



**State Health Systems
Resource Centre, Pune**

COMPILATION OF HEALTH LEGISLATION 2014



State Health Systems Resource Centre

Compilation of Health Legislation



National Health Mission, Maharashtra
Government of Maharashtra,
Public Health Department,
Directorate of Health Services

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Government of Maharashtra
**Commissioner (Family Welfare) and
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Dear Friends and Colleagues,

National Rural Health Mission was started in country in the year 2005 with the mandate to provide easily available, accessible and affordable quality health care services to weaker sections of society such as poor, women and children. Initiation of NRHM has also resulted in availability of adequate funds which ultimately reflected in good and wide infrastructure and improved network of health services.

To ensure excellence in providing legal information services to all the Luminaries in Public Health Bureaus, an attempt has been made through continuous improvement in the quality of the library process and enrichment of manpower. The work of **"Compilation of Health Legislation"** was entrusted to State Health Systems Resource Centre [SHSRC], Pune established under National Health Mission [NHM]. The compilation includes the initiation and FAQ of nearly 8 Acts which is beneficial to all the cadres of Public Health Department. This in-depth guide on health law provides access to legal resources on various aspects of health law.

I thank the team from SHSRC and particularly Dr. U.H. Gawande, Executive Director, SHSRC and Ms. Shaheen C. Shaikh, Librarian for doing a commendable job of finalization of Compilation of Health Legislation in India, in coordination with Dr. P.P. Doke for successfully bringing this report for publication under NRHM Maharashtra. I hope this book will be useful for all the health functionaries in the Health Department.

I wish all the very best for the Compilation of health legislation and encourage everyone to benefit from it.

Smt. I.A. Kundan I.A.S
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Dear Friends and Colleagues,

Public Health Department, Maharashtra is committed to provide appropriate and quality healthcare services to people of the state. Various initiatives, schemes and programs have been successfully operational in the state which caters to health needs of various populations, especially vulnerable and deprived populations such as poor, women and children. Since the advent of NRHM, there have been various programmatic and policy level favorable changes, which have also reflected on the service provision, planning and delivery of health care. A review of these changes, new initiatives and cataloguing of the evolution of previous programs and policies was needed.

Creation and Maintenance of Legal Knowledge Wealth through conscious and consistent updating and up gradation of Information and Knowledge Management processes is the need of the hour. There is a proliferation of Laws and legislation which exists in our country. To search the right information at the right time is like a searching the needle in a haystack. Hence a need arose to compile the legislation related to Public Health Department.

The compilation of Laws will be beneficial for stringent implementation on various programs, activities etc. Hence such ready reference will be helpful for public health department, NGO for monitoring and strategy development. It is a treasure of legal knowledge which will quench the thirst of various health functionaries working at State level officer in Public Health Department as well as Health Administrator for smooth functioning of their routine work. This book provides readers with the insights they need to take practical and effective action to restore consumers' right to health

I extend my heartiest compliments for the book and invite you all to participate in the journey.

Dr. Satish Pawar
Director of Health Services,
Maharashtra State, Mumbai.

Dear Friends and Colleagues,

Established in July 2008, the SHSRC was started with an aim to improve health outcomes by providing technical assistance and capacity building that are required to strengthen the state public health system. It is our constant endeavour to serve as a central agency for technical activities, with a current focus on research and evaluation of various programs implemented by the State Health Systems.

The compilation work has emerged as an essential activity in the era of Information Communication Technology. The work was carried out in co-ordination of Dr. P.P. Doke, Professor, MGM Mumbai; Ms. Shaheen Shaikh, Librarian, SHSRC, Pune; Faculties of Health Department, Legal Luminaries, and Social Activists. At State Health Systems Resource Centres Library, Pune we had taken a project of ***“Compilation of Health Legislation”*** which covers selected 8 Acts and legislation related to Public Health. The compilation of Laws will be beneficial for implementation as well as ready reference for public health department. We are very much thankful to Smt. I.A. Kundan, (IAS) Commissioner (F.W.) & Director NHM Maharashtra and Dr. Satish Pawar, Director, Health Services, Maharashtra for entrusted this activity to SHSRC Library, Pune. We sincerely thank Law Colleges who had helped in compilation of Legislation Laws.



Dr. U.H. Gawande
Executive Director,
SHSRC, Pune

ABBREVIATIONS

CPA - Consumer Protection Act

EDA - Epidemic Disease Act

MMC - Maharashtra Medical Council

PWD - Person with Disabilities

PWDVA - Protection of Women from Domestic Violence Act

THOA - Transplantation of Human Organ Act

INTRODUCTION:

India is a vast and complex country inhabited by nearly one-fifth of the human race, about a billion people. On acquiring independence from colonial rule after a long-drawn-out, non-violent struggle, the people gave to themselves a constitution which promised "to secure to all its citizens:

"Justice, social, economic and political;

Liberty of thought, expression belief faith and worship;

Equality of status and of opportunity...."

(Preamble to the Constitution of India)

The challenge before the Republic was indeed massive and unprecedented - establishing a social order through democratic methods informed by justice liberty and equality. The instrument for the great transformation is to be rule of law and constitutional governance. The inherited legal and judicial system based on common law for a number of reasons - structural, historical and cultural - could not provide access to justice to the vast majority of Indians who were poor and illiterate. For a long time, courts and tribunals continued to service the grievances of the middle and upper classes of urban society leaving the rural masses to content with whatever informal systems of disputes resolution available in the mofussil areas. The State made some efforts by a limited scheme of legal aid to reach justice to the poor. Hence, a single integrated system of courts administers both union and state laws. The common law system in India is a legacy of the British where the doctrine of *stare decisis* rules. The Supreme Court of India, seated in New Delhi, is the highest court in the entire judicial system. Each state, or a group of them, has a High Court, which is also a court of record and exercises administrative control over the subordinate judiciary. It, too, has the power to issue writs in exercise of extraordinary jurisdiction and is the appellate court from decisions of the lower courts in the state.

For proper implementation of various health's legislation in a society as well as in health functionaries a need arose to compile the Indian legislation related to health. This book contains ten Acts which is passed by the Parliament of India with their amendments, its brief how it came into existence and related FAQ and some judgments passed by Supreme Court of India for conceptual clarity. The first edition will quench the thirst of legal awareness among the NGO's, health functionaries working at District and State level to resolve the issues related to their professional as well as it is an enlightening resource for the citizens of India to become aware of their basic fundamental rights.

This compilation of work has taken some of the important and daily routine legislation of health related laws. The whole legislations are divided into three categories namely,

1. Health and social welfare :

- Transplantation of Human Organ Act,
- Registration of Birth and Death Act,
- The Persons with Disability Act,
- Protection of Women from Domestic Violence Act

2. Health and social care :

- Food Safety and Standards Act,
- Maharashtra Medicare Service Persons and Medicare Service Institutions

3. Prevention of risk :

- Epidemic Disease Act, 1897,
- Disaster Management Act 2005,
- Bio- Medical Waste Management Rules

I. HEALTH AND SOCIAL WELFARE

1. THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994

EVOLUTION OF ACT:

In 1989 the situation in India regarding human organ transplantation was, to put it mildly, out of step with the rest of the civilized world. The organ trade was legal and widespread and, among the solid organs, only kidney transplants were being done. The Government then established a committee under the chairmanship of Dr. L M. Singhvi, the eminent constitutional lawyer to clarify: (a) the concept of brain death and its definitions; (b) the desirability of enacting separate legislation for this purpose and the legal, medical, and social implications of such as legislation; (c) the safeguards to be adopted to prevent the misuse of the concept of brain death and (d) the manner in which the concept of brain death should be utilized to facilitate the availability of human organs for transplantation. The report of the Singhvi Committee was submitted In June 1991 and received Cabinet approval in October of the same year.

On 5 May 1993, the Transplantation of Human Organs Bill was submitted to the Rajya Sabha where it received unanimous approval. In December 1991, however, the Lok Sabha decided to refer the Bill to a Select Committee for further examination. The latter suggested amendments suggesting the inclusion of in-laws as near relatives and the payment of living donors. These were not accepted by the Union Cabinet and on 15 June 1994 the Bill was passed by Lok Sabha. It received Presidential assent on the 8th of July 1994. India's first successful heart transplantation from an organ harvested from a brain dead donor was performed in the All India Institute of Medical Sciences on 3 August 1994.

The Act is amended in 2011 and now it is applicable to tissues also. The objectives of the enactment are to provide regulation of removal, storage and transplantation of human organs for therapeutic purposes and to prevent of commercial dealings in human organs. The concept of Brain Stem Death has been introduced. "brain-stem death" means the stage at which all functions of the brain stem have permanently and irreversibly ceased. The implementation of the Act is accomplished through Appropriate Authority, Authorization Committee and Advisory Committee. The willingness of the donor is absolutely essential. The organs or tissues can be removed by Registered Medical Practitioner or a qualified technician. A Board of experts consisting of in-charge of the hospital, a specialist of related discipline, neurologist/neuro-surgeon and the treating doctor has to certify the patient as brain dead. Considering the paucity of neurologist/ neuro-surgeon the Act provides alternative arrangement which allows a physician or a surgeon and an anaesthetist or intensivist as members of the board. The transplantation can be carried out only where the donor is near relative. Near relative means spouse, son, daughter, father, mother, brother, sister, grandfather, grandmother, grandson and granddaughter. In other cases prior approval of the Authorization Committee is essential. The commercial dealing is very seriously viewed. The punishment for commercial dealings is imprisonment up to 10 years and fine up to one Crore Rupees.

THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994

ACT NO. 42 OF 1994 [8th July, 1994.]

