laid before each State Legislature along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein in so far as they relate to the State Government and the reasons for non-acceptance, if any, of any such recommendation or part.

CHAPTER XIII
SOCIAL SECURITY

APPROPRIATE GOVERNMENTS AND LOCAL AUTHORITIES TO UNDERTAKE REHABILITATION
66. (1) The appropriate Governments and the local authorities shall within the limits of their economic capacity and development undertake or cause to be undertaken rehabilitation of all persons with disabilities.

(2) For purposes of sub-section (1), the appropriate Governments and local authorities shall grant financial assistance to non-governmental organisations.

(3) The appropriate Governments and local authorities while formulating rehabilitation policies shall consult the non-governmental organisations working for the cause of persons with disabilities.

INSURANCE SCHEME FOR EMPLOYEES WITH DISABILITIES
67. (1) The appropriate Government shall by notification frame an insurance scheme for the benefit of its employees with disabilities.

(2) Notwithstanding anything contained in this section, the appropriate Government may instead of framing in insurance scheme frame an alternative security scheme for its employees with disabilities.

UNEMPLOYMENT ALLOWANCE
68. The appropriate Governments shall within the limits of their economic capacity and development shall by notification frame a scheme for payment of an unemployment allowance to persons with disabilities registered with the Special Employment Exchange for more than two years and who could not be placed in any gainful occupation.

CHAPTER XIV
MISCELLANEOUS

PUNISHMENT FOR FRAUDULENTLY AVOIDING ANY BENEFIT MEANT FOR PERSONS WITH DISABILITIES
69. Whoever, fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both.
CHIEF COMMISSIONER, COMMISSIONERS, OFFICERS AND OTHER STAFF TO BE PUBLIC SERVANTS

70. The Chief Commissioner, the Commissioners and other officers and staff provided to them shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (45 of 1860.)

PROTECTION OF ACTION TAKEN IN GOOD FAITH

71. No suit, prosecution or other legal proceeding shall lie against the Central Government, the state Governments or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.

ACT TO BE IN ADDITION TO AND NOT IN DEROGATION OF ANY OTHER LAW

72. The provisions of this Act, or the rules made thereunder shall be in addition to, and not in derogation of any other law for the time being in force or any rules, order or any instructions issued thereunder, enacted or issued for the benefit of persons with disabilities.

POWER OF APPROPRIATE GOVERNMENT TO MAKE RULES

73. (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:--

(a) The manner in which a State Government or a Union Territory shall be chosen under clause (k) of sub-section (2) of section 3;

(b) allowances which members shall receive under sub-section (7) of section 4.

(c) rules of procedure which the Central Coordination Committee shall observe in regard to the transaction of business in its meetings under section 7;

(d) such other functions which the Central Coordination Committee may perform under clause (h) of sub-section (2) of section 8;

(e) The manner in which a State Government or a Union Territory shall be chosen under clause (h) of sub-section (2) of section 9;

(f) The allowances which the Members shall receive under sub-section (3) of section 9;

(g) rules of procedure which the Central Executive Committee shall observe in regard to transaction of business at its meetings under section 11;

(h) the manner and purposes for which a person may be associated under sub-section (i) of section 12;

(i) fees and allowances which a person associated with the Central Executive Committee shall receive under sub-section (3) of section 12;

(j) allowances which members shall receive under sub-section (7) of section 14;

(k) rules of procedure which a State Coordination Committee shall observe in regard to transaction of business in its meetings under section 17;

(l) such other functions which a State Coordination Committee may perform under clause (g) of sub-section (2) of section 18;

(m) the allowances which Members shall receive under sub-section (3) of section 19;

(n) rules of procedure which a State Executive Committee shall observe in regard to transaction of business at its meetings under section 21;

(o) the manner and purposes for which a person may be associated under sub-section (I) of section 22;

(p) fees and allowances which a person associated with the State Executive Committee may receive under sub-section (3) of section 22;

(q) information or return which the employer in every establishment should furnish and the Special Employment Exchange to which such information or return shall be furnished under sub-section (I) of section 34;

(r) the form and the manner in which the record shall be maintained by an employer under sub-section (I) of section 37;

(s) the form and manner in which an application shall be made under sub-section (I) of section 52;(t) the manner in which an order of refusal shall be communicated under sub-section (2) of section 52;
(w) the form in which and conditions subject to which a certificate of registration shall be granted under clause (z) of sub-section (4) of section 52;

(v) period within which an appeal shall lie under sub-section (l) of section 54;

(u) facilities or standards required to be provided or maintained under sub-section (3) of section 52;

(y) the manner in which an institution for persons with severe disabilities shall be maintained and conditions which have to be satisfied under sub-section (3) of section 56;

(x) the period for which a certificate of registration shall be valid under clause (a) of sub-section (4) of section 52;

(z) the salary, allowances and other terms and conditions of service of the Chief Commissioner under sub-section (3) of section 57;

(za) the salary, allowances and other conditions of service of officers and employees under sub-section (6) of section 57;

(zb) intervals at which the Chief Commissioner shall report to the Central Government under clause (d) of section 58;

(ze) intervals within which the Commissioner shall report to the State Government under clause (d) of section 61;

(zg) the form and time in which annual report shall be prepared under sub-section (l) of section 64;

(zh) the form and time in which annual report shall be prepared under sub-section (l) of section 65;

(za) any other matter which is required to be or may be prescribed.

(3) Every notification made by the Central Government under the proviso to section 33, proviso to sub-section (2) of section 47, section 30, sub-section (l) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (l), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of 30 days which may be comprised in one session or two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, notification or scheme, both Houses agree that the rule, notification or scheme should not be made, the rule, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or scheme, as the case may be.

(4) Every notification made by the State Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme framed by it under section 27, section 30, sub-section (l) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (l), shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two Houses or where such legislature consists of one House before that House.

AMENDMENT OF ACT 39 OF 1987

74. In section 12 of the Legal Service Authorities Act, 1987, for clause (d), the following clause shall be substituted, namely:—

“(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.”
APPENDIX C

CODE OF GOOD PRACTICE ON KEY ASPECTS OF DISABILITY IN THE WORKPLACE

1. AIMS
1.1 The Employment Equity Act, No. 55 of 1998 protects people with unfair discrimination and entitles them to affirmative action measures.
1.2 The Code is a guide for employers and employees on key aspects of promoting equal opportunities and fair treatment for people with disabilities as required by the Employment Equity Act (the Act).
1.3 The Code is intended to help employers and employees understand their rights and obligations, promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights at work.

2. STRUCTURE
The Code covers the following aspects:
   i. The definition of disability;
   ii. Reasonable accommodation for people with disabilities;
   iii. Avoiding unfair discrimination and achieving employment equity during the employment cycle (from recruitment to termination);
   iv. Confidentiality and disclosure;
   v. Employment benefits; and
   vi. Employment equity planning.

3. APPLICATION
3.1 The Code is not an authoritative summary of the law, nor does it create additional rights and obligations. Failure to observe the Code does not, by itself, render a person liable in any proceedings. Nevertheless when the courts and tribunals interpret and apply the Employment Equity Act, they must consider it.
3.2 The Code should be read in conjunction with other Codes of Good Practice that may be issued by the Minister of Labour.
3.3 The Code is intentionally general because every person and situation is unique and departures from the standards in this code may be justified in appropriate circumstances.
3.4 Employers, employees and their organisations should use the Code to develop, implement and refine disability equity policies and programmes to suit the needs of their own workplaces.

4. LEGAL FRAMEWORK
The Code is issued in terms of Section 54(1) (a) of the Employment Equity Act, No. 55 of 1998 and is based on the Constitutional principle that no one may unfairly discriminate against a person on the grounds of disability.

5. DEFINITION OF PEOPLE WITH DISABILITIES
5.1 Defining persons with disabilities under the Act
The scope of protection for people with disabilities in employment focuses on the effect of a disability on the person in relation to the working environment, and not on the diagnosis of the impairment. Only people who satisfy all the criteria in the definition:
   (i) long-term or recurring;
   (ii) having a physical or mental impairment;
   (iii) which substantially limits, are considered as persons with disabilities.
5.1.1 Long-term or recurring
Long-term means the impairment have lasted or is likely to persist for at least twelve months. A short-term or temporary illness or injury is not an impairment which gives rise to a disability.

A recurring impairment is one that is likely to happen again and to be substantially limiting (see below). It includes a constant underlying condition, even if its effects on a person fluctuate.

