

Protection Of The Rights Of Persons With Disabilities

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES, FOR THE PROMOTION, ADVANCEMENT AND PROTECTION OF RIGHTS OF PERSONS WITH DISABILITIES IN SRI LANKA ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS it is necessary to make legal provision to give effect to the national policy on the rehabilitation, welfare and relief of persons with disabilities and in furtherance thereof to make provision for the establishment of a National Council for persons with disabilities :

BE it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

[24th October , 1996]

Short title and date of operation. **1.** This Act may be cited as the Protection of the Rights of Persons with Disabilities Act, No. 28 of 1996, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the "appointed date").

PART I

ESTABLISHMENT OF THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

Establishment of the National council for persons with Disabilities. **2.**

(1) There shall be established a Council called the "National Council for Persons with Disabilities" (hereinafter referred to as the "Council").

(2) The Council shall, by the name assigned to it by subsection (1), be a body corporate with perpetual succession and a common seal and may sue and be sued in such name.

Constitution of the Council. **3.** The Council shall consist of the following members :-

(a) the Minister who shall be the Chairman of the Council ;

(b) eleven members appointed by the President in consultation with the Minister to represent persons with disabilities and to represent, any bodies corporate or unincorporate (hereinafter referred to as "voluntary organizations") which are engaged in providing services to persons with disabilities including self-help organizations of persons with disabilities ;

(c) nine other members appointed by the President by name or office in consultation with the Minister, from among members of Parliament or Provincial Councils or local authorities or members of bodies of professionals or public officers.

A member appointed under paragraph (b) or (c) is hereinafter referred to as an "appointed member".

Term of office of appointed members. **4.** Every appointed member shall, unless he vacates office earlier by death, resignation or removal, hold office for a period of three years from the date of his appointment and shall unless he has been removed from office, be eligible for re-appointment.

Removal and resignation of appointed members. **5.**

(1) The President may, in consultation with the Minister remove any appointed member from office without assigning any reason therefor.

(2) In the event of the vacation of office by death resignation or removal of any appointed member, the President may, in consultation with the Minister, and having regard to the provisions of section 3, appoint any other person to succeed such member. Any member so appointed shall hold office for the unexpired term of office of the member whom he succeeds.

(3) Any appointed member may at any time resign from office by letter to that effect addressed to the President.

(4) Where an appointed member, by reason of illness, infirmity or absence from Sri Lanka for a period of not less than three months, is temporarily unable to perform his duties, it shall be the duty of such inability. There upon, the president may, in consultation with the Minister, and having regard to the provisions of section 3, appoint some other person to act in his place.

Remuneration of members. **6.** All or any of the members of the Council may be paid such remuneration as the Minister may determine in consultation with the Minister in charge of the subject of Finance.

The chairman and **7.**
the conduct of
business.

(1) The Chairman shall preside at all meetings of the Council at which he is present. In the absence of the Chairman from any meeting of the Council, the members present at such meeting shall choose from among themselves another member to preside at that meeting.

(2) The quorum for any meeting of the Council shall be five members.

(3) The Council shall meet as often as necessary, and in any case at least once in each month, at such time and place as the Council may determine, and shall, subject to the other provisions of this Act and any regulation made thereunder, regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(4) The Chairman may designate an officer of the Council appointed under section 15 of this Act to be in control of the day to day administration of the affairs of the Council.

Acts not
invalidated by
reason of a
vacancy.

8. No act, decision or proceeding of the Council shall be deemed to be invalid by reason only of the existence of any vacancy in the Council or any defect in the appointment of any member thereof.

Delegation of
Powers to
members.

9. The Council may delegate to any member of the Council, any power, duty or function conferred or imposed on, or assigned to, the Council by this Act, and in the exercise, performance or discharge of such power, duty or function such member shall be subject to the general or special directions of the Council.

Secretary to the
Council.

10. The Secretary to the Ministry of the Minister shall function as the Secretary to the Council.

Seal of the
Council.

11.

(1) The seal of the Council may be determined and devised by the Council, and may be altered in such manner as may be determined by the Council.

(2) The seal of the Council shall be in the custody of such person as the Council may decide from time to time.