An Act to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto. WHEREAS it is expedient to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs; AND WHEREAS in Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution; AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by all the Houses of the Legislatures of the States of Goa, Himachal Pradesh and Maharashtra to the effect that the matters aforesaid should be regulated in those States by Parliament by law; 2 BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:-

CHAP PRELIMINARY

CHAPTER I PRELIMINARY

1. Short title, application and commencement.

1.Short title, application and commencement.- (1) This Act may be called the Transplantation of Human Organs Act, 1994. (2) It applies, in the first instance, to the whole of the States of Goa, Himachal Pradesh and Maharashtra and to all the Union territories and it shall also apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution. (3) It shall come into force in the States of Goa, Himachal Pradesh and Maharashtra and in all the Union territories on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, means the date on which this Act comes into force in such State or Union territory.

2. Definition.

2. Definition.- In this Act, unless the context otherwise requires,-

- (a) "advertisement" includes any form of advertising whether to the public generally or to any section of the public or, individually to selected persons;
- (b) "Appropriate Authority" means the Appropriate Authority appointed under section 13;
- (c) "Authorisation Committee" means the committee constituted under clause (a) or clause (b) of sub-section (4) of section 9;
- (d) "brain-stem death" means the stage at which all functions of the brain-stem have permanently and irreversibly ceased and is so certified under sub-section (6) of section 3;

- (e) "deceased person" means a person in whom permanent disappearance of all evidence of life occurs, by reason of brain-stem death or in a cardiopulmonary sense, at any time after live birth has taken place;
- (f) "donor" means any person, not less than eighteen years of age, who voluntarily authorises, the removal of any of his human organs for therapeutic purposes under sub-section (1) or subsection (2) of section 3;
- (g) "hospital" includes a nursing home, clinic, medical centre, medical or teaching institution for therapeutic purposes and other like institution;
- (h) "human organ" means any part of a human body consisting of a structured arrangement of tissues which, if wholly re- moved, cannot be replicated by the body;
- (i) "near relative" means spouse, son, daughter, father, mother, brother or sister; 3
- (j) "notification" means a notification published in the Official Gazette;
- (k) "payment" means payment in money or money's worth but does not include any payment for defraying or reimbursing; (i) the cost of removing, transporting or preserving the human organ to be supplied; or (ii) any expenses or loss of earnings incurred by a person so far as reasonably and directly attributable to his supplying any human organ from his body;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "recipient" means a person into whom any human organ is, or is proposed to be, transplanted;
- (n) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and who is enrolled on a State Medical Register as defined in clause (k) of that section;
- (o) "therapeutic purposes" means systematic treatment of any disease or the measures to improve health according to any particular method or modality; and
- (p) "transplantation" means the grafting of any human organ from any living person or deceased person to some other living person for therapeutic purposes.

CHAPTER II AUTHORITY FOR THE REMOVAL OF HUMAN ORGANS

3. Authority for removal of human organs.

3. Authority for removal of human organs.- (1) Any donor may, in such manner and subject to such conditions as may be prescribed, authorise the removal, before his death, of any human organ of his body for therapeutic purposes.

(2) If any donor had, in writing and in the presence of two or more witnesses (at least one of whom is a near relative of such person), unequivocally authorised at any time before his death, the removal of any human organ of his body, after his death, for therapeutic purposes, the person lawfully in possession of the dead body of the donor shall, unless he has any reason to believe that the donor had subsequently revoked the authority aforesaid, grant to a registered medical practitioner all reasonable facilities for the removal, for therapeutic purposes, of that human organ from the dead body of the donor.

(3) Where no such authority as is referred to in sub-section (2), was made by any person before his death but no objection was also expressed by such person to any of his human organs being used after his death for therapeutic purposes, the person lawfully in possession of the dead body of such person may, unless he has reason to believe that any near relative of the deceased person has objection to any of the deceased person's human organs being used for therapeutic purposes, authorise the removal⁴ of any human organ of the deceased person for its use for therapeutic purposes.

(4) The authority given under sub-section (1) or sub-section (2) or, as the case may be, sub-section (3) shall be sufficient warrant for the removal, for therapeutic purposes, of the human organ; but no such removal shall be made by any person other than the registered medical practitioner.

(5) Where any human organ is to be removed from the body of a deceased person, the registered medical practitioner shall satisfy himself, before such removal, by a personal examination of the body from which any human organ is to be removed, that life is extinct in such body or, where it appears to be a case of brain-stem death, that such death has been certified under sub-section (6).

(6) Where any human organ is to be removed from the body of a Person in the event of his brain-stem death, no such removal shall be undertaken unless such death is certified, in such form and in such manner and on satisfaction of such conditions and requirements as may be prescribed, by a Board of medical experts consisting of the following, namely:-

(i) the registered medical practitioner in charge of the hospital in which brain-stem death has occurred; (ii) an independent registered medical practitioner, being a specialist, to be nominated by the registered medical practitioner specified in clause (i), from the panel of names approved by the Appropriate Authority;

(iii) a neurologist or a neurosurgeon to be nominated by the registered medical practitioner specified in clause (i), from the panel of names approved by the Appropriate Authority; and

(iv) the registered medical practitioner treating the person whose brain-stem death has occurred.

(7) Notwithstanding anything contained in sub-section (3), where brain-stem death of any person, less than eighteen years of age, occurs and is certified under sub-section (6), any of the parents of the deceased person may give authority, in such form and in such manner as may be prescribed, for the removal of any human organ from the body of the deceased person.

4. Removal of human organs not to be authorized in certain cases.

4. Removal of human organs not to be authorized in certain cases.- (1) No facilities shall be granted under sub-section (2) of section 3 and no authority shall be given under sub-section (3) of that section for the removal of any human organ from the body of a deceased person, if the person required to grant such facilities, or empowered to give such authority, has reason to believe that an inquest may be required to be held in relation to such body in pursuance of the provisions of any law for the time being in force.

(2) No authority for the removal of any human organ from the body of a deceased person shall be given by a person to whom such body has been entrusted solely for the purpose of interment, cremation or other disposal.

5. Authority for removal of human organs in case of unclaimed bodies in hospital or prison.

5. Authority for removal of human organs in case of unclaimed bodies in hospital or prison.- (1) In the case of a dead body lying in a hospital or prison and not claimed by any of the near relatives of the deceased person within forty-eight hours from the time of the death of the concerned person, the authority for the removal of any human organ from the dead body which so remains unclaimed may be given, in the prescribed form, by the person in charge, for the time being, of the management or control of the hospital or prison, or by an employee of such hospital or prison authorized in this behalf by the person in charge of the management or control thereof.

(2) No authority shall be given under sub-section (1) if the person empowered to give such authority has reason to believe that any near relative of the deceased person is likely to claim the dead body even though such near relative has not come forward to claim the body of the deceased person within the time specified in sub-section (1).

6. Authority for removal of human organs from bodies sent for postmortem examination for medico-legal or pathological purposes.

6. Authority for removal of human organs from bodies sent for postmortem examination for medico-legal or pathological purposes.- Where the body of a person has been sent for postmortem examination- (a) for medico-legal purposes by reason of the death of such person having been caused by accident or any other unnatural cause; or

(b) for pathological purposes, the person competent under this Act to give authority for the removal of any human organ from such dead body may, if he has reason to believe that such human organ will not be required for the purpose for which such body has been sent for postmortem examination, authorise the removal, for therapeutic purposes, of that human organ of the deceased person provided that he is satisfied that the deceased person had not expressed, before his death, any objection to any of his human organs being used, for therapeutic purposes after his death or, where he had granted an authority for the use of any of his human organs for therapeutic purposes, after his death, such authority had not been revoked by him before his death.

7. Preservation of human organs.

7. Preservation of human organs.- After the removal of any human organ from the body of any person, the registered medical practitioner shall take such steps for the preservation of the human organ so removed as may be prescribed.

8. Savings.

8. Savings.- (1) Nothing in the foregoing provisions of this Act shall be construed as rendering unlawful any dealing with the body or with any part of the body of a deceased person if such dealing would have been lawful if this Act had not been passed.

(2) Neither the grant of any facility or authority for the removal of any human organ from the body of a deceased person in accordance with the provisions of this Act nor the removal of any human organ from the body of a deceased person in pursuance of such authority shall be deemed to be an offence punishable under section 297 of the Indian Penal Code (45 of 1860).

9. Restrictions on removal and transplantation of human organs.

9.Restrictions on removal and transplantation of human organs.-(1) Save as otherwise provided in sub-section (3), no human organ removed from the body of a donor before his death shall be transplanted into a recipient unless the donor is a near relative of the recipient.

(2) Where any donor authorises the removal of any of his human organs after his death under sub-section (2) of section 3 or any person 6 competent or empowered to give authority for the removal of any human organ from the body of any deceased person authorises such removal, the human organ may be removed and transplanted into the body of any recipient who may be in need of such human organ.

(3) If any donor authorises the removal of any of his human organs before his death under sub-section (1) of section 3 for transplantation into the body of such recipient, not being a near relative, as is specified by the donor by reason of affection or attachment towards the recipient or for any other special reasons, such human organ shall not be removed and transplanted without the prior approval of the Authorisation Committee.

(4) (a) The Central Government shall constitute, by notification, one or more Authorisation Committees consisting of such members as may be nominated by the Central Government on such terms and conditions as may be specified in the notification for each of the Union territories for the purposes of this section.

(b) The State Government shall constitute, by notification, one or more Authorisation Committees consisting of such members as may be nominated by the State Government on such terms and conditions as may be specified in the notification for the purposes of this section.

(5) On an application jointly made, in such form and in such manner as may be prescribed, by the donor and the recipient, the Authorisation Committee shall, after holding an inquiry and after satisfying itself that the applicants have complied with all the requirements of this Act and tile rules made thereunder, grant to the applicants approval for the removal and transplantation of the human organ.