Progressive conditions are those that are likely to develop or change or recur. People living with progressive conditions or illnesses are considered as people with disabilities once the impairment starts to be substantially limiting. Progressive or recurring conditions which have no overt symptoms or which do not substantially limit a person are not disabilities.

5.1.2 Impairment

(i) An impairment may be physical or mental.

(ii) 'Physical' impairment means a partial or total loss of a bodily function or part of the body. It includes sensory impairments such as being deaf, hearing impaired, or visually impaired and any combination of physical or mental impairments.

(iii) 'Mental' impairment means a clinically recognised condition or illness that affects a person's thought processes, judgment or emotions.

5.1.3 Substantially limiting

(i) An impairment is substantially limiting if, in the absence of reasonable accommodation by the employer, a person would be either totally unable to do a job or would be significantly limited in doing the job.

(ii) Some impairment are so easily controlled, corrected or lessened, that they have no limiting effects. For example, a person who wears spectacles or contact lenses does not have a disability unless even with spectacles or contact lenses the person's vision is substantially impaired.

(iii) An assessment whether the effects of impairment are substantially limiting must consider if medical treatment or other devices would control or correct the impairment so that its adverse effects are prevented or removed.

(iv) For reasons of public policy certain conditions or impairments may not be considered disabilities. These include but are not limited to:

- sexual behaviour disorders that are against public policy;
- self-imposed body adornments such as tattoos and body piercing;
- compulsive gambling, tendency to steal or light fires;
- disorders that affect a person's mental or physical state if they are caused by current use of illegal drugs or alcohol,
- unless the affected person is participating in a recognised programme of treatment;
- normal deviations in height, weight and strength; and
- conventional physical and mental characteristics and common personality traits.

6. REASONABLE ACCOMMODATION FOR PEOPLE WITH DISABILITIES

6.1 Employers should reasonably accommodate the needs of people with disabilities. The aim of the accommodation is to reduce the impact of the impairment of the person's capacity to fulfil the essential functions of a job.

6.2 Employers may adopt the most cost-effective means that are consistent with effectively removing the barrier to a person being able to perform the job, and to enjoy equal access to the benefits and opportunities of employment.

6.3 Reasonable accommodation applies to applicants and employees with disabilities and may be required:

(i) during the recruitment and selection processes;

(ii) in the working environment;

(iii) in the way work is usually done and evaluated and rewarded; and

(iv) in the benefits and privileges of employment.

6.4 The obligation to make reasonable accommodation may arise when an applicant or employee voluntarily discloses a disability related accommodation need or when such a need is reasonably self-evident to the employer.

6.5 Employers must also accommodate employees when work or the work environment changes or impairment varies which affects the employee's ability to perform the essential functions of the job.
6.6 The employer should consult the employee and, where practicable, technical experts to establish appropriate mechanisms to accommodate the employee.
6.7 The particular accommodation will depend on the individual, the impairment and its effect on the person, as well as on the job and the working environment.
6.8 Reasonable accommodation may be temporary or permanent, depending on the nature and extent of the disability.
6.9 Examples of reasonable accommodation include:
(i) adapting existing facilities to make them accessible;
(ii) adapting existing equipment or acquiring new equipment including computer hardware and software;
(iii) re-organising work station;
(iv) changing training and assessment materials and systems;
(v) restricting jobs so that non-essential functions are re-assigned;
(vi) adjusting working time and leave;
(vii) providing readers, sign language interpreters and
(viii) providing specialised supervision, training and support.
6.10 An employer may evaluate work performance against the same standards as other employees but the nature of the disability may require an employer to adapt the way performance is measured.
6.11 The employer need not accommodate a qualified applicant or an employee with a disability if this would impose an unjustifiable hardship on the business of the employer.
6.12 Unjustifiable hardship is action that requires significant or considerable difficulty or expense and that would substantially harm the viability of the enterprise. This involves considering the effectiveness of the accommodation and the extent to which it would seriously disrupt the operation of the business.
6.13 An accommodation that imposes an unjustifiable hardship for one employer at a specific time may not be so for another or for the same employer at a different time.

7. RECRUITMENT AND SELECTION
7.1 Recruitment
7.1.1 When employers recruit they should:
(i) identify the inherent requirements and essential functions of the vacant position;
(ii) describe clearly the necessary skills and capabilities for the job;
(iii) set reasonable criteria for selection, preferably in writing, for job applicants for vacant positions.
7.1.2 The inherent requirements of the job are the purposes for which the job exists. The essential functions and duties of the job are what are necessary to get the job done.
7.1.3 Application forms should focus on identifying an applicant's ability to perform the essential functions of the job.
7.1.4 Advertisements should be accessible to persons with disabilities and, where practicable, circulated to organisations that represent the interests of people with disabilities.
7.1.5 Advertisements or notices should include sufficient detail about the essential functions and duties of the job so that potential applicants with disabilities can make an informed decision if they meet the inherent requirements of the job.
7.1.6 Employers should not include functions that are not essential to performing the inherent requirements of the job because selection based on non-essential functions may exclude people with disabilities unfairly. On request, and if reasonably practicable, notices and advertisements should be provided in a format appropriate to persons with disabilities, such as large print, Braille, or audiotape.
7.2 Selection
7.2.1 Employers should apply the same criteria to test the ability of people with disabilities as are applied to other applicants, although it may be necessary to accommodate applicants who have disabilities.
7.2.2 The purpose of the selection process is to assess whether or not an applicant is suitably qualified. This may require a two-stage process if an applicant has a disability:
(i) Determining whether an applicant is suitably qualified;
(ii) Determining whether a 'suitably qualified applicant' needs any accommodation to be able to perform the inherent requirements or essential functions of the job.

7.2.3 When assessing if an applicant is suitably qualified an employer may not request information about actual or perceived disability from a previous employer or third party.

7.2.4 Employers should monitor their criteria for selection. If they tend to exclude people with disabilities, they should be reviewed to ensure that inappropriate barriers to persons with disabilities are removed.

7.3 Interviews
7.3.1 Selection interviews should be sensitive, objective and unbiased. Interviewers should avoid assumptions about people with disabilities.

7.3.2 If an applicant has disclosed a disability or has a self-evident disability, the employer must focus on the applicant's qualifications for the work rather than any actual or presumed disability but may enquire and assess if the applicant would, but for the disability, be suitably qualified.

7.3.3 Interviewers should ask all applicants to indicate how they would accomplish the inherent requirements of the job and perform its essential functions and if accommodation is required.

7.3.4 If the employer knows in advance that an applicant has a disability the employer should be prepared to make reasonable accommodation during the interview.

7.4 Conditional job offers
7.4.1 If an applicant with a disability is suitably qualified, an employer may make a job offer conditional on medical or functional testing to determine an applicant's actual or potential ability to perform the essential functions of a specific job.

7.4.2 The testing must comply with the statutory requirements and be consistent with measuring if the applicant is able to perform the essential functions of the job, with or without reasonable accommodation.

7.4.3 An employer may test applicants with disabilities for a specific job and not require all other applicants to undergo testing.

7.4.4 If the testing shows that accommodation requirements would create unjustifiable hardship, or that there is an objective justification that relates to the inherent requirements of the job or to health and safety, the employer may withdraw the job offer.

7.5 Terms and conditions of employment
7.5.1 An employer may not employ people with disabilities on less favourable terms and conditions for reasons connected with the disability.

8. MEDICAL AND PSYCHOMETRIC TESTING

8.1 Medical testing
8.1.1 Tests must be relevant and appropriate to the kind of work and the necessary fitness criteria for the job, the workplace and its hazards, and necessary to the employer's business.

8.1.2 Employers should establish that tests do not unfairly exclude and are not biased in how or when they are applied, assessed or interpreted.

8.1.3 Tests to establish the health of an applicant or employee should be distinguished from tests that assess the ability to perform essential job functions or duties.

8.1.4 Health testing should therefore only be carried out after an employer has established that the person is in fact competent to perform the essential job functions or duties and after a job offer has been made. The same applies to medical testing for admission to membership of an employee benefit scheme.

8.1.5 An employer who requires a person to undergo any medical, health screening or safety test must bear the costs of the test.

8.2 Testing after illness or injury
8.2.1 If an employee has been ill or injured and it appears that the employee is not able to perform the job, the employer may require the employee to agree to a functional determination of disability.

8.2.2 Such medical or other appropriate tests shall be to assess if the employee can safely perform the job or to identify reasonable accommodation for the employee.