(3) The seal of the Council shall not be affixed to any instrument or document except with the sanction of the Council and in the presence of the Chairman and one member of the Council who shall sign the instrument or document in token of their presence.

(4) The Council shall maintain a register of the instruments and documents to which the seal of the Council has been affixed.

Principal function
of the Council.

12. The principal function of the Council shall be to ensure the promotion, advancement and protection of the rights of persons with disabilities.

Other functions of
the Council.

13. Without prejudice to the generality of section 12, the other functions of the Council shall be-

(a) to advise the Government on the promotion of the welfare of, and the protection and advancement of rights of, persons with disabilities ;

(b) to take all such measures as are necessary, in consultation with the relevant Ministries, Provincial Councils, local authorities, District and Divisional Secretariats, public and private sectors and organizations, to promote the furtherance of, and safeguarding, the interests and rights of persons with disabilities;

(c) to recommend schemes, to promote the welfare of, and for protection of, persons with disabilities;

(d) to initiate and implement schemes for, the promotion of the welfare of, and protection of the rights of, persons with disabilities.

(e) to ensure the adoption of, and compliance with, the relevant international declarations and conventions relating to persons with disabilities, by the Government;

(f) to maintain accurate statistics relating to persons with disabilities and the services available to such persons ;

(g) to identify the principal causes of disablement and promote effective measures for their prevention and control;

(h) to formulate and promote measures for the rehabilitation of persons with disabilities;

(i) to establish and maintain rehabilitation centres for persons with disabilities;

(j) to ensure a better standard of living for persons with disabilities ;

(k) to ensure that the requirements of persons with disabilities are met adequately ;

(l) to establish and maintain institutions to accommodate and care for persons with disabilities and provide educational and vocational training for such persons;

- (m) to encourage the establishment by the State and by private individuals, of institutions to accommodate persons with disabilities and the provision of educational and vocational training to such persons ;
- (n) to guide, support, co-ordinate and monitor, the activities of institutions established for the care of persons with disabilities;
- (o) to encourage and provide facilities for full participation by persons with disabilities in all activities;
- (p) to introduce programmes to make the physical environment accessible to persons with disabilities and implement schemes to provide access to information and communication by persons with disabilities;
- (q) to monitor and co-ordinate the programmes and schemes formulated, initiated and implemented by the Government and by voluntary organizations and bodies, for the upliftment of persons with disabilities and to provide grants for such purposes, and to make necessary recommendations ;
- (r) to make the public aware of the conditions and needs of persons with disabilities through publications and other programmes;
- (s) to assist, by way of grants or otherwise, organizations engaged in providing services to persons with disabilities;
- (t) to assist wherever possible, persons with disabilities to be gainfully employed ;
- (u) to encourage the study of, and research on, methods to improve the quality of life of persons with disabilities and to promote their participation in all activities ;
- (v) to do all such other acts or things as may be necessary for the discharge of all or any of the above functions.

Powers of the Council.

14. The Council may exercise all or any of the following powers :-

- (a) acquire, hold, take or give on lease or hire, mortgage, pledge or sell or otherwise dispose of, any movable or immovable property;
- (b) to establish a National Secretariat for Persons with Disabilities to assist the Council in the discharge of its functions ;
- (c) employ such officers and servants as may be necessary for the purpose of discharging the functions of council;
- (d) enter into and perform directly or through any officer or after authorized in that behalf, all such contracts as may be necessary for the discharge of the functions and the exercise of the Council;
- (e) open and maintain current, savings or deposit accounts in any bank or banks ;
- (f) borrow such sums of money as may be necessary for the purpose of discharging its functions ;
- (g) accept and receive, grants, donations and bequests both movable and immovable, from sources in Sri Lanka and abroad and apply them for the discharge of its functions;
- (h) make rules in respect of the management of the affairs of the Council;
- (i) generally, to do all such other things as are necessary to facilitate the proper discharge of the functions of the Council.

PART II

STAFF OF THE COUNCIL

Staff of the council.

15.