(6) If, after the inquiry and after giving an opportunity to the applicants of being heard, the Authorisation Committee is satisfied that the applicants have not complied with the requirements of this Act and the rules made thereunder, it shall, for reasons to be recorded in writing, reject the application for approval.

CHAPTER III REGULATION OF HOSPITALS

10. Regulation of hospitals conducting the removal, storage or transplantation of human organs.

10.Regulation of hospitals conducting the removal, storage or transplantation of human organs.-

(1) On and from the commencement of this Act,- (a) no hospital, unless registered under this Act, shall conduct, or associate with, or help in, the removal, storage or transplantation of any human organ;

(b) no medical practitioner or any other person shall conduct, or cause to be conducted, or aid in conducting by himself or through any other person, any activity relating to the removal, storage or transplantation of any human organ at a place other than a place registered under this Act; and (c) no place including a hospital registered under sub- section (1) of section 15 shall be used or cause to be used by any person for the removal, storage or transplantation of any human organ except for therapeutic purposes.

(2) Notwithstanding anything contained in sub-section (1), the eyes or the ears may be removed at any place from the dead body of any donor, for therapeutic purposes, by a registered medical practitioner.

Explanation.- For the purposes of this sub-section, "ears" includes ear drums and ear bones.

11. Prohibition of removal or transplantation of human organs for any purpose other than therapeutic purposes.

11. Prohibition of removal or transplantation of human organs for any purpose other than therapeutic purposes.- No donor and no person empowered to give authority for the removal of any human organ shall authorize the removal of any human organ for any purpose other than therapeutic purposes.

12. Explaining effects, etc., to donor and recipient.

12.Explaining effects, etc., to donor and recipient.- No registered medical practitioner shall undertake the removal or transplantation of any human organ unless he has explained, in such manner as may be prescribed, all possible effects, complications and hazards connected with the removal and transplantation to the donor and the recipient respectively.

CHAPTER IV APPROPRIATE AUTHORITY

13. Appropriate Authority.

13. Appropriate Authority.- (1) The Central Government shall appoint, by notification, one or more officers as Appropriate Authorities for each of the Union territories for the purposes of this Act.

(2) The State Government shall appoint, by notification, one or more officers as Appropriate Authorities for the purposes of this Act.

(3) The Appropriate Authority shall perform the following functions, namely: - (i) to grant registration under subsection (1) of section 15 or renew registration under sub-section (3) of that section;

- (ii) To suspend or cancel registration under sub-section (2) of section 16;
- (iii) To enforce such standards, as may be prescribed, for hospitals engaged in the removal, storage or transplantation of any human, organ;
- (iv) To investigate any complaint of breach of any of the provisions of this Act or any of the rules made thereunder and take appropriate action;
- (v) To inspect hospitals periodically for examination of the quality of transplantation and the follow-up medical care to persons who have undergone transplantation and persons from whom organs are removed; and (vi) to undertake such other measures as may be prescribed.

CHAPTER V REGISTRATION OF HOSPITALS

14. Registration of hospital engaged in removal, storage or transplantation of human organs.

14. Registration of hospital engaged in removal, storage or transplantation of human organs.- (1) No hospital shall commence any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes after the commencement of this Act unless such hospital is duly registered under this Act: Provided that every hospital engaged, either partly or exclusively, in any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement: Provided further that every hospital engaged in any activity relating to the removal, storage or transplantation of any human organ shall cease to engage in any such activity on the expiry of three months from the date of commencement of this Act unless such hospital has applied for registration and is so registered or till such application is disposed of, whichever is earlier.

(2) Every application for registration under sub-section (1) shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) No hospital shall be registered under this Act unless the Appropriate Authority is satisfied that such hospital is in a position to provide such specialised services and facilities, possess such skilled manpower and equipments and maintain such standards as may be prescribed.

15. Certificate of registration.

15. Certificate of registration.- (1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder, grant to the hospital a certificate of registration in such form, for such period and subject to such conditions as may be prescribed.

(2) If, after the inquiry and after giving an opportunity to the applicant of being heard, the Appropriate Authority is satisfied that the applicant has not complied with the requirement,) of this Act and the rules made thereunder, it shall, for reasons to be recorded in writing, reject the application for registration. (3) Every certificate of registration shall be renewed in such manner and on payment of such fees as may be prescribed.

16. Suspension or cancellation of registration.

16. Suspension or cancellation of registration.- (1) The Appropriate Authority may, suo moto or on complaint, issue a notice to any hospital to show cause why its registration under this Act should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the hospital, the Appropriate Authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, it may, without prejudice to any criminal action that it may take against such hospital, suspend its registration for such period as it may think fit or cancel its registration: 9 Provided that where the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any hospital without issuing any notice.

17. Appeals.

17. Appeals.- Any person aggrieved by an order of the Authorisation Committee rejecting an application for approval under sub-section (6) of section 9, or any hospital aggrieved by an order of the Appropriate Authority rejecting an application for registration under sub-section (2) of section 15 or an order of suspension or cancellation of registration under sub-section (2) of section 16, may, within thirty days from the date of the receipt of the order, prefer an appeal, in such manner as may be prescribed, against such order to- (i) the Central Government where the appeal is against the order of the Authorisation Committee constituted under clause (a) of sub-section (4) of section 9 or against the order of the Appropriate Authority appointed under sub-section (1) of section 13; or (ii) the State Government, where the appeal is against the order of the Authorisation Committee constituted under clause (b) of sub-section (4) of section 9 or against the order of the Appropriate Authority appointed under sub-section (2) of section 13.

CHAPTER VI OFFENCES AND PENALTIES

18. Punishment for removal of human organ without authority.

18. Punishment for removal of human organ without authority.- (1) Any person who renders his services to or at any hospital and who, for purposes of transplantation, conducts, associates with, or helps in any manner in, the removal of any human organ without authority, shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.

(2) Where any person convicted under sub-section (1) is a registered medical practitioner, his name shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

19. Punishment for commercial dealings in human organs.

19. Punishment for commercial dealings in human organs.- Whoever- (a) makes or receives any payment for the supply of, or for an offer to supply, any human organ;
(b) seeks to find a person willing to supply for payment any human organ;
(c) offers to supply any human organ for payment;
(d) initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human organ;
(e) takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or
(f) Publishes or distributes or causes to be published or distributed any advertisement,-- (a) inviting persons to supply for payment of any human organ;
(b) offering to supply any human organ for payment; or
(c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d), shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall be liable to fine which shall not be less than ten thousand rupees but may extend to twenty thousand rupees: Provided that the court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years and a fine less than ten thousand rupees.

20. Punishment for contravention of any other provision of this Act.

20. Punishment for contravention of any other provision of this Act.- Whoever contravenes any provision of this Act or, any rule made, or any condition of the registration granted, thereunder for which no punishment is separately provided in this Act, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees.

21. Offences by companies.

21. Offences by companies.- (1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or 'is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of this section,- (a) "company" means any body corporate and includes a firm or other association of individuals; and 11 (b) "director", in relation to a firm, means a partner in the firm.

22. Cognizance of offence.

22.Cognizance of offence.- (1) No court shall take cognizance of an offence under this Act except on a complaint made by- (a) the Appropriate Authority concerned. or any officer authorised in this behalf by the Central Government or the State Government or, as the case may be, the Appropriate Authority; or (b) a person who has given notice of not, less than sixty days, in such manner as may be prescribed, to the Appropriate Authority concerned, of the alleged offence and of his intention to make a complaint to the court.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub- section (1), the court may, on demand by such person, direct the Appropriate Authority to make -available copies of the relevant records in its possession to such person.

CHAPTER VII MISCELLANEOUS

23. Protection of action taken in good faith.

23.Protection of action taken in good faith.- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

24. Power to make rules.

24.Power to make rules.- (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or -any of the following matters, namely:- (a) the manner in which and the conditions subject to which any donor may authorise removal, before his death, of any human organ of his body under sub-section (1) of section 3;

(b) the form and the manner in which a brain-stem death is to be certified and the conditions and requirements which are to be satisfied for that purpose under sub-section (6) of section 3;

(c) the form and the manner in which any of the parents may give authority, in the case of brain-stem death of a minor, for the removal of any human organ under sub-section (7) of section 3;

(d) the form in which authority for the removal of any human organ from an, unclaimed dead body may be given by the person incharge of the management or control of the hospital or prison, under sub-section (1) of section 5;

(e) the steps to be taken for the preservation of the human organ removed from the body of any person, under section 7;

- (f) the form and the manner in which an application may be jointly made by the donor and the recipient under sub-section (5) of section 9;
- (g) the manner in which all possible effects, complications and hazards connected with the removal and transplantation is to be explained by the registered medical practitioner to the donor and the recipient under section 12;
- (h) the standards as are to be enforced by the Appropriate authority for hospitals engaged in the removal, storage or transplantation of any human organ under clause (iii) of sub- section (3) of section 13;
- (i) the other measures as the Appropriate Authority shall undertake in performing its functions under clause (vi) of sub-section (3) of section 13;
- (j) the form and the manner in which an application for registration shall be made and the fee which shall be accompanied, under sub-section (2) of section 14;
- (k) the specialised services and the facilities to be provided, skilled manpower and the equipments to be possessed and the standards to be maintained by a hospital for registration, under sub-section (3) of section 14;
- (l) the form in which, the period for which and the conditions subject to which certificate of registration is to be granted to a hospital, under sub-section (1) of section 15;
- (m) the manner in which and the fee on payment of which certificate of registration is to be renewed under sub- section (3) of section 15;
- (n) the manner in which an appeal may be preferred under section 17;
- (o) the manner in which a person is required to give notice to the Appropriate Authority of the alleged offence and of his intention to make a complaint to the court, under clause (b) of sub-section (1) of section 22; and
- (p) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act 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 thirty days which may be comprised in one session or in 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 or both Houses agree that the rule should not be made, the rule 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.