8.3 Health screening and safety
8.3.1 Employers are obliged to provide and maintain a working environment that is safe and without risk to the health of employees.
8.3.2 An employer should not employ a person if the employer can demonstrate that a person with a disability would represent an actual direct risk of substantial harm to his or her own or other people's safety, which could not be eliminated or reduced by applicable reasonable accommodation.

8.3.3 An employer may or need not retain an employee with a withdraw a conditional job offer disability if objective assessment shows that even with reasonable accommodation, the work would expose the employee would expose others to substantial health risk and that there is no reasonable accommodation to mitigate that risk.

8.4 Pre-benefit medical examinations

8.4.1 Employees may be required to submit to medical examination or tests before becoming members of employee benefit schemes that are offered within the employment relationship.

8.4.2 The purpose of these examinations is to assess a person's suitability for membership of a benefit scheme and is not relevant to a person's capability to perform the inherent requirements of the job.

8.4.3 Therefore an employer may not refuse to recruit, train, promote or otherwise prejudice any person only because that person has been refused membership of a benefit scheme.

9. PLACEMENT

9.1 Placement involves the orientation and initial training a new employee.

9.2 New employees with disabilities must be treated equally, subject to reasonable accommodation, to employees who do not have disabilities.

9.3 Orientation and initial training should be accessible, responsive to and able to accommodate the needs of employees who have disabilities.

10. TRAINING AND CAREER ADVANCEMENT

10.1 Employees with disabilities should be consulted so as to develop specific career advancement programmes responsive to their needs and circumstances.

10.2 Training, work organisation and recreational benefits should be accessible to employees with disabilities. Examples are training tools, materials, venues and processes, as well as canteen facilities, parking, crèche and social and sporting activities.

10.3 Systems and practices to evaluate work performance should clearly identify and fairly measure and reward performance of the inherent requirements or essential functions of the job. Work that falls outside the inherent requirements or essential functions of the job should not be evaluated.

11. RETAINING PEOPLE WITH DISABILITIES

11.1 Employees who become disabled during employment should, where practicable, be re-integrated into work.

11.2 If an employee is, or becomes a person with a disability, the employer should keep in touch with the employee and where practicable, encourage early return-to-work. This may be require vocational rehabilitation, transitional work programmes and where appropriate, temporary or permanent flexible working time.

11.3 If an employee is frequently absent from work for reasons of illness or injury, the employer may consult the employee to assess if the cause of the illness or injury is a disability that requires accommodation.

11.4 If practicable, employers should offer alternative work, reduced work or flexible work placement, so that employees are not compelled or encouraged to apply for benefits if they could, with reasonable accommodation, continue in employment.

12. TERMINATION OF EMPLOYMENT

12.1 If an employee becomes disabled, the employer should consult the employee to assess if the disability can be reasonably accommodated.

12.2 If not, the employer should consult the employee to explore the possibility of alternative employment appropriate to the employee's capacity.

12.3 If the employee is unable to be accommodated or there is not appropriate alternative employment, the employer may terminate the employment relationship.
8.3.2 An employer should not employ a person if the employer can demonstrate that a person with a disability would represent an actual direct risk of substantial harm to his or her own or other people's safety, which could not be eliminated or reduced by applicable reasonable accommodation.

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12.2 If not, the employer should consult the employee to explore the possibility of alternative employment appropriate to the employee's capacity.

12.3 If the employee is unable to be accommodated or there is not appropriate alternative employment, the employer may terminate the employment relationship.
12.4 When employees who have disabilities are dismissed for operational requirements, the employer should ensure that any selection criteria do not directly or indirectly unfairly discriminate against people with disabilities.

12.5 Employers who provide disability benefits should ensure that employees are fairly advised before they apply for the benefits available and before resigning from employment because of a medical condition.

13. CONFIDENTIALITY AND DISCLOSURE OF DISABILITY

13.1 Confidentiality

13.1.1 Employers, including health and medical services personnel, may only gather private information relating to employees if it is necessary to achieve a legitimate purpose.

13.1.2 Employers must protect the confidentiality of the information that has been disclosed and must take care to keep records of private information relating to the disability of applicants and employees confidential and separate from general personnel records.

13.1.3 When an employer no longer requires the information it must be returned to the employee or be destroyed or rendered anonymous.

13.1.4 Employers may not disclose any information relating to a person's disability without the written consent of the person concerned.

13.2 Employee disclosure

13.2.1 People with disabilities are entitled to keep their disability status confidential. But if the employer is not aware of the disability or the need to be accommodated, the employer is not obliged to provide it.

13.2.2 If the disability is not self-evident the employer may require the employee to disclose sufficient information to confirm the disability or the accommodation needs.

13.2.3 If the employer disputes that the employee is disabled or that the employee requires accommodation, the employer is entitled to request the employee to be tested to determine the employee's ability or disability, at the expense of the employer.

13.2.4 As information about disability may be technical, employers should ensure that a competent person interprets the information.

13.2.5 If an employer requires further information this must be relevant to a specific job and its essential functions.

13.2.6 If accommodating the employee requires the co-operation of other employees, it may be necessary to reveal the fact of a person's disability if it is not otherwise obvious, to some of the person's colleagues, particularly a supervisor or manager.

13.2.7 The employer may, after consulting the person with the disability, advise relevant staff that the employee requires accommodation, without disclosing the nature of the disability, unless this is required for the health or safety of the person with the disability or other persons.

14. EMPLOYEE BENEFITS

14.1 An employer who provides or arranges for occupational insurance or other plans directly or through a separate benefit scheme or fund, must ensure that they do not unfairly discriminate, either directly or indirectly against people with disabilities.

14.2 Employees with disabilities may not be refused membership of a benefit scheme because they have a disability.

14.3 To increase job security for employees who have disabilities and to reduce the costs of benefit schemes, designated employers should investigate and, if practicable, offer benefit schemes that reasonably accommodate persons with disabilities. These include:

(i) vocational rehabilitation, training and temporary income replacement benefits for employees who, because of illness or injury, cannot work for an extended period, and

(ii) financial compensation for employees who because of a disability are able to continue to work but at lower levels of pay than they enjoyed before becoming disabled.

15. EMPLOYMENT EQUITY PLANNING IN RESPECT OF PEOPLE WITH DISABILITIES

15.1 The Code of Good Practice for the Preparation, Implementation and Monitoring of Employment Equity Plans provides guidelines to employers and employees. This Code out additional
measures to ensure that people with disabilities who are suitably qualified for a job can enjoy equal opportunities and is equitably represented in the workforce.

15.2 When designated employers are consulting in terms of Section 16 of the Act, they should use the opportunity to heighten the awareness of their employees of the value and importance of recruiting and retaining employees who have disabilities.

15.3 When an employer facilitates the establishment of a consultative forum in terms of Section 16 (1) (a) and (b) of the Act, the employer should take specific steps to promote the representation of employees with different disabilities in the forum.

15.4 If people with disabilities are under-represented in all occupational categories in the workplace, the employer could seek guidance from organisations that represent people with disabilities or relevant experts, for example in vocational rehabilitation and occupational therapy.

Act, employees with disabilities may choose to either:
(i) identify their disability themselves; or
(ii) disclose their disability to their employer as long as their identity is kept confidential.

15.5 When designated employers are compiling their workplace profile in terms of Section 19 of the (i) identify their disability themselves; or (ii) disclose their disability to their employer as long as their identity is kept confidential.

15.6 The workplace profile should include any employees who are not in active employment; for example employees who are receiving total or partial income replacement benefits while recovering from illness or disability.

15.7 When designated employers are setting targets, they should aim to recruit and promote people with disabilities at all occupational levels, as people with disabilities are often employed in low status work and tend to be promoted less often than employees without disabilities.

15.8 If employees with disabilities are concentrated in particular occupational categories, the employer should consider if its criteria for selection or performance standards could be adapted to facilitate employees with disabilities being employed in different categories.