- (1) The Council may appoint such officers and servants as the Council may deem necessary for the proper and efficient discharge of its functions.
- (2) The Council shall in making any appointments under this section have regard to the desirability of appointing persons with disabilities to the staff of the Council.
- (3) Subject to the other provisions of this Act, the Council may-
 - (a) exercise disciplinary control over or dismiss, any officer or servant of the Council;
 - (b) fix the wages or salaries or other remuneration of such officers and servants ;
 - (c) determine the terms and conditions of service of such officers and servants; and
 - (d) establish and regulate a provident fund and any other welfare scheme for the benefit of the officers and servants of the Council and may make contributions to any such fund or scheme.

Appointment public officers to

16.

the staff of the Council.

(1) At the request of the Council, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry under which that officer is employed and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent, or with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the Council, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, mutatis mutandis, apply to, and in relation to, such officer.

(3) Where any officer in the public service is permanently appointed to the staff of the Council, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, mutatis mutandis, apply to, and in relation to, such officer.

(4) Where the Council employs any person who has entered into any contract with the Government by which he has agreed to serve to the Government for a special period, any period of service to the council by that person shall be regarded as service to the Government for the purpose of discharging his obligations his obligations under such contract.

PART III

FINANCE

The Fund of the Council. **17.**

(1) There shall be established a Fund to be called the National Fund for Persons with Disabilities (hereinafter referred to as the "Fund").

(2) There shall be paid into the Fund-

(a) all such sums of money as may be voted from time to time by Parliament for the use of the Council;

(b) all such sums of money as may be received by the council by way of aid, grants, donations or requests from any source whatsoever, whether in Sri Lanka or abroad ;

(c) all such sums of money as may be received by the Council by way of proceeds from the sale of any movable or immovable property of the Council.

(3) There shall be paid out of the Fund-

(a) all such sums of money as are required to defray any expenditure incurred by the Council, in the exercise, performance and discharge of its powers, duties and functions under this Act;

(b) all such sums of money as are authorized by the Council to make any extratia payment to any individual or organization in recognition of any exceptional or outstanding contribution made by such individual or organization towards the upliftment or improvement of the status of persons with disabilities;

(c) all such sums of money as are required to be paid out of such Fund, by or under this Act.

Audit and accounts. **18.**

(1) The Council shall cause proper accounts to be kept of the income and expenditure, assets and liabilities and all accounts other transactions of the Council.

(2) The financial year of the Council shall be the calendar year.

(3) The provisions of Article 154 of the Constitution shall apply to the audit of the accounts of the Council.

Investment of moneys of the Council. **19.** Any sum of money belonging to the Council may be invested by the Council in such manner as the Council may determine.

PART IV

REGISTRATION

Registration with the Council. **20.**

(1) No voluntary organization shall engage in providing services or assistance in any form or manner to persons with disabilities either directly or through any institution or other body or organization, unless such voluntary organization is registered under this Act.

(2) Notwithstanding the provisions of subsection (1), any voluntary

organization which, on the day preceding the appointed date, was engaged in the provision of such services or assistance, shall register such organization within three months of the appointed date.

Application for registration.

21. Every application for registration under this Act shall be made to the Secretary of the Council in the prescribed form and in the prescribed manner.

Grant of certificate.

22. On receipt of an application made under section 21, the Council shall, having regard to the services and assistance provided by such voluntary organization, grant registration to such organization and issue a certificate to that effect.

PART V

PROTECTION OF THE RIGHTS OF PERSONS WITH DISABILITIES

Provisions for the protection advancement of persons with disabilities.

23.

(1) No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office or admission to any educational institution.

(2) No person with a disability shall, on the ground of such disability, be subject to any liability, restriction or condition with regard to access to, or use of, any building or place which any other member of the public has access to or is entitled to use, whether on the payment of any fee or not.

Remedy for the contravention of the provisions of section 23.

24.

(1) Where there has been a contravention of the provisions of section 23, any person affected by such contravention or the council on behalf of such person may apply to the High Court established under Article 154P of the Constitution for the Province in which the person affected by such contravention resides, for relief or redress.

(2) Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined in accordance with the procedure laid down by rules made by the Supreme Court under Article 136 of the Constitution.

(3) The High Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any application referred to in subsection (1).

PART VI

MISCELLANEOUS

Regulations.

25.

(1) The Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are required or authorized by this Act to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of publication or on such later date as may be specified therein.