25. Repeal and savings.

25.Repeal and savings.- (1) The Ear Drums and Ear Bones (Authority for Use for Therapeutic Purposes) Act, 1982(28 of 1982) and the Eyes (Authority for Use for Therapeutic Purposes) Act, 1982 (29 of 1982) are hereby repealed.

(2) The repeal shall, however, not affect the previous operation of the Acts so repealed or anything duly done or suffered thereunder.

FREQUENT ASKED QUESTION

1. What is the need for act?

Patient's requires transplantation. No corresponding increase in organ donation which lead to black marketing and organ trading. Huge susceptible populations are exploited.

2. On what, regulations this act provides?

- ✓ Removal
- ✓ Storage
- ✓ Transplantation

Of human organs & tissues for therapeutic purposes, and for the prevention of commercial dealings in human organs

3. What is the punishment for violation of act?

For violation of act by medical professionals Imprisonment of 10 years, Fine of Rs. 5 lacs, Removal from the medical council roll for two years for the first offence and permanently for any subsequent offence. Commercial dealings will invite an Imprisonment ranging from 5-10 years, Fine between 20 lakh to 1 crore

4. What are the THOA amendments in 2011 act?

Includes donation of tissues. Organ swapping legalised. Penalties enhanced. Grandparents and Grandchildren included in the list of near relatives.

In the absence of a neurologist or Neurosurgeon:

- ✓ An independent surgeon or physician
- ✓ An anesthetist or intensivist
- ✓ Maybe nominated for brain death declaration

Makes it mandatory for a doctor in an ICU to ascertain if a family wants to donate organs. No organs or tissues shall be removed from a mentally challenged person before his death. Transplantation involving a foreign national, even if near relatives requires approval by AC. National registry of donors and recipients. Cornea, can be retrieved by a certified eye technician

NGOs registered specially to work on human organ transplantation would be allowed.

Mandatory to appoint a transplant coordinator in registered hospitals

Question 5: What are the challenges?

INFRASTRUCTURE, TRAINED & QUALIFIED MANPOWER, REGISTRATION
ORGAN DONOR, ORGAN RECEIPT, CHALLENGES FOR MANAGEMENT

6. What is commercial dealing of human organs?

Person if –

- (a) makes or received any payment for the supply of, or for an offer to supply, any human organ;
- (b) seeks to find person willing to supply for payment any human organ;
- (c) offers to supply any human organ for payment;

- (d) initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human organ;
- (e) takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or
- (f) publishes or distributes or causes to be published or distributed any advertisement-
 - (a) inviting persons to supply for payment of any human organ;
 - (b) offering to supply any human organ for payment; or
 - (c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d), shall be punishable

7. What is the punishment for the same?

Imprisonment for a term which shall not be less than two years but which may extend to seven years and shall be liable to fine which shall not be less than ten thousand rupees but may extend to twenty thousand rupees: Provided that the court may, for any adequate and special reason to be mentioned in the judgement, impose a sentence of imprisonment for a term of less than two years and a fine less than ten thousand.

8. What is Punishment for removal of human organ without authority.?

Any person who renders his services to or at any hospital and who, for purposes of transplantation, conducts associates with, or helps in any manner in, the removal of any human organ without authority, shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.

(2). Where any person convicted under sub-section (1) is a registered medical practitioner, his name shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence

9. When can certificate of registration is given?

1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made there under, grant to the hospital a certificate of registration in such form, for such period and subject to such conditions as may be prescribed.

(2). If, after the inquiry and after giving an opportunity to the applicant of being heard, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act and the rules made there under, it shall, for reasons to be recorded in writing, reject the application for registration.

(3). Every certificate of registration shall be renewed in such manner and on payment of such fees as may be prescribed.

10. What are the regulations regarding Registration of hospitals engaged in removal, storage or transplantation of human organs?

1) No hospital shall commence any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes after the commencement of this act unless such hospital is duly registered under this Act.

Provided that every hospital engaged, either partly or exclusively in any activity relating to the removal, storage or transplantation of any human organ for therapeutic purposes immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement :

Provided further that every hospital engaged in any activity relating to the removal, storage or transplantation of any human organ shall cease to engage in any such activity on the expiry of three months from the date of commencement of this Act unless such hospital has applied for registration and is so registered or till such application is disposed of, whichever is earlier.

(2). Every application for registration under sub-section (1) shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3). No hospital shall be registered under this Act unless the Appropriate authority is satisfied that such hospital is in a position to provide such specialized services and facilities, possess such skilled manpower and equipments and maintain such standards as may be prescribe.

2. REGISTRATION OF BIRTHS AND DEATHS ACT, 1969

The history of civil registration in India dates back to the middle of the nineteenth century. It started with the registration of deaths with a view to introducing sanitary reforms for control of pestilence and disease and not so much for studying population trends. Against this background of municipalities of acts and rules governing civil registrations in various parts of the country, a central legislation on the subject was considered absolutely necessary to bring about improvement in the system.

The Registration of Births and Deaths Bill were introduced in the Rajya Sabha in 1964, which was passed in the Budget Session of 1964 – 1965 but lapsed on the dissolution of the Parliament. The Bill was again passed by the Rajya Sabha on February 27, 1968. The Lok Sabha passed the Bill on May 27, 1969 with certain amendments. These amendments were approved by the Rajya Sabha on May 16, 1969. The Bill was passed by both houses of Parliament received the assent of the President on May 31, 1969. It was notified in the Gazette of India Extraordinary, Part II Section I on June 2, 1969.

As per provisions of the Registration of Births and Deaths Act, 1969 registration of every birth and death is compulsory. The persons, who are responsible, are to report the events of births and deaths to their nearest Registration Units within 21 days of occurrence of such events failing which late fees for delayed registration are charged.

Registration of Births and Deaths Act, 1969

CHAPTER 1. PRELIMINARY

1.Short title, extent and commencement.-

(1) This Act may be called the Registration of Births and deaths Act, 1969.

(2) It extends to the whole of India.

(3) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different/dates may be appointed for different parts of a State.

2. Definitions and interpretation.-

(1) In this Act, unless the content otherwise requires, ---

(a) "birth" means live-birth or still-birth;

(b) "death" means the permanent disappearance of all evidence of life at any time after live-birth has taken place,

(c) "foetal death" means absence of all evidence of life prior to the complete expulsion or extraction from its mother of a product of conception irrespective of the duration of pregnancy;

(d) "live-birth" means the complete exclusion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life, and each product of such birth is considered live-born;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "State Government", in relation to a Union territory, means the Administrator thereof;

(g) "still-birth" means foetal death where a product of conception has attained at least the prescribed period of gestation.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER 2. REGISTRATION ESTABLISHMENT

3. Registrar General, India.-

(1) The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Registrar-General, India.

(2) The Central Government may also appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Registrar-General, such functions of the Registrar-General under this Act as he may, from time to time, authorise them to discharge.

(3) The Registrar-General may issue general directions regarding registration of births and deaths in the territories to which this Act extends, and shall take steps to co-ordinate and unify the activities of Chief registrar in the matter of registration of births and deaths and submit to the Central Government an annual report on the working of this Act in the said territories.

4. Chief Registrar.-

(1) The State Government may, by notification in the Official Gazette, appoint a Chief Registrar for the State.

(2) The State Government may also appoint such other officers with such designations as it thinks fit for the purpose of discharging, under the superintendence and direction of the Chief Registrar, such of his functions as he may, from time to time, authorise them to discharge.

(3) The Chief Registrar shall be the chief executive authority in the State for carrying into execution the provisions of this Act and the rules and orders made there under subject to the directions, if any, given by the State Government.

(4) The Chief Registrar shall take steps, by the issue of suitable instructions or other wise, to co-ordinate, unify and supervise the work of registration in the State for securing an efficient system of registration and shall prepare and submit to the State Government, in such manner and at such intervals as may be prescribed, a report on the working of this Act in the State along with the statistical report referred to in sub-section (2) of section 19.

5. Registration divisions.

The State Government may, by notification in the Official Gazette, divide the territory within the State into such registration divisions as it may think fit and prescribe different rules for different registration divisions.

6. District Registrar.-

(1) The State Government may appoint a District Registrar for each revenue district. and such number of Additional District Registrars as it thinks fit who shall, subject to the general control and direction of the District Registrar, discharge such functions of the District Registrar as the District Registrar may, from time to time, authorise them to discharge.

(2) The District Registrar shall superintend, subject to the direction of the Chief Registrar, the registration of births and deaths in the district and shall be responsible for carrying into execution in the district the provisions of this Act and the orders of the Chief Registrar issued from time to time for the purposes of this Act.

7. Registrars.-

(1) The State Government may appoint a Registrar for each local area. Comprising the area within the jurisdiction of a municipality, panchayat or other local authority or any other area or a combination of any two or more of them;

Provided that the State Government may appoint in the case of a municipality, panchayat or other local authority, any officer or other employee thereof as a Registrar.

(2) Every Register shall, without fee or reward. Enter in the register maintained for the purpose all information given to him under section 3 or section 9 and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

(3) Every Register shall have an office in the local area for which he is appointed.

(4) Every Registrar shall attend his office for the purpose of registering births and deaths on such days and at such hours as the Chief Registrar may direct and shall cause to be placed in some conspicuous place on or near the outer door of the office of the Registrar a board bearing, in the local language, his name with the addition of Registrar of Births and Deaths for the local area for which he is appointed, and the days and hours of his attendance.

(5) The Registrar may, with the prior approval of the Chief Register, appoint Sub-Registrars and assign to them any or all of his powers and duties in relation to specified areas within his jurisdiction.