15.7 Employers should regularly evaluate the relationship between employees and the working environment and where necessary provide appropriate programmes to prevent injury, illness and disability and promote health at work.
APPENDIX D

EMPLOYMENT EQUITY ACT
NO. 55 OF 1998

CHAPTER I
DEFINITIONS, PURPOSE, INTERPRETATION AND APPLICATION

I. DEFINITIONS

--In this Act, unless the context otherwise indicates--

"Basic Conditions of Employment Act" means the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
"black people" is a generic term which means Africans, Coloureds and Indians;
"CCMA" means the Commission for Conciliation, Mediation and Arbitration, established by section 112 of the Labour Relations Act;
"code of good practice" means a document issued by the Minister in terms of section 54;
"collective agreement" means a written agreement concerning terms and conditions of employment or any other matter of mutual interest concluded by one or more registered trade unions, on the one hand and, on the other hand —
a. one or more employers;
b. one or more registered employers' organisations; or
c. one or more employers and one or more registered employers' organisations;
"Commission" means the Commission for Employment Equity, established by section 28;
"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
"designated employer" means—
a. a person who employs 50 or more employees;
b. a person who employs fewer than 50 employees but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of the Schedule 4 of this Act;
  c. a municipality as referred to in Chapter 7 of the Constitution;
  d. an organ of state as defined in section 239 of the Constitution, but excluding local spheres of Secret Service; and government, the National Defence Force, the National Intelligence Agency and the South African
  e. an employer bound by collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement.
"designated groups" means black people, women and people with disabilities;
"Director-General" means the Director-General of the Department of Labour;
"dismissal" has the meaning assigned to it in section 186 of the Labour Relations Act;
"dispute" includes an alleged dispute;
"employee" means any person other than an independent contractor who—
  a. works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
  b. in any manner assists in carrying on or conducting the business of an employer, and
"employed" and "employment" have corresponding meanings;
"employment law" means any provision of this Act or any of the following Acts:
a. The Unemployment Insurance Act, 1966 (Act No. 30 of 1966);
b. the Guidance and Placement Act, 1981 (Act No. 62 of 1981);
c. the Manpower Training Act, 1981 (Act No. 56 of 1981);
d. the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
e. the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);
f. the Labour relations Act, 1995 (Act No. 66 of 1995);
g. the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
h. any other Act, whose administration has been assigned to the Minister.
"employment policy for practice" includes, but is not limited to—
  a. recruitment procedure, advertising and selection criteria;
b. appointments and the appointment process;
c. job classification and grading;
d. remuneration employment benefits and terms and conditions of employment;
e. job assignments;
f. the working environment and facilities;
g. training and development;
h. performance evaluation systems;
i. promotion;
j. transfer;
k. demotion;
l. disciplinary measures other than dismissal; and
m. dismissal.

"family responsibility" means the responsibility of employees in relation to their spouse or partner, their dependant children or other members of their immediate family who need their care or support;
"HIV" means the Human Immunodeficiency Virus;
"labour inspector" means a person appointed in terms of section 65 of the Basic Conditions of Employment Act;
"Labour Relations Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995);
"medical testing" includes any test, question, inquiry or other means designed to ascertain, or which has the effect of enabling the employer to ascertain, whether an employee has any medical condition;
"Minister" means the Minister of Labour;
"NEDLAC" means the National Economic, Development and Labour Council established by section 2 of the National Economic, Development and Labour Council Act, 1994 (Act No. 35 of 1994);
"organ of state" means an organ of state as defined in section 239 of the Constitution;
"people with disabilities" means people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment;
"pregnancy" includes intended pregnancy, termination of pregnancy and any medical circumstances related to pregnancy;
"prescribed" means prescribed by a regulation made under section 55;
"public service" means the public service referred to in section 1 (1) of the Public Service Act, 1994 (promulgated by Proclamation No. 103 of 1994), and includes any organisational contemplated in section 7 (4) of that Act but excluding — the National Defence Force;
a. the National Intelligence Agency; and
b. the South African Secret Service.

"reasonable accommodation" means any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment;
"registered employers' organisation" means an employers' organisation as defined in section 213 of the Labour Relations Act and registered in terms of section 96 of that Act;
"registered trade union" means a trade union as defined in section 213 of the Labour Relations Act and registered in terms of section 96 of that Act;
"remuneration" means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, the State;
"representative trade union" means a registered trade union, or two or more registered trade unions acting jointly, that are sufficiently representative of the employees employed by an employer in a workplace;
"Republic" means the Republic of South Africa as defined in the Constitution;
"serve" or "submit", in relation to any communication, means either--
a. to send it in writing delivered by hand or registered post; or
b. to transmit it using any electronic mechanism as a result of which the recipient is capable of printing the communication;
"suitably qualified person" means a person contemplated in sections 20 (3) and (4);
"this Act" includes any regulations made under section 55, but excludes any footnote;
"trade union representative" means a member of a registered trade union who is elected to represent employees in a workplace;  
"workplace forum" means a workplace forum established in terms of Chapter V of the Labour Relations Act.

2. PURPOSE OF THIS ACT
--The purpose of this Act is to achieve equity in the workplace by
a. promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
b. implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce.

3. INTERPRETATION OF THIS ACT
--This Act must be interpreted—
a. in compliance with the Constitution;
b. so as to give effect to its purpose;
c. taking into account any relevant code of good practice issued in terms of this Act or any other employment law; and in compliance with the international law obligations of the Republic, in particular those contained in the International Labour Organisation Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation.

4. APPLICATION OF THIS ACT
(1) Chapter II of this Act applies to all employees and employers.
(2) Except where Chapter III provides otherwise, Chapter III of this Act applies only to designated employers and people from designated groups.
(3) This Act does not apply to members of the National Defence Force, the National Intelligence Agency or the South African Secret Service.

CHAPTER II
PROHIBITION OF UNFAIR DISCRIMINATION

5. ELIMINATION OF UNFAIR DISCRIMINATION
Every employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.

6. PROHIBITION OF UNFAIR DISCRIMINATION
(1) No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth.
(2) It is not unfair discrimination to—
a. take affirmative action measures consistent with the purpose of this Act; or
b. distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.
(3) Harassment of an employee is a form of unfair discrimination and is prohibited on any one, or a combination of grounds of unfair discrimination listed in subsection (1).

7. MEDICAL TESTING
--(1) Medical testing of an employee is prohibited, unless—
a. legislation permits or requires the testing; or
b. it is justifiable in the light of medical facts, employment conditions, social policy, the fair distribution of employee benefits or the inherent requirements of a job.
(2) Testing of an employee to determine that employee's HIV status is prohibited unless such testing is determined justifiable by the Labour Court in terms of section 50 (4) of this Act.
8. PSYCHOMETRIC TESTING
Psychometric testing and other similar assessments of an employee are prohibited unless the test or assessment being used— a. has been scientifically shown to be valid and reliable; b. can be applied fairly to employees; and c. is not biased against any employee or group.

9. APPLICANTS
For purposes of sections 6, 7 and 8, "employee" includes an applicant for employment.

10. DISPUTES CONCERNING THIS CHAPTER
(1) In this section, the word "dispute" excludes a dispute about an unfair dismissal, which must be referred to the appropriate body for conciliation and arbitration or adjudication in terms of Chapter VIII of the Labour Relations Act.
(2) Any party to a dispute concerning this Chapter may refer the dispute in writing to the CCMA within six months after the act or omission that allegedly constitutes unfair discrimination.
(3) The CCMA may at any time permit a party that shows good cause to refer a dispute after the relevant time limit set out in subsection (2).
(4) The party that refers a dispute must satisfy the CCMA that—
   a. a copy of the referral has been served on every other party to the dispute; and
   b. the referring party has made a reasonable attempt to resolve the dispute.
(5) The CCMA must attempt to resolve the dispute through conciliation.
(6) If the dispute remains unresolved after conciliation—
   a. any party to the dispute may refer it to the Labour Court for adjudication; or
   b. all the parties to the dispute may consent to arbitration of the dispute.
(7) The relevant provisions of Parts C and D of Chapter VII of the Labour Relations Act, with the changes required by context, apply in respect of a dispute in terms of this Chapter.

11. BURDEN OF PROOF
Whenever unfair discrimination is alleged in terms of this Act, the employer against whom the allegation is made must establish that it is fair.

CHAPTER III
AFFIRMATIVE ACTION

12. APPLICATION OF THIS CHAPTER
Except where otherwise provided, this Chapter applies only to designated employers.

13. DUTIES OF DESIGNATED EMPLOYERS
(1) Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.
(2) A designated employer must—
   a. consults with its employees as required by section 16;
   b. conducts an analysis as required by section 19;
   c. prepare an employment equity plan as required by section 20; and
   d. report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.

14. VOLUNTARY COMPLIANCE WITH THIS CHAPTER
An employer that is not a designated employer may notify the Director-General that it intends to comply with this Chapter as if it were a designated employer.