(3) Every regulation made by the Minister, shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) The notification of the date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

Power of Council to make rules.

26.

(1) The Council may make such rules as it may consider necessary in relation to any matter affecting or make rules connected with, or incidental to, the exercise, discharge and performance of its powers, functions and duties.

(2) Every rule made by the Council shall be approved by the Minister and notification of such approval shall be published in the Gazette.

Officers and servants of the Council deemed to be public servants within the meaning of the Penal Code.

27. All officers and servants of the Council shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

- Council deemed to be Scheduled institution within the meaning of the Bribery Act. Protection of members and officers of the Council for action taken under this Act or on the direction of the Council.
- 28.** The Council shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.
- 29.**
- (1) No suit or prosecution shall lie against the Council or any member of the Council or any officer or servant thereof, for any act which in good faith is done by him under this Act or on the direction of the Council.
- (2) Any expense incurred by the Council in any suit or prosecution brought by or against the Council before any court shall be paid by the Council, and any costs paid to, or recovered by, the Council in any such suit or prosecution shall be credited to the Consolidated Fund.
- (3) Any expense incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court, in respect of any act which is done or purported to be done by him under this Act or on the direction of the Council, shall, if the court holds that the act was done in good faith, be paid by the Council, unless such expense is recovered by him in such suit or prosecution.
- No writ to issue against person or property of a member. Returns.
- 30.** No writ against person or property shall be issued against a member of the Council in any action brought against the Council.
- 31.** The Council may for the purpose of discharging its functions under this Act, require any person to furnish to the Council, such returns and information in respect of such matters and in such form as may be determined by the Council.
- Power of Council to authorize any officer to enter and inspect premises.
- 32.** The council may, where it considers it necessary for the purpose of discharging the functions of the Council, authorize in writing any officer to enter and inspect at all reasonable hours of the day any premises of a voluntary organization which is engaged in providing services or assistance to persons with disabilities. An officer so authorized is herein after referred to as an "authorized officer".
- Powers of inspection and search .
- 33.** Any authorized officer may-
- (a) enter and inspect the premises of any voluntary organization engaged in providing services or assistance to persons with disabilities ;
- (b) enter and inspect such place where he has reason to believe that a voluntary organization is engaged in providing services or assistance to persons with disabilities without being registered under this Act;
- (c) examine any books, registers or records maintained by such organization under this Act, and make extracts or copies therefrom ;
- (d) interrogate any person in any such premises for the purpose of ascertaining whether the provisions of this Act are being complied with.
- Offences.
- 34.**
- (a) fails to furnish any return or information in compliance with any requirement imposed on him under this Act;
- (b) knowingly makes any false statement in any return or information furnished by him;
- (c) willfully omits any matter in any return of information furnished by him;
- (d) resists or obstructs any authorized officer in the exercise by such person of any powers conferred on him by or under section 33 of this Act;
- (e) contravenes the provisions of this Act or any regulation or rule made thereunder;
- shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding ten thousand rupees or to imprisonment for a term not exceeding one year or to both such finr and imprisonment.
- Offences by bodies of persons.
- 35.** In the case of any offence under this Act committed by a body of persons, then-
- (a) where such body of persons is a body corporate, every director, secretary and officer of that body corporate shall each be deemed to be guilty of that offence;
- (b) where that body of persons is a firm, every partner of that firm shall be deemed to be guilty of that offence:
- Provided that, no such person shall be deemed to be guilty of an offence under this Act, if he proves that the offence was committed without his knowledge or that he exercised all diligence to prevent the commission of the offence.
- Sinhala text to prevail in case of
- 36.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the

inconsistency.
Interpretation.

Sinhala text shall prevail.

37. In this Act unless the context otherwise requires-

"local authority " means a Municipal Council, Urban Council, a Pradeshiya Sabha and includes any authority created or established by or under any written law to exercise, perform and discharge, powers, duties and functions corresponding to or similar to the powers, duties and functions, exercised, performed and discharged by any such Council or Sabha;

"person with disability" means any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life;

"prescribed" means prescribed by regulations made under this Act;

"Provincial Council" means a Provincial Council established under Chapter XVIIA of the Constitution.

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