CHAPTER 3. REGISTRATION OF BIRTHS AND DEATHS

8. Persons required to register births and deaths.-

(1) It shall be the duty of the persons specified below to give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (1) of section 16, --

(a) in respect of births and deaths in a house, whether residential or non- residential, not being any place referred to in clause (b) to (e), the head of the house or, in case more than one household live in the house, the head of the household, the head being the person, who is so recognized by the house or the household, and if he is not present in the house at any time during the period within which the birth or death has to be reported, the nearest relative of the head present in the house, and in the absence of any such person, the oldest adult male person present therein during the said period;

(b) in respect of births and deaths in a hospital, health centre, maternity or nursing home or other like institution, the medical officer in charge or any person authorised by him in this behalf;

(c) in respect of births and deaths in a jail, the jailer in charge;

(d) in respect of births and deaths in a choultry, chattram, hostel, dharmasala, boarding-house, lodging-house, tavern, barrack, toddy shop or place of public resort, the person in charge thereof;

(e) in respect of any new-born child or dead body found deserted in a public place, the headman or other corresponding officer of the village in the case of a village and the officer in charge of the local police station elsewhere:

Provided that any person who finds such child or dead body, or in whose charge such child or dead body may be placed, shall notify such fact to the headman or officer aforesaid;

(f) in any other place, such person as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the State Government, having regard to the conditions obtaining in a registration division, may by order require that for such period as may be specified in the order, any person specified by the State Government by designation in this behalf, shall give or cause to be given information regarding births and deaths in a house referred to in clause (a) of sub-section (1) instead of the persons specified in that clause.

9. Special provision regarding births and deaths in a plantation.-

In the case of births and deaths in a plantation, the superintendent of the plan- shall give or cause to be given to the Registrar the information referred to in section 8 :

Provided that the persons referred to in clauses (a) to (f) of sub-section(1) of section 8 shall furnish the necessary particulars to the superintendent of the plantation.

Explanation.--- In this section, the expression "plantation" means any land not less than four hectares in extent which is being prepared for the production of, or actually produces, tea, coffee, pepper, rubber, cardamom, cinchona or such other products as the State Government may, by notification in the Official Gazette, specify and the expression "superintendent of the plantation" means the person having the charge or supervision of the labourers and work in the plantation, whether called a manager, superintendent or by any other name.

10. Duty of certain persons to notify or death births and deaths and to certify cause of death.-

(1) It shall be the duty of ---

(i) the midwife or any other medical or health attendant at a birth

(ii) the keeper or the owner of a place set apart for the disposal of dead bodies or any person required by a local authority to be present at such place, or

(iii) any other person whom the State Government may specify in this behalf by his designation, to notify every birth or death or both at which he or she attended or was present, or was present, or which occurred in such areas as may be prescribed, to the Registrar within such time and in such manner as may be prescribed.

(2) In any area, the State Government, having regard to the facilities available therein in this behalf, may require that a certificate as to the cause of death shall be obtained by the Registrar from such person and in such form as may be prescribed.

(3) Where the State Government has required under sub-section (2) that a certificate as to the cause of death shall be obtained, in the event of the death of any person who, during his last illness, was attended by a medical practitioner, the medical practitioner shall, after the death of that person, forthwith, issue without charging any fee, to the person required under this Act to give information concerning the death, a certificate in the prescribed form stating to the best of his knowledge and belief the cause of death ; and the certificate shall be received and delivered by such person to the Registrar at the time of giving information concerning the death as required by this Act.

11. Informant to sign the register.-

Every person who has orally given to the Registrar any information required under this Act shall write in the register maintained in this behalf, his name, description and place of abode, and, if he cannot write, shall put his thumb mark in the register against his name, description and place of abode, the particulars being in Such a case entered by the Registrar.

12. Extracts of registration entries to be given to informant.-

The Register shall, as soon as the registration of a birth or death has been completed, give, free of charge, to the person who gives information under section 8 or section 9 an extract of the prescribed particulars under his hand from the register relating to such birth or death.

Comment: The entry in the birth or death extract cannot be a document to prove the paternity of a person. 1995 AIHC 5416 (Kant.)

13. Delayed registration of the births and deaths.-

(1) Any birth or death of which information is given to the Registrar after the expiry of the period specified therefor, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.

(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

(4) The provisions of this section shall be without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action.

14.Registration of name of child.-

Where the birth of any child has been registered without a name, the parent or guardian of such child shall within the prescribed period give information regarding the name of the child to the Registrar either orally or in writing and thereupon the Registrar shall enter such name in the register and initial and date the entry.

15.Correction or cancellation of entry in the register of births and deaths.-

If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alternation of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation.

CHAPTER 4 MAINTENANCE OF RECORDS AND STATISTICS

16.Registrars to keep registers in the prescribed form.-

(1) Every Registrar shall keep in the prescribed form a register of births and deaths for the registration area or any part thereof in relation to which he exercises jurisdiction.

(2) The Chief Registrar shall cause to be printed and supplied a sufficient number of register books for making entries of births and deaths according to such forms and instructions as may, from time to time, be prescribed; and a copy of such forms in the local language shall be posted in some conspicuous place on or near the outer door of the office of every Registrar.

17.Search of Births and deaths.-

(1) Subject to any rules made in this behalf by the State Government, including rules relating to the payment of fees and postal charges, any person may—

(a) cause a search to be made by the Registrar for any entry in a register of births and deaths ;
and

(b) obtain an extract from such register relating to any birth or death:

Provided that no extract relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the register.

(2) All extracts given under this section shall be certified by the Registrar or any other officer authorised by the State Government to give such extracts as provided in section 76 of the Indian Evidence Act, 1872(1 of 1872.), and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

18. Inspection of registration offices.-

The registration offices shall be inspected and the registers kept therein shall be examined in such manner and by such authority as may be specified by the District Registrar.

19. Registrars to send periodical returns to the Chief Registrar for compilation.-

(1) Every Registrar shall send to the Chief Registrar or to any officer specified by him, at such intervals and in such form as may be prescribed, a return regarding the entries of births and deaths in the register kept by such Registrar.

(2) The Chief Registrar shall cause the information in the returns furnished by the Registrars to be compiled and shall publish for the information of the public a statistical report on the registered births and deaths during the year at such intervals and in such form as may be prescribed.

CHAPTER 5 MISCELLANEOUS

20. Special provision as to registration of births and deaths of citizens outside India.-

(1) The Registrar-General shall, subject to such rules as may be made by the Central Government in this behalf, cause to be registered information as to births and deaths of citizens of India outside India received by him under the rules relating to the registration of such citizens at Indian Consulates made under the Citizenship Act, 1955 (57 of 1955), and every such registration shall also be deemed to have been duly made under this Act.

(2) In the case of any child born outside India in respect of whom information has not been received as provided in sub-section (1), if the parents of the child return to India with a view to settling therein, they may, at any time within sixty days from the date of the arrival of the child in India, get the birth of the child registered under this Act in the same manner as if the child was born in India and the provisions of section 13 shall apply to the birth of such child after the expiry of the period of sixty days aforesaid.

21. Power of Registrar to obtain information regarding births or death.-

The Registrar may either orally or in writing require any person to furnish any information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requisition.

22. Powers to give directions.-

The Central Government may give such directions to any State Government as may appear to be necessary for carrying to execution in the State any of the provisions of this Act or of any rule or order made thereunder.

23. Penalties.-

(1) Any person who –

(a) fails without reasonable cause to give any information which it is his duty to give under any of the provisions of sections 8 and 9; or

(b) gives or causes to be given, for the purpose of being inserted in any register of births and deaths, any information which he knows or believes to be false regarding any of the particulars required to be known and registered; or

(c) refuses to write his name, description and place of abode or to put his thumb mark in the register as required by section 11, shall be punishable with fine which may extend to fifty rupees.

(2) Any Registrar or Sub-Registrar who neglects or refuses, without reasonable cause, to register any birth or death occurring in his jurisdiction or to submit any returns as required by sub-section (1) of section 19 shall be punishable with fine which may extend to fifty rupees.

(3) Any medical practitioner who neglects or refuses to issue a certificate under sub-section (3) of section 10 and any person who neglects or refuses to deliver such certificate shall be punishable with fine which may extend to fifty rupees.

(4) Any person who without reasonable cause, contravenes any provision of this Act for the contravention of which no penalty is provided for in this section shall be punishable with fine which may extend to ten rupees.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898.), an offence under this section shall be tried summarily by a magistrate.

24. Power to compound offences.-

(1) Subject to such conditions as may be prescribed, any officer authorised by the Chief Registrar by a general or special order in this behalf may, either before or after the institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence a sum of money not exceeding fifty rupees.

(2) On the payment of such sum of money, such person shall be discharged and no further proceedings shall be taken against him in respect of such offence.

25. Sanction for prosecution.-

No prosecution for an offence punishable under this Act shall be instituted except by an officer authorised by the Chief Registrar by general or special order in this behalf.

26. Registrars and Sub-Registrars to be deemed public servants.-

All Registrars and Sub-Registrars shall, while acting or purporting to act in pursuance of the provisions of this Act or any rule or order made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860.).

27. Delegation of powers.-

The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act (except the power to make rules under section 30) or the rules made thereunder shall, subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the direction.

28. Protection of action taken in good faith.-

(1) No suit, prosecution or other legal proceeding shall lie against the Government, the Registrar-General, any Registrar, or any person exercising any power or performing any duty under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

29. Act not to be in derogation of Act 6 of 1886.-

Nothing in this Act shall be construed to be in derogation of the provisions of the Births, Deaths and Marriages Registration Act, 1886.