15. AFFIRMATIVE ACTION MEASURES
(1) Affirmative action measures are measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer.
(2) Affirmative action measures implemented by a designated employer must include—
a. measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups;
b. measures designed to further diversity in the workplace based on equal dignity and respect of all people;
c. making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities and are equitably represented in the workforce of a designated employer;
d. subject to subsection (3), measures to—
i. ensure the equitable representation of suitably qualified people from designated groups in all occupational categories and levels in the workforce; and
ii. retain and develop people from designated groups and to implement appropriate training measures, including measures in terms of an Act of Parliament providing for skills development.

(3) The measures referred to in subsection (2) (d) include preferential treatment and numerical goals, but exclude quotas.

(4) Subject to section 42, nothing in this section requires a designated employer to take any decision concerning an employment policy or practice that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups.

16. CONSULTATION WITH EMPLOYEES
(1) A designated employer must take reasonable steps to consult and attempt to reach agreement on the matters referred to in section 17--
a. with a representative trade union representing members at the workplace and its employees or representatives nominated by them; or
b. if no representative trade union represents members at the workplace, with its employees or representatives nominated by them.

(2) The employees or their nominated representatives with whom an employer consults in terms of subsection (1) (a) and (b), taken as a whole, must reflect the interests of--
a. employees from across all occupational categories and levels of the employer's workforce;
b. employees from designated groups; and c. employees who are not from designated groups.

(3) This section does not affect the obligation of any designated employer in terms of section 86 of the Labour Relations Act to consult and reach consensus with a workplace forum on any of the matters referred to in section 17 of this Act.

17. MATTERS FOR CONSULTATION
A designated employer must consult the parties referred to in section 16 concerning—
a. the conduct of the analysis referred to in section 19;
b. the preparation and implementation of the employment equity plan referred to in section 20; and c. a report referred to in section 21.

18. DISCLOSURE OF INFORMATION
(1) When a designated employer engages in consultation in terms of this Chapter, that employer must disclose to the consulting parties all relevant information that will allow those parties to consult effectively.

(2) Unless this Act provides otherwise, the provisions of section 163 of the Labour Relations Act, with the changes required by context, apply to disclosure of information.

19. ANALYSIS
(1) A designated employer must collect information and conduct an analysis, as prescribed, of its employment policies, practices, procedures and the working environment, in order to identify employment barriers which adversely affect people from designated groups.

(2) An analysis conducted in terms of subsection (1) must include a profile, as prescribed, of the designated employer's workforce within each occupational category and level in order to determine the degree of under-representation of people from designated groups in various occupational categories and levels in that employer's workforce.

20. EMPLOYMENT EQUITY PLAN
(1) A designated employer must prepare and implement an employment equity plan which will achieve reasonable progress towards employment equity in that employer’s workforce.

(2) An employment equity plan prepared in terms of subsection (1) must state--
   a. the objectives to be achieved for each year of the plan;
   b. the affirmative action measures to be implemented as required by section 15 (2);
   c. where under-representation of people from designated groups has been identified by the analysis, the numerical goals to achieve the equitable representation of suitably qualified people from designated groups within each occupational category and level in the workforce, the timetable within which this is to be achieved, and the strategies intended to achieve those goals;
   d. the timetable for each year of the plan for the achievement of goals and objectives other than numerical goals;
   e. the duration of the plan, which may not be shorter than one year or longer than five years;
   f. the procedures that will be used to monitor and evaluate the implementation of the plan and whether reasonable progress is being made towards implementing employment equity;
   g. the internal procedures to resolve any dispute about the interpretation or implementation of the plan;
   h. the persons in the workforce, including senior managers, responsible for monitoring and implementing the plan; and
   i. any other prescribed matter.

(3) For purposes of this Act, a person may be suitably qualified for a job as a result of any one of, or any combination of the persons--
   a. formal qualifications;
   b. prior learning;
   c. relevant experience; or
   d. capacity to acquire, within a responsible team, the ability to do the job.

(4) When determining whether a person is suitably qualified for a job, an employer must--
   a. review all the factors listed in subsection (3); and
   b. determine whether that person has the ability to do the job in terms of any one of, or any combination of those factors.

(5) In making a determination under subsection (4), an employer may not unfairly discriminate against a person solely on the grounds of that person’s lack of relevant experience.

(6) An employment equity plan may contain any other measures that are consistent with the purposes of this Act.

21. REPORTS

(1) A designated employer that employs fewer than 150 employees must--
   a. submit its first report to the Director-General within 12 months after the commencement of this Act or, if later, within 12 months after the date on which that employer became a designated employer; and
   b. thereafter, submits a report to the Director-General once every two years, on the first working day of October.

(2) A designated employer that employs 150 or more employees must--
   a. submit its first report to the Director-General within six months after the commencement of this Act or, if later, within six months after the date on which that employer became a designated employer; and
   b. thereafter, submits a report to the Director-General once every year on the first working day of October.

(3) Despite subsections (1) and (2), a designated employer that submits its first report in the 12-month period preceding the first working day of October, should only submit its second report on the first working day of October in the following year.

(4) The reports referred to in subsections (1) and (2) must contain the prescribed information and must be signed by the chief executive officer of the designated employer.

(5) An employer who becomes a designated employer in terms of the Act must--
   a. report as contemplated in this section for the duration of its current employment equity plan; and
   b. notify the Director-General in writing if it is unable to report as contemplated in this section, and give reasons therefore.

(6) Every report prepared in terms of this section is a public document.

22. PUBLICATION OF REPORT
(1) Every designated employer that is a public company must publish a summary of a report required by section 21 in that employer's annual financial report.

(2) When a designated employer within any organ of state has produced a report in terms of section 21, the Minister responsible for that employer must table that report in Parliament.

23. SUCCESSIVE EMPLOYMENT EQUITY PLANS
Before the end of the term of its current employment equity plan, a designated employer must prepare a subsequent employment equity plan.

24. DESIGNATED EMPLOYER MUST ASSIGN MANAGER
(1) Every designated employer must—
   a. assign one or more senior managers to take responsibility for monitoring and implementing an employment equity plan;
   b. provide the managers with the authority and means to perform their functions; and
   c. take reasonable steps to ensure that the managers perform their functions.
(2) The assignment of responsibility to a manager in terms of subsection (1) does not relieve the designated employer of any duty imposed by this Act or any other law.

25. DUTY TO INFORM
(1) An employer must display at the workplace where it can be read by employees a notice in the prescribed form, informing them about the provisions of this Act.
(2) A designated employer must, in each of its workplaces, place in prominent places that are accessible to all employees—
   a. the most recent report submitted by that employer to the Director-General;
   b. any compliance order, arbitration award or order of the Labour Court concerning the provisions of this Act in relation to that employer; and
   c. any other document concerning this Act as may be prescribed.
(3) An employer who has an employment equity plan, must make a copy of the plan available to its employees for copying and consultation.

26. DUTY TO KEEP RECORDS
An employer must establish and, for the prescribed period, maintain records in respect of its workforce, its employment equity plan and any other records relevant to its compliance with this Act.

27. INCOME DIFFERENTIALS
(1) Every designated employer, when reporting in terms of section 21 (1) and (2), must submit a statement, as prescribed, to the Employment Conditions of Commission established by section 59 of the Basic Conditions of Employment Act, on the remuneration and benefits received in each occupational category and level of that employer's workforce.
(2) Where disproportionate income differentials are reflected in the statement contemplated in subsection (1), a designated employer must take measures to progressively reduce such differentials subject to guidance as may be given by the Minister as contemplated in subsection (4).
(3) The measures referred to in subsection (2) may include—
   a. collective bargaining;
   b. compliance with sectoral determinations made by the Minister in terms of section 51 of the Basic Conditions of Employment Act;
   c. applying the norms and benchmarks set by the Employment Conditions Commission;
   d. relevant measures contained in skills development legislation;
(4) The Employment Conditions Commission must research and investigate norms and benchmarks for proportionate income differentials and advise the Minister on appropriate measures for reducing disproportional differentials.
(5) The Employment Conditions Commission may not disclose any information pertaining to individual employees or employers.
Parties to a collective bargaining process may request the information contained in the statement contemplated in subsection (1) for the collective bargaining purposes subject to section 16 (4) and (5) of the Labour Relations Act.

CHAPTER IV
COMMISSION FOR EMPLOYMENT EQUITY

28. ESTABLISHMENT OF COMMISSION FOR EMPLOYMENT EQUITY
The Commission for Employment Equity is hereby established. (Date of commencement 14 May, 1999)

29. COMPOSITION OF COMMISSION FOR EMPLOYMENT EQUITY
(1) The Commission consists of a chairperson and eight other members appointed by the Minister to hold office on a part-time basis.
(2) The members of the Commission must include—
   a. two people nominated by those voting members of NEDLAC who represent organised labour;
   b. two people nominated by those voting members of NEDLAC who represent organised business;
   c. two people nominated by those voting members of NEDLAC who represent the State; and
   d. two people nominated by those voting members of NEDLAC who represent the organisations of community and development interests in the Development Chamber in NEDLAC.
(3) A party that nominates persons in terms of subsection (2) must have due regard to promoting the representivity of people from designated groups.
(4) The Chairperson and each other member of the Commission—
   a. must have experience and expertise relevant to the functions contemplated in section 30;
   b. must act impartially when performing any function of the Commission;
   c. may not engage in any activity that may undermine the integrity of the Commission; and
   d. must not participate in forming or communicating any advice on any matter in respect of which they have a direct financial interest or any other conflict of interest.
(5) The Minister must appoint a member of the Commission to act as chairperson whenever the office of chairperson is vacant.
(6) The members of the Commission must choose from among themselves a person to act in the capacity of chairperson during the temporary absence of the chairperson.
(7) The Minister may determine—
   a. the term of office for the chairperson and for each member of the Commission, but no member's term of office may exceed five years;
   b. the remuneration and allowances to be paid to members of the Commission with the concurrence of the Minister of Finance; and
   c. any other conditions of appointment not provided for in this section.
(8) The chairperson and members of the Commission may resign by giving at least one month's written notice to the Minister.
(9) The Minister may remove the chairperson or a member of the Commission from office for
   a. serious misconduct;
   b. permanent incapacity;
   c. that person's absence from three consecutive meetings of the Commission without the prior permission of the chairperson, except on good cause shown; or
   d. engaging in any activity that may undermine the integrity of the Commission. (Date of commencement of s. 29: 14 May, 1999)

30. FUNCTIONS OF COMMISSION FOR EMPLOYMENT EQUITY
(1) The Commission advises the Minister on
   a. codes of good practice issued by the Minister in terms of section 54;
   b. regulations made by the Minister in terms of section 55; and
   c. policy and any other matter concerning this Act.
(2) In addition to the functions in subsection (1) the Commission may—
   a. makes awards recognising achievements of employers in furthering the purpose of this Act;
b. research and report to the Minister on any matter relating to the application of this Act, including appropriate and well-researched norms and benchmarks for the setting of numerical goals in various sectors; and
c. performs any other prescribed function. (Date of commencement of s. 30: 14 May, 1999)

31. STAFF AND EXPENSES
Subject to the laws governing the public service, the Minister must provide the Commission with the staff necessary for the performance of its functions. (Date of commencement 14 May, 1999)

32. PUBLIC HEARINGS
In performing its functions, the Commission may—
a. call for written representations from members of the public; and
b. hold public hearings at which it may permit members of the public to make oral representations. (Date of commencement of s. 32: 14 May, 1999)

33. REPORT BY COMMISSION FOR EMPLOYMENT EQUITY
The Commission must submit an annual report to the Minister. (Date of commencement 14 May, 1999)

CHAPTER V
MONITORING, ENFORCEMENT AND LEGAL PROCEEDINGS

PART A
MONITORING

34. MONITORING BY EMPLOYEES AND TRADE UNION REPRESENTATIVES
Any employee or trade union representative may bring an alleged contravention of this Act to the attention of—
a. another employee;
b. an employer;
c. a trade union;
d. a workplace forum;
e. a labour inspector;
f. the Director-General; or
g. the Commission. Enforcement

35. POWERS OF LABOUR INSPECTORS
A labour inspector acting in terms of this Act has the authority to enter, question and inspect as provided for in sections 65 and 66 of the Basic Conditions of Employment Act.

36. UNDERTAKING TO COMPLY
A labour inspector must request and obtain a written undertaking from a designated employer to comply with paragraphs (a) to (j) within a specified period, if the inspector has reasonable grounds to believe that the employer has failed to
a. consults with employees as required by section 16;
b. conducts an analysis as required by section 19;
c. prepares an employment equity plan as required by section 20;
d. implements its employment equity plan;
e. submits an annual report as required by section 21;
f. publishes its report as required by section 22;
g. prepares a successive employment equity plan as required by section 23;
h. assigns responsibility to one or more senior managers as required by section 24;
i. inform its employees as required by section 25; or
j. keeps records as required by section 26.
37. COMPLIANCE ORDER
(1) A labour inspector may issue a compliance order to a designated employer if that employer has-
   a. refused to give a written undertaking in terms of section 36, when requested to do so; or
   b. failed to comply with a written undertaking given in terms of section 36.
(2) A compliance order issued in terms of subsection (1) must set out
   a. the name of the employer, and the workplaces to which the order applies;
   b. those provisions of Chapter III of this Act which the employer has not complied with and details of
      the conduct constituting non-compliance;
   c. any written undertaking given by the employer in terms of section 36 and any failure by the
      employer to comply with the written undertaking;
   d. any steps that the employer must take and the period within which those steps must be taken;
   e. the maximum fine, if any, that may be imposed on the employer in terms of Schedule 1 for failing to
      comply with the order; and
   f. any other prescribed information.
(3) A labour inspector who issues a compliance order must serve a copy of that order on the employer
    named in it.
(4) A designated employer who receives a compliance order served in terms of subsection (3) must
    display a copy of that order prominently at a place accessible to the affected employees at each
    workplace named in it.
(5) A designated employer must comply with the compliance order within the time period stated in it,
    unless the employer objects to that order in terms of section 39.
(6) If a designated employer does not comply with an order within the period stated in it, or does not
    object to that order in terms of section 39, the Director-General may apply to the Labour Court to make
    the compliance order an order of the Labour Court.

38. LIMITATIONS
A labour inspector may not issue a compliance order in respect of a failure to comply with a provision
of Chapter III of this Act if
a. the employer is being reviewed by the Director-General in terms of section 43; or
b. the Director-General has referred an employer's failure to comply with a recommendation to the
   Labour Court in terms of section 45.

39. OBJECTIONS AGAINST COMPLIANCE ORDER
(1) A designated employer may object to a compliance order by making written representations to the
    Director-General within 21 days after receiving that order.
(2) If the employer shows good cause at any time, the Director-General may permit the employer to
    object after the period of 21 days has expired.
(3) After considering the designated employer's representations and any other relevant information, the
    Director-General--
    a. may confirm, vary or cancel all or any part of the order to which the employer objected; and
    b. must specify the time period within which that employer must comply with any part of the order that
       is confirmed or varied.
(4) The Director-General must, after making a decision in terms of subsection (3), and within 60 days
    after receiving the employer's representations, serve a copy of that decision on that employer.
(5) A designated employer who receives an order of the Director-General must either--
    a. comply with that order within the time period stated in it; or
    b. appeal against that order to the Labour Court in terms of section 40.
(6) If a designated employer does not comply with an order of the Director-General, or does not appeal
    against that order, the Director-General may apply to the Labour Court for that order to be made an
    order of the Labour Court.

40. APPEAL FROM COMPLIANCE ORDER
(1) A designated employer may appeal to the Labour Court against a compliance order of the Director-
    General within 21 days after receiving that order.
(2) The Labour Court may at any time permit the employer to appeal after the 21-day time limit has
    expired, if that employer shows good cause for failing to appeal within that time limit.
(3) If the designated employer has appealed against an order of the Director-General, that order is suspended until the final determination of
a. the appeal by the Labour Court; or
b. any appeal against the decision of the Labour Court in the matter.

41. REGISTER OF DESIGNATED EMPLOYERS
(1) The Minister must keep a register of designated employers that have submitted the reports required by section 21.
(2) The register referred to in subsection (1) is a public document.

42. ASSESSMENT OF COMPLIANCE
In determining whether a designated employer is implementing employment equity in compliance with this Act, the Director-General or any person or body applying this Act must, in addition to the factors stated in section 15, take into account all of the following:

a. The extent to which suitably qualified people from and amongst the different designated groups are equitably represented within each occupational category and level in that employer's workforce in relation to the--
   i. demographic profile of the national and regional economically active population;
   ii. pool of suitably qualified people from designated groups from which the employer may reasonably be expected to promote or appoint employees;
   iii. economic and financial factors relevant to the sector in which the employer operates;
   iv. present and anticipated economic and financial circumstances of the employer; and
   v. the number of present and planned vacancies that exist in the various categories and levels, and the employer's labour turnover;

b. progress made in implementing employment equity by other designated employers operating under comparable circumstances and within the same sector;

c. reasonable efforts made by a designated employer to implement its employment equity plan;

d. the extent to which the designated employer has made progress in eliminating employment barriers that adversely affect people from designated groups; and
e. any other prescribed factor.