30. Power to make rules.-

(1) The State Government may, with the approval of the Central Government, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for –

- (a) the forms of registers of births and deaths required to be kept under this Act;
- (b) the period within which and the form and the manner in which information should be given to the Registrar under section 8;
- (c) the period within which and the manner in which births and deaths shall be notified under sub-section (1) of section 10;
- (d) the person from whom and the form in which a certificate as to cause of death shall be obtained;

- (e) the particulars of which extract may be given under section 12 ;
- (f) the authority which may grant permission for registration of a birth or death under sub-section (2) of section 13;
- (g) the fees payable for registration made under section 13;
- (h) the submission of reports by the Chief Registrar under such-section (4) of section 4;
- (i) the search of birth and death registers and the fees payable for such search and for the grant of extracts from the registers;
- (j) the forms in which and the intervals at which the returns and the statistical report under section 19 shall be furnished and published;
- (k) the custody, production and transfer of the registers and other records kept by Registrars;
- (l) the correction of errors and the cancellation of entries in the register of births and deaths;
- (m) any other matter which has to be, or may be, prescribed.

31. Repeal and saving.-

(1) Subject to the provisions of section 29, as from the coming into force of this Act in any State or part thereof, so much of any law in force therein as relates to the matters covered by this Act shall stand repealed in such State or part, as the case may be.

(2) Notwithstanding such repeal, anything done or any action taken (including any instruction or direction issued, any regulation or rule or order made) under any such law shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions aforesaid, as if they were in force when such thing was done or such action was taken, and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

32. Power to remove difficulty.-

If any difficulty arises in giving effect in a State to the provisions of this Act in their application to any area, the State Government may, with the approval of the Central Government, by order make such provisions or give such directions not inconsistent with the provisions of this Act as appears to the State Government to be necessary or expedient for removing the difficulty;

Provided that no order shall be made under this section in relation to any area in a State after the expiration of two years from the date on which this Act comes into force in that area birth.

FREQUENT ASKED QUESTION

Q: Whether registration of Births & Deaths can be done at any place ?In other word, Whether registration of Births & Deaths can be done at any place irrespective of the place of occurrence? Whether an event, which has taken place in Bombay, can be registered in Goa?

A: The event can be registered at the place of occurrence only. An event, which has taken place in Bombay, will be registered with the concerned local Registrar in Bombay within whose jurisdiction the event has occurred. The event cannot be registered in Goa.

Q: Which section of the RBD Act, 1969 indicate that the registration of events should be done according to place of occurrence?

A: Section 7 (2) read with Section 23 (2) of the RBD Act, 1969 make it very explicit that the Registrar has to register only those events of birth and death which take place in his jurisdiction.

Q: How the nationality of the incidence of the birth and death of a person can be ascertained by the Registrar?

A: The registration authority may register the nationality of non – Indian parents as entered in their passports. If doubt arises, this can be ascertained from the police authority where he or she is registered and issued with residential permit. As regards, the foreigners who pretend to be Indian nationals and the doubt is raised by the local registrar, the only alternative is to get the matter enquired by the police of the area concerned.

Q:Is the nationality mentioned by the reporter will be taken as valid evidence in the Court of Law?

A: The registrar who is functionary under the registration of Births and Deaths Act, 1969 and is appointed by the State Government is obliged to make entries as per the form prescribed under the Rules, although strictly under section 7(2) of the Act, the information required to be entered in the register is confined to information relating to births and deaths only.

Q: In case of delayed reporting of institutional events, what procedure should be followed for registration of such events?

A: It may be seen from the RBD Act, 1969 that in respect of births and deaths in a hospital, health center, maternity or nursing home or other like institutions, responsibility of informing the events to the registrar lies on the Medical Officer or any person authorized by him in this behalf under section 8 (1) (b) . Therefore any delay in the reporting of institutional events the concerned officer in –charge of the hospital may be held responsible and all the formalities required under section 13 of the Act observed. Further, in such cases the officer concerned can be penalized in accordance with the provisions of section 23 and 24 of the Act.

Q: Is it necessary to collect late fee for events reported late by (i) institutions (ii) police authorities? In that case, from whom the fee should be collected?

A: If any officer in charge of an institution or police station or barrack does not report an event as required under section 8 of the Act within the prescribed time, he becomes liable to pay late fee and even penalty as provided under sub-section (1) of section 23 of the Act.

Q: Whether the head of the household may be allowed to intimate to the local Registrar by post of the occurrence of vital events in the prescribed form?

A: There is no objection to the head of the household submitting particulars of occurrence of vital events to the Registrar by post so long as the particulars are as per the prescribed reporting forms 1, 2 and 3 depending upon whether it is live – birth, still birth or death respectively. In this regard, it has been suggested that in such cases, a note may be made in the remarks column of the registers to the effect that the registration is made on the basis of postal reporting and reporting forms 1, 2 & 3 as the case may be preserved as an integral part of the register.

Q: What procedure for registration is to be followed in case of medico–legal cases of death occurred in hospitals?

A: In case of medico–legal cases, the hospital authorities/physicians should inform the Registrar concerned, details thereof for follow up action in obtaining required certificate from the police authorities. The object is that on receipt of the information the local Registrar could register the event of death without completing the column of cause of death, making a remark in the remarks column that the “inquest report is awaited”. The cause of death could be filled in later on receiving the inquest report.

Q: Whether the age of the diseased is to be shown in death certificate.

A: It is not desirable to record the age of the diseased in the death certificate. (Form no.6). The column for age in the death register has been provided mainly for statistical purposes. If any person wants to establish the age of the diseased for any purpose he has to produce the deceased's birth certificate or any other secondary evidentiary proof relating to the age of the diseased.

Q: Whether birth/death certificate could be issued in the language other than the language in which entries are made in birth/death register?

A: Extracts from birth/death register are to be issued only in the language in which entries have been made in the register.

Q: Whether a Still Birth Certificate could be issued under the provisions of Act and the State Rules?

A: According to section 2(1) (a) of the Act, word/term “birth” means live birth or still birth. As such, extract from still birth register (form no 9) could be issued in form no.5 with an appropriate changes in the wording in that form such as information has been taken from the original records of still birth----- date of still birth and place of still birth instead of word “birth” given in that form.

Q: Whether extracts of birth/ death under section 12 could be given free of charge also in respect of the events registered under section 13 of the Act?

A: Section 12 of the Act contemplates giving of extracts free of charge to the person giving information under section 8 or section 9 thereof. The provision of this section is, therefore, not applicable in relation to the event registered under section 13.

Q: Whether events occurring prior to the date of enforcement of the RBD Act, 1969 can be registered?

A: The events of births and deaths which occurred prior to the coming into force the RBD Act, 1969 can be registered under the provisions of the Act. The provisions of section 13 which related to delayed registration can also be applied in registration of such events.

Q: Whether the Registrar is liable to pay late fee in cases of any delay on his part in registering an event under section 13(1) and 13(2) of the Act?

A: Section 13(2) is attracted when the information required as per section 8 or section 9 of the Act is furnished after thirty days but within one year of the date of occurrence of the event. However, section 13(3) is attracted when an event has not been registered within one year of occurrence. Section 13 only speaks of payment of late fee under relevant sub-sections by the party concerned. There is no provision for payment of late fee by the registrar for any delay on his part in registering an event. However, the Registrar can be penalized for any undue delay on his part in registering an event. Section 23(2) provides that any Registrar or Sub-Registrar who neglects or refuses without reasonable cause, to register any birth or death occurring in his jurisdiction or to submit any return as required by sub-section (1) of section 19 of the Act, shall be punishable with fine which may extend to Rs.50.

Q: Whether the event of birth could be registered at the place other than the place of occurrence under the provisions of delayed registration as laid down in section 13(3) of the Act?

A: The event birth/death is to be registered under section 13(3) of the RBD Act, 1969 at the place, where the event took place. In such cases, the registration should be made only on order of the Magistrate having jurisdiction over the area concerned.

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

In 1992, India adopted the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region. As a signatory of this proclamation, India's Ministry of Law, Justice and Company Affairs proposed an act to safe guard the rights of Persons with Disabilities (PWD). On the 1st of January 1996 the Government of India passed the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

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

ACT NO. 1 OF 1996 [1st January, 1996]

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

An Act to give effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region. WHEREAS the Meeting to Launch the Asian and Pacific Decade of Disabled Persons 1993-2002 convened by the Economic and Social Commission for Asia and Pacific held at Beijing on 1st to 5th December, 1992, adopted the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region; AND

WHEREAS India is a signatory to the said Proclamation; AND

WHEREAS it is considered necessary to implement the Proclamation aforesaid.

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

(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.

2. Definitions.

2. Definitions. 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 (2 of 1924), the Central Government;

(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 (snellen) 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, peri-natal 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 of 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 (1 of 1956) and includes Departments of a Government;
- (l) "hearing impairment" means loss of sixty decibels or more in the better year in the conversational range of frequencies;
- (m) "institution 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 manifest deformity;
 - (ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

- (iii) extreme physical deformity as well as advanced age which prevents him 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 institution 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 subnormality 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

3. Central coordination Committee.

3. Central Coordination Committee. (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;

(c) Secretaries to the Government of India in-charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel, Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Legal Affairs, Public Enterprises, Members, 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 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, Dehradun;

(ii) National Institute for the Mentally Handicapped, Secundrabad; 5

(iii) National Institute for the Orthopaedically Handicapped, Calcutta;

(iv) Ali Yavar Jung National Institute for the Hearing Handicapped, Bombay, 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.

4. Term of office of Members.

4. Term of office of Members. (1) Save as otherwise provided by or under this Act a Member of Central Coordination Committee nominated under clause (i) or clause (1) 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 the 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 (1) 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 (1) 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 (1) of sub-section (2) of section 3 shall be eligible for renomination.

(7) Members nominated under clause (i) and clause (1) of sub-section (2) of section 3 shall receive such allowances as may be prescribed by the Central Government.

5. Disqualifications.

5. Disqualifications. (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 renomination as a Member.

6. Vacation of seats by Members.

6. Vacation of seats by Members. If a Member of the Central Coordination Committee becomes subject to any of the disqualifications specified in section 5, his seat shall become vacant.

7. Meetings of the Central Coordination Committee.

7. Meetings of the Central Coordination Committee. 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.

8. Functions of the Central Coordination Committee.

8. Functions of the Central Coordination Committee. (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.

9. Central Executive Committee.

9. Central Executive Committee. (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, Chair-person, ex officio;

(b) the Chief Commissioner, Member, ex officio; 7

(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 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 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;

(k) Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, ex officio.

(3) 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.

10. Functions of the Central Executive Committee.

10. Functions of the Central Executive Committee. (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.

11. Meetings of the Central Executive Committee.

11. Meetings of the Central Executive Committee. 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 meetings as may be prescribed by the Central Government.

12. Temporary association of persons with Central Executive Committee for particular purposes.

12. Temporary association of persons with Central Executive Committee for particular purposes.

(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. 8

(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

13. State Coordination Committee.

13. State Coordination Committee. (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;

(c) Secretaries to the State Government in-charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Public Enterprises, by whatever name called, Members, 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; 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. 9

14. Terms and conditions of service of members.

14. Terms and conditions of service of members. (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 the 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 he was so nominated.

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

(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.

15. Disqualifications.

15. Disqualifications. (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 the 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 renomination as a Member.

16. Vacation of seats.

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

17. Meetings of the State Coordination Committee.

17. Meetings of the State Coordination Committee. 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. 10

18. Functions of the State Coordination Committee.

18. Functions of the State Coordination Committee. (1) Subject to the provisions of this Act, the function 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.

19. State Executive Committee.

19. State Executive Committee. (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) and 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. 11

20. Functions of the State Executive Committee.

20. Functions of the State Executive Committee. (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.

21. Meetings of the State Executive Committee.

21. Meetings of the State Executive Committee. 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.

22. Temporary association of persons with State Executive Committee for particular purposes.

22. Temporary association of persons with State Executive Committee for particular purposes.

(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 discussions 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 a allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the State Government.

23. Power to give directions.

23. Power to give directions. 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: 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.

24. Vacancies not to invalidate proceedings.

24. Vacancies not to invalidate proceedings. 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

25. Appropriate Governments and local authorities to take certain steps for the prevention of occurrence of disabilities.

25. Appropriate Governments and local authorities to take certain steps for the prevention of occurrence of disabilities. 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; 12

(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

26. Appropriate Governments and local authorities to provide children with disabilities free education, etc.

26. Appropriate Governments and local authorities to provide children with disabilities free education, etc. 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.

27. Appropriate Governments and local authorities to make schemes and programmes for non-formal education, etc.

27. Appropriate Governments and local authorities to make schemes and programmes for non-formal education, etc. 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.

28. Research for designing and developing new assistive devices, teaching aids, etc.

28. Research for designing and developing new assistive devices, teaching aids, etc. 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.

29. Appropriate Governments to set up teachers' training institutions to develop trained manpower for schools for children with disabilities.

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

30. Appropriate Governments to prepare a comprehensive education scheme providing for transport facilities, supply of books, etc.

30. Appropriate Governments to prepare a comprehensive education scheme providing for transport facilities, supply of books, etc. 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 school;
- (d) the grant of scholarship to students with disabilities;
- (e) setting up of appropriate fora 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 the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

31. Educational institutions to provide amanuensis to students with visual handicap.

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

CHAPTER VI EMPLOYMENT

32. Identification of posts which can be reserved for persons with disabilities.

32. Identification of posts which can be reserved for persons with disabilities. 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.

33. Reservation of posts.

33. Reservation of posts. 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-

- (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, as may be specified in such notification, exempt any establishment from the provisions of this section.

34. Special Employment Exchange.

34. Special Employment Exchange. (1) The appropriate Government may by notification, require 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.

35. Power to inspect record or document in possession of any establishment.

35. Power to inspect record or document in possession of any establishment. Any person authorised 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.

36. Vacancies not filled up to be carried forward.

36. Vacancies not filled up to be carried forward. 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 can not be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government.

37. Employers to maintain records.

37. Employers to maintain records. (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 open to inspection at all reasonable hours by such persons as may be authorised in this behalf by general or special order by the appropriate Government.

38. Schemes for ensuring employment of persons with disabilities.

38. Schemes for ensuring employment of persons with disabilities. (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.

39. All educational institutions to reserve seats for persons with disabilities.

39. All educational institutions to reserve seats for persons with disabilities. All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three percent seats for persons with disabilities.

40. Vacancies to be reserved in poverty alleviation schemes.

40. Vacancies to be reserved in poverty alleviation schemes. 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.

41. Incentives to employers to ensure five per cent of the work force is composed of persons with disabilities.

41. Incentives to employers to ensure five percent of the work force is composed of persons with disabilities. The appropriate Governments and the local authorities shall, within 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

42. Aids and appliances to persons with disabilities.

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

43. Schemes for preferential allotment of land for certain purposes.

43. Schemes for preferential allotment of land for certain purposes. 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

44. Non-discrimination in transport.

44. Non-discrimination in transport. Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to- (a) adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons; (b) adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.

45. *Non-discrimination on the road.*

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

- (a) installation of auditory signals at red lights in the public roads for the benefit of persons with visually handicap;
- (b) causing curb cuts and slopes to be made in pavements for the easy access of wheel chair users;
- (c) engraving on the surface of the zebra crossing for the blind or for persons with low vision;
- (d) engraving on the 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.

46. *Non discrimination in the built environment.*

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

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

47. *Non-discrimination in Government employment.*

47. Non-discrimination in Government employment. (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 super numeracy post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall he denied to a person merely on the ground of his disability; Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may he specified in such notification, exempt any establishment from the provisions of this section.

CHAPTER IX RESEARCH AND MANPOWER DEVELOPMENT

48. Research.

48. Research. 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.

49. Financial incentives to Universities to enable them to undertake research.

49. Financial incentives to Universities to enable them to undertake research. The appropriate Governments shall provide financial assistance to universities, other institutions of higher learning, professional bodies and nongovernmental research units or institutions, for undertaking research for special education, rehabilitation and manpower development.

CHAPTER X RECOGNITION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES

50. Competent authority.

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

51. No person to establish or maintain an institution for persons with disabilities except in accordance with a certificate of registration.

51. No person to establish or maintain an institution for persons with disabilities except in accordance with a certificate of registration. Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except under and in accordance with a certificate of 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 17 such certificate under this section within the said period of six months, till the disposal of such application.

52. Certificate of registration.

52. Certificate of registration. (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 enquiries 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 to 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 of 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 like 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.

53. Revocation of certificate.

53. Revocation of certificate. (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 section 52 has-

(a) made a statement in relation to any application for the issue or 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 Such institution shall cease to function from the date of such revocation: Provided that 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.

54. Appeal.

54. Appeal. (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.

55. Act not to apply to institutions established or maintained by the Central or State Government.

55. Act not to apply to institutions established or maintained by the Central or State Government. 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 INSTITUTION FOR PERSONS WITH SEVERE DISABILITIES

56. Institutions for persons with severe disabilities.

56. Institutions for persons with severe disabilities. 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 recognise such institution as an institution for persons with severe disabilities for the purposes of this Act; Provided that no institution shall be recognised 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

57. Appointment of Chief Commissioner for persons with disabilities.

57. Appointment of Chief Commissioner for persons with disabilities. (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.

58. Functions of the Chief Commissioner.

58. Functions of the Chief Commissioner. The Chief Commissioner shall- (a) coordinate the work of the Commissioners;

(b) monitor the utilisation 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.

59. Chief Commissioner to look into complaints with respect to deprivation of rights of persons with disabilities.

59. Chief Commissioner to look into complaints with respect to deprivation of rights of persons with disabilities. 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 complaint with respect to matters relating 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 or persons with disabilities and take up the matter with the appropriate authorities.

60. Appointment of Commissioners for persons with disabilities.

60. Appointment of Commissioners for persons with disabilities. (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 Wary 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 he 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.

61. Powers of the Commissioner.

61. Powers of the Commissioner. 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 utilisation of funds disbursed by the State Government;

(c) take step 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.

62. Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities.

62. Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities. 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.

63. Authorities and officers to have certain powers of civil court.

63. Authorities and officers to have certain powers of civil court. 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 (5 of 1908) while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any 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 (2 of 1974) of Criminal Procedure, 1973.

64. Annual report to be prepared by the Chief commissioner.

64. Annual report to be prepared by the Chief commissioner. (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, of any such recommendation or part.

65. Annual reports to be prepared by the Commissioners.

65. Annual reports to be prepared by the Commissioners. (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

66. Appropriate governments and local authorities to undertake rehabilitation.

66. Appropriate governments and local authorities to undertake rehabilitation. (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.

67. Insurance scheme for employees with disabilities.

67. Insurance scheme for employees with disabilities. (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 an insurance scheme frame an alternative security scheme for its employees with disabilities.

68. Unemployment allowance.

68. Unemployment allowance. 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 MISCELANEOUS

69. Punishment for fraudulently availing any benefit meant for persons with disabilities.

69. Punishment for fraudulently availing any benefit meant for persons with disabilities. 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.

70. Chief Commissioners, Commissioners, officers and other staff to be public servants.

70. Chief Commissioners, Commissioners, officers and other staff to be public servants. 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).

71. Protection of action taken in good faith.

71. Protection of action taken in good faith. 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.

72. Act to be in addition to and not in derogation of any other law.

72. Act to be in addition to and not in derogation of any other law. 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.