43. REVIEW BY DIRECTOR-GENERAL
(1) The Director-General may conduct a review to determine whether an employer is complying with this Act.
(2) In order to conduct the review the Director-General may--
   a. request an employer to submit to the Director-General a copy of its current analysis or employment equity plan;
   b. request an employer to submit to the Director-General any book, record, correspondence, document or information that could reasonably be relevant to the review of the employer's compliance with this Act;
   c. request a meeting with an employer to discuss its employment equity plan, the implementation of its plan and any matters related to its compliance with this Act; or
d. request a meeting with any--
   i. employee or trade union consulted in terms of section 16;
   ii. workplace forum; or
   iii. other person who may have information relevant to the review.

45. failure to comply with director-general's recommendation

Subsequent to a review in terms of section 43, the Director General may--

a. approve a designated employer's employment equity plan; or
b. make a recommendation to an employer, in writing stating--
   i. steps which the employer must take in connection with its employment equity plan or the implementation of that plan, or in relation to its compliance with any other provision of this Act; and
   ii. The period within which those steps must be taken, and
   iii. any other prescribed information.

45. FAILURE TO COMPLY WITH DIRECTOR-GENERAL'S RECOMMENDATION
If an employer fails to comply with a request made by the Director-General in terms of section 43 (2) or a recommendation made by the Director-General in terms of section 44 (b), the Director-General may refer the employer's non-compliance to the Labour Court.

PART B
LEGAL PROCEEDINGS

46. CONFLICT OF PROCEEDINGS
(1) If a dispute has been referred to the CCMA by a party in terms of Chapter II and the issue to which the dispute relates also forms the subject of a referral to the Labour Court by the Director-General in terms of section 45, the CCMA proceedings must be stayed until the Labour Court makes a decision on the referral by the Director-General.
(2) If a dispute has been referred to the CCMA by a party in terms of Chapter II against an employer being reviewed by the Director-General in terms of section 43, there may not be conciliation or adjudication in respect of the dispute until the review has been completed and the employer has been informed of the outcome.

47. CONSOLIDATION OF PROCEEDINGS
Disputes concerning contraventions of this Act by the same employer may be consolidated.

48. POWERS OF COMMISSIONER IN ARBITRATION PROCEEDINGS
A commissioner of the CCMA may, in any arbitration proceedings in terms of this Act, make any appropriate arbitration award that gives effect to a provision of this Act.

49. JURISDICTION OF LABOUR COURT
The Labour Court has exclusive jurisdiction to determine any dispute about the interpretation or application of this Act, except where this Act provides otherwise.

50. POWERS OF LABOUR COURT
(1) Except where this Act provides otherwise, the Labour Court may make any appropriate order including
a. on application by the Director-General in terms of section 37 (6) or 39 (6) making a compliance order an order of the Labour Court;
b. subject to the provisions of this Act, condoning the late filing of any document with, or the late referral of any dispute to, the Labour Court;
c. directing the CCMA to conduct an investigation to assist the Court and to submit a report to the Court;
d. awarding compensation in any circumstances contemplated in this Act;
e. awarding damages in any circumstances contemplated in this Act;
f. ordering compliance with any provision of this Act; including a request made by the Director-General in terms of section 43 (2) or a recommendation made by the Director-General in terms of section 44 (b);
g. imposing a fine in accordance with Schedule I for a contravention of certain provisions of this Act;
h. reviewing the performance or purported performance of any function provided for in this Act or any act or omission of any person or body in terms of this Act on any grounds that are permissible in law;
i. in an appeal under section 40, confirming, varying or setting aside all or part of an order made by the Director-General in terms of section 39; and
j. dealing with any matter necessary or incidental to performing its functions in terms of this Act.
(2) If the Labour Court decides that an employee has unfairly discriminated against, the Court may make any appropriate order that is just and equitable in the circumstances, including
a. payment of compensation by the employer to that employee;
b. payment of damages by the employer to that employee;
c. an order directing the employer to take steps to prevent the same unfair discrimination or a similar practice occurring in the future in respect of other employees;
d. an order directing an employer, other than a designated employer, to comply with Chapter III as if it were a designated employer;
e. an order directing the removal of the employer’s name from the register referred to in section 41; or
f. the publication of the Court’s order.
(3) The Labour Court, in making any order, may take into account any delay on the part of the party who seeks relief in processing a dispute in terms of this Act.
(4) If the Labour Court declares that the medical testing of an employee as contemplated in section 7 is justifiable, the court may make any order that it considers appropriate in the circumstances, including imposing conditions relating to
a. the provision of counselling;
b. the maintenance of confidentiality;
c. the period during which the authorisation for any testing applies; and the category or categories of jobs or employees in respect of which the authorisation for testing applies.

PART C
PROTECTION OF EMPLOYEE RIGHTS

51. PROTECTION OF EMPLOYEE RIGHTS
(1) No person may discriminate against an employee who exercises any right conferred by this Act.
(2) Without limiting the general protection conferred by subsection (1), no person may threaten to do, or do any of the following:
a. Prevent an employee from exercising any right conferred by this Act or from participating in any proceedings in terms of this Act; or
b. prejudices an employee because of past, present or anticipated—
i. disclosure of information that the employee is lawfully entitled or required to give to another person;
ii. exercise of any right conferred by this Act; or
iii. participation in any proceedings in terms of this Act.
(3) No person may favour, or promise to favour, an employee in exchange for that employee not exercising any right conferred by this Act or not participating in any proceedings in terms of this Act.
(4) Nothing in this section precludes the parties to a dispute arising out of an alleged breach of any right conferred by this Part, from concluding an agreement to settle the dispute.
(5) For the purposes of this section “employee” includes a former employee or an applicant for employment.

52. PROCEDURE FOR DISPUTES
(1) If there is a dispute about the interpretation or application of this Part, any party to the dispute may refer it in writing to the CCMA.
(2) The CCMA must attempt to resolve a dispute referred to it in terms of this Part through conciliation.
(3) If the dispute remains unresolved after conciliation
a. any party to the dispute may refer it to the Labour Court for adjudication; or
b. all the parties to the dispute may consent to arbitration of the dispute by the CCMA.
(4) In respect of a dispute in terms of this Part, the relevant provisions of Part C and D of Chapter VII of the Labour Relations Act apply, read with the changes required by the context.

CHAPTER VI
GENERAL PROVISIONS

53. STATE CONTRACTS
(1) Every employer that makes an offer to conclude an agreement with any organ of state for the furnishing of supplies or services to that organ of state or for the hiring or letting of anything
a. must—
i. if it is a designated employer, comply with Chapters II and III of this Act; or
ii. if it is not a designated employer, comply with Chapter II of this Act; and
b. attach to that offer either
i. a certificate in terms of subsection (2) which is conclusive evidence that the employer complies with the relevant Chapters of this Act; or
ii. a declaration by the employer that it complies with the relevant Chapters of this Act, which, when verified by the Director-General, is conclusive evidence of compliance.

(2) An employer referred to in subsection (1) may request a certificate from the Minister confirming its compliance with Chapter II, or Chapters II and III, as the case may be.

(3) A certificate issued in terms of subsection (2) is valid for 12 months from the date of issue or until the next date on which the employer is obliged to submit a report in terms of section 21, whichever period is the longer.

(4) A failure to comply with the relevant provisions of this Act is sufficient ground for rejection of any offer to conclude an agreement referred to in subsection (1) or for cancellation of the agreement.

54. CODES OF GOOD PRACTICE

(1) The Minister may, on the advice of the Commission--
a. issue any code of good practice; and
b. change or replace any code of good practice.

(2) Any code of good practice, or any change to, or replacement of, a code of good practice must be published in the Gazette.

55. REGULATIONS

(1) The Minister may, by notice in the Gazette and on the advice of the Commission, make any regulation regarding--
a. any matter that this Act requires or permits to be prescribed; and
b. any administrative or procedural matters that may be necessary or expedient to achieve the proper and effective administration of this Act.

(2) The Minister must by notice in the Gazette make a regulation providing for separate and simplified forms and procedures in respect of the obligations created by sections 19, 20, 21, 25 and 26 for employers that employ 150 or fewer employees.

56. DELEGATIONS

(1) The Minister may delegate any power conferred, or assign any duty imposed, upon the Minister in terms of this Act, except the powers and duties contemplated in sections 29 (1), (5) and (7), 53 (2), 54, 55, 59 (4) and 61 (4).

(2) A delegation or assignment must be in writing and may be subject to any conditions or restrictions determined by the Minister.

(3) The Minister may at any time--
a. withdraw a delegation or assignment made in terms of subsection (1); and
b. withdraws or amends any decision made by a person exercising a power or performing a duty delegated or assigned in terms of subsection (1).

(4) The Director-General may delegate any power conferred, or assign any duty imposed, upon the Director-General in terms of this Act, to any employee in the Department.

(5) Subsections (2) and (3) apply with the changes required by the context to any delegation or assignment by the Director-General under subsection (4).

57. TEMPORARY EMPLOYMENT SERVICES

(1) For purposes of Chapter III of this Act, a person whose services have been procured for, or provided to, a client by a temporary employment service is deemed to be the employee of that client, where that person's employment with the client is of indefinite duration or for a period of three months or longer.

(2) Where a temporary employment service, on the express or implied instructions of a client, commits an act of unfair discrimination, both the temporary employment service and the client are jointly and severally liable.
58. DESIGNATION OF ORGANS OF STATE
The President must, within six months after the commencement of this Act, and after consultation with the Minister responsible for the Public Service and Administration, publish a notice in the Gazette listing every designated employer within any organ of state.

59. BREACH OF CONFIDENTIALITY
(1) Any person who discloses any confidential information acquired in the performance of a function in terms of this Act, commits an offence.
(2) Subsection (1) does not apply if the information--
a. is disclosed to enable a person to perform a function in terms of this Act; or
b. must be disclosed in terms of this Act, any other law or an order of court.
(3) A person convicted of an offence in terms of this section may be sentenced to a fine not exceeding R10 000,00.
(4) The Minister may, with the concurrence of the Minister of Justice and by notice in the Gazette, amend the maximum amount of the fine referred to in subsection (3) in order to counter the effect of inflation.

60. LIABILITY OF EMPLOYERS
(1) If it is alleged that an employee, while at work, contravened a provision of this Act, or engaged in any conduct that, if engaged in by that employee's employer, would constitute a contravention of a provision of this Act, the alleged conduct must immediately be brought to the attention of the employer.
(2) The employer must consult all relevant parties and must take the necessary steps to eliminate the alleged conduct and comply with the provisions of this Act.
(3) If the employer fails to take the necessary steps referred to in subsection (2), and it is proved that the employee has contravened the relevant provision, the employer must be deemed also to have contravened that provision.
(4) Despite subsection (3), an employer is not liable for the conduct of an employee if that employer is able to prove that it did all that was reasonably practicable to ensure that the employee would not act in contravention of this Act.

61. OBSTRUCTION, UNDUE INFLUENCE AND FRAUD
(1) No person may
a. obstruct or attempt to improperly influence any person who is exercising a power or performing a function in terms of this Act; or
b. knowingly give false information in any document or information provided to the Director-General or a labour inspector in terms of this Act.
(2) No employer may knowingly take any measure to avoid becoming a designated employer.
(3) A person who contravenes a provision of this section commits an offence and may be sentenced to a fine not exceeding R10 000,00.
(4) The Minister may, with the concurrence of the Minister of Justice and by notice in the Gazette, amend the maximum amount of the fine referred to in subsection (3) in order to counter the effect of inflation.

62. THIS ACT BINDS THE STATE
This Act binds the State.

63. APPLICATION OF ACT WHEN IN CONFLICT WITH OTHER LAWS
If any conflict relating to a matter dealt with in this Act arises between this Act and the provisions of any other law other than the Constitution or an Act of Parliament expressly amending this Act, the provisions of this Act prevail.

64. REPEAL OF LAWS AND TRANSITIONAL ARRANGEMENTS
Each of the laws referred to in the first two columns of Schedule 2 is repealed to the extent specified opposite that law in the third column of that Schedule.
65. SHORT TITLE AND COMMENCEMENT
(1) This Act is called the Employment Equity Act, 1998.
(2) This Act takes effect on a date to be determined by the President by proclamation in the Gazette. The President may determine different dates in respect of different provisions of this Act.
(3) If, in terms of subsection (2), different dates are determined for particular provisions of this Act, Schedule 2 must take effect at the same time as section 6 (1) takes effect; and a reference in a provision of this Act to a time when this Act took effect must be construed as a reference to the time when that provision takes effect.

SCHEDULE 1
MAXIMUM PERMISSIBLE FINES THAT MAY BE IMPOSED FOR CONTRAVENTING THIS ACT
This Schedule sets out the maximum fine that may be imposed in terms of this Act for the contravention of certain provisions of this Act.

<table>
<thead>
<tr>
<th>Previous Contravention</th>
<th>Contravention of any Provision of Sections 16, 19, 20, 21, 22 and 23</th>
</tr>
</thead>
<tbody>
<tr>
<td>No previous contravention</td>
<td>R500 000</td>
</tr>
<tr>
<td>A previous contravention in respect of the same provision</td>
<td>R600 000</td>
</tr>
<tr>
<td>A previous contravention within the previous 12 months or two previous contraventions in respect of the same provision within three years</td>
<td>R700 000</td>
</tr>
<tr>
<td>Three previous contraventions in respect of the same provision within three years</td>
<td>R800 000</td>
</tr>
<tr>
<td>Four previous contraventions in respect of the same provision within three years</td>
<td>R900 000</td>
</tr>
</tbody>
</table>

SCHEDULE 2
LAWS REPEALED

<table>
<thead>
<tr>
<th>Number and year of law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act No. 66 of 1995</td>
<td>Labour Relations Act, 1995</td>
<td>Item 2 (1) (a), 2 (2) and 3 (4) (a) of Schedule 7</td>
</tr>
</tbody>
</table>
SCHEDULE 3
TRANSITIONAL ARRANGEMENTS

1. DEFINITIONS.
In this Schedule, unless the context indicates otherwise-- "pending" means existing immediately before this Act came into operation; and "repealed provisions of the Labour Relations Act" means the provisions of the Labour Relations Act repealed by Schedule 2.

2. DISPUTES ARISING BEFORE COMMENCEMENT OF THIS ACT.
Any dispute contemplated in item (2) (1) (a) of Schedule of the Labour Relations Act that arose before the commencement of this Act, must be dealt with as if the repealed provisions of the Labour Relations Act had not been repealed.

3. COURTS.
(1) In any pending dispute contemplated in item (2) (1) (a) of Schedule 7 of the Labour Relations Act in respect of which the Labour Court or the Labour Appeal Court had jurisdiction and in respect of which proceedings had not been instituted before the commencement of this Act, proceedings must be instituted in the Labour Court or Labour Appeal Court (as the case may be) and dealt with as if the repealed provisions of the Labour Relations Act had not been repealed.
(2) Any dispute contemplated in item (2) (1) (a) of Schedule 7 of the Labour Relations Act in respect of which proceedings were pending in the Labour Court or Labour Appeal Court must be proceeded with as if the repealed provisions of the Labour Relations Act had not been repealed.
(3) Any pending appeal before the Labour Appeal Court must be dealt with by the Labour Appeal Court as if the repealed provisions of the Labour Relations Act had not been repealed.
(4) When acting in terms of subitems (1) to (3), the Labour Court or Labour Appeal Court may perform or exercise any function or power that it had in terms of the repealed provisions of the Labour Relations Act.

SCHEDULE 4
TURNOVER THRESHOLD APPLICABLE TO DESIGNATED EMPLOYERS

<table>
<thead>
<tr>
<th>Sector or subsectors in accordance with the Standard Industrial Classification</th>
<th>Total annual turnover</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>R2,00 m</td>
</tr>
<tr>
<td>Mining and Quarrying</td>
<td>R7,50 m</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>R10,00 m</td>
</tr>
<tr>
<td>Electricity, Gas and Water</td>
<td>R10,00 m</td>
</tr>
<tr>
<td>Construction</td>
<td>R5,00 m</td>
</tr>
<tr>
<td>Retail and Motor Trade and Repair Services</td>
<td>R15,00 m</td>
</tr>
<tr>
<td>Wholesale Trade, Commercial Agents and Allied Services</td>
<td>R25,00 m</td>
</tr>
<tr>
<td>Catering, Accommodation and other Trade</td>
<td>R5,00 m</td>
</tr>
<tr>
<td>Transport, Storage and Communications</td>
<td>R10,00 m</td>
</tr>
<tr>
<td>Finance and Business Services</td>
<td>R10,00 m</td>
</tr>
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