73. Power of appropriate Government to make rules.

73. Power of appropriate Government to make rules. (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 of section 9;

(f) the allowances which the Member 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 subsection (1) 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 member shall receive under sub-section (7) to section 14;

(k) rules of procedure which a State Coordination Committee may perform 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 subsection (1) 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 (1) of section 34;
- (r) the form and the manner in which record shall be maintained by an employer under sub-section (1) of section 37;
- (s) the form and manner in which an application shall be made under subsection (1) of section 52;
- (t) the manner in which an order of refusal shall be communicated under subsection (2) of section 52;
- (u) facilities or standuds required to be provided or maintained under subsection (3) of section 52;
- (v) the period for which a certificate of registration shall be valid under clause (a) of sub-section (4) of section 52;
- (w) the form in which and conditions subject to which a certificate of registration shall be granted under clause (c) of sub-section (4) of section 52;
- (x) period within which an appeal shall lie under sub- section (1) of section 54;
- (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:
- (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;
- (zc) the salary allowances and other terms and conditions of service of the Commissioner under sub-section (3) of section 60;
- (zd) the salary allowances and other conditions of service of officers and employees under sub-section (6) of section 60;
- (ze) intervals within which the Commissioner shall report to the State Government under clause (d) of section 61;
- (zf) the form and time in which annual report shall be prepared under sub-section (1) of section 64;
- (zg) the form and time in which annual report shall be prepared under subsection (1) of section 65;
- (zh) 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, every scheme framed by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), 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 thirty days which may be comprised in one session or in 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 made by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), 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.

74. Amendment of Act 39 of 1987.

74. Amendment of Act 39 of 1987. In section 12 of the Legal Services 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." K. L. MOHANPURIA, Secy. to the Govt. of India.

FREQUENT ASKED QUESTIONS:

Question: Does the Disabilities Act provide for employment in the private sector?

Answer: There are no reservations for the private sector. However, the Act mandates that the government must announce schemes providing incentives to employers in public and private sectors to ensure that at least 5 percent of the workforce comprises persons with disabilities.

Question: How does the Act protect a disabled person from discrimination at work?

Answer: The Act stresses that employers must provide for a non-handicapping environment in places where persons with disabilities are employed. The Act also mandates that:

- A disabled person working in any government establishment cannot be denied promotion merely on the ground of his disability.
- Anyone employed in a government establishment who acquires a disability during his employment:
 - o Cannot be dispensed with or reduced in rank.
 - o If, after acquiring the disability, an employee is not suitable to continue on his post, he may be shifted to a suitable post with the same pay-scale and service benefits.
 - o Pending availability of a suitable post, a supernumerary post should be created for such a person.

Question: Does the Act promote entrepreneurship/ownership amongst disabled people?

Answer: Yes, the Disabilities Act provides for preferential allotment of land to disabled persons at concessional rates by the government for building their own houses, setting up of any business or factories and establishing special schools, research centres or special recreational centres.

Question: What are the goals of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995?

- To integrate persons with disabilities and to provide them with opportunities for full participation in society
- To create a society in which disabled persons would enjoy equal status on par with non-disabled persons

Question: Are all disabled people entitled to the benefits of the Disabilities Act?

Answer: The general benefits of the Disabilities Act are meant for all disabled persons. However, the rights earmarked specially for “persons with disability” are for only those affected by any of the following disabilities, to the extent of 40 percent or more, as certified by a recognised medical authority:

- Blindness.
- Low-vision.
- Leprosy-cured.
- Hearing impairment.
- Locomotor disability, or any form of cerebral palsy.
- Mental retardation.
- Mental illness.

Question: How does the Disabilities Act set out to achieve its goals?

Answer: To achieve its goals, the Disabilities Act provides for the following:

- Education of disabled persons.
- Employment of disabled persons.
- Special facilities for disabled persons for use and access of public transport system, civic amenities and public buildings/places.
- Preferential allotment to help disabled persons set up businesses and factories, build own houses, special schools and special recreation centres.
- Prevention and early detection of disabilities.
- Rehabilitation and social security of disabled persons.
- Research and manpower development on disability issues.
- Recognition of institutions for disabled persons.
- Setting up of dedicated authorities at central and state levels, for “coordination”, “execution” and “adjudication” with regard to implementing the Act.

4. PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005

Protection of Women from Domestic Violence (PWDV) Act 2005 is a central Act which has come into force from 26.10.2006. This Act is aimed at providing protection to wife or female live-in partner from violence at the hands of the husband or male live-in partner or his relatives. The Law extends protection to women who are sisters including adopted sisters and mothers. Domestic violence under the Act includes actual abuse or threat of abuse, whether physical, sexual, verbal, emotional, or economic. Harassment by way of unlawful dowry demands to women victims or her relatives would also be covered under the definition of Domestic violence.

As per the provisions of the Act, Protection Officer is the key officer working under Magistrate, who would be providing various relieves to aggrieved women in terms of monetary relief, counseling, legal aid, protection from the accused, social and economic security after investigating into the cases and preparing safety plan.. Based on these Domestic Incident Reports, the protection orders are obtained from the Magistrates to provide relief to aggrieved women.

The Department of Women & Child Development, GNCT of Delhi has appointed 18 Protection Officers in all the Districts of Delhi. The Service Providers as per the Act have been identified to provide various services to aggrieved women like counseling, legal aid, shelter and health checkup. Workshops and trainings have been organized for the functionaries as stakeholders in the implementation of PWDV Act.

Publicity is given through print media for provisions under this Act.

Total 5355 complaints were received by Protection Officers till June 2009 under PWDV Act, 2005.

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

NO. 43 OF 2005 [13th September, 2005.]

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

1. Short title, extent and commencement.-(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.

(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 in the Official Gazette, appoint.

2. Definitions.

2. Definitions.- In this Act, unless the context otherwise requires,- (a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b) "child" means any person below the age of eighteen years and includes any adopted, step or foster child;

(c) "compensation order" means an order granted in terms of section 22;

(d) "custody order" means an order granted in terms of section 21;

(e) "domestic incident report" means a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person;

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) "domestic violence" has the same meaning as assigned to it in section 3;

(h) "dowry" shall have the same meaning as assigned to it in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961);

(i) "Magistrate" means the Judicial Magistrate of the first class, or as the case may be, the Metropolitan Magistrate, exercising jurisdiction under the Code of Criminal Procedure, 1973 (2 of 1974) in the area where the aggrieved person resides temporarily or otherwise or the respondent resides or the domestic violence is alleged to have taken place;

(j) "medical facility" means such facility as may be notified by the State Government to be a medical facility for the purposes of this Act;

(k) "monetary relief" means the compensation which the Magistrate may order the respondent to pay to the aggrieved person, at any stage during the hearing of an application seeking any relief under this Act, to meet the expenses incurred and the losses suffered by the aggrieved person as a result of the domestic violence;

(l) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "Protection Officer" means an officer appointed by the State Government under sub-section (1) of section 8;

(o) "protection order" means an order made in terms of section 18;

(p) "residence order" means an order granted in terms of sub-section (1) of section 19;

(q) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act: Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

(r) "service provider" means an entity registered under sub-section (1) of section 10;

(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent,

or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

(t) "shelter home" means any shelter home as may be notified by the State Government to be a shelter home for the purposes of this Act.

CHAPTER II DOMESTIC VIOLENCE

CHAPTER II DOMESTIC VIOLENCE

3. Definition of domestic violence.

3. Definition of domestic violence.- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it - (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.-For the purposes of this section,- (i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes- (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

(iv) "economic abuse" includes- (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household. Explanation II.-For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

CHAPTER III POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

CHAPTER III POWERS AND DUTIES OF PROTECTION OFFICERS, SERVICE PROVIDERS, ETC.

4. Information to Protection Officer and exclusion of liability of informant.

4. Information to Protection Officer and exclusion of liability of informant.-(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

5. Duties of police officers, service providers and Magistrate.

5. Duties of police officers, service providers and Magistrate.-A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person- (a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;

(b) of the availability of services of service providers;

(c) of the availability of services of the Protection Officers;

(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987); (e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant: Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

6. Duties of shelter homes.

6. Duties of shelter homes.-If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

7. Duties of medical facilities.

7. Duties of medical facilities.-If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8. Appointment of Protection Officers.

8. Appointment of Protection Officers.-(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

9. Duties and functions of Protection Officers.

9. Duties and functions of Protection Officers.-(1) It shall be the duty of the Protection Officer- (a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

(d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counselling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);

(i) to perform such other duties as may be prescribed.

(2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act.

10. Service providers.

10. Service providers.-(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

(2) A service provider registered under sub-section (1) shall have the power to- (a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place;

(b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place;

(c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place.

(3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

11. Duties of Government.

11. Duties of Government.-The Central Government and every State Government, shall take all measures to ensure that- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;

(b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;

(c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;

(d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

CHAPTER IV PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

CHAPTER IV PROCEDURE FOR OBTAINING ORDERS OF RELIEFS

12. Application to Magistrate.

12. Application to Magistrate.-(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act: Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent: Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.

13. Service of notice.

13. Service of notice.-(1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt. (2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

14. Counselling.

14. Counselling.-(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed. (2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

15. Assistance of welfare expert.

15. Assistance of welfare expert.-In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

16. Proceedings to be held in camera.

16. Proceedings to be held in camera.-If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera.

17. Right to reside in a shared household.

17. Right to reside in a shared household.-(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. Protection orders.

18. Protection orders.-The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from-

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person;
- (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact;
- (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate;
- (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence;
- (g) committing any other act as specified in the protection order.

19. Residence orders.

19. Residence orders.-(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order - (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

- (b) directing the respondent to remove himself from the shared household;
- (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;
- (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;
- (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or
- (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require: Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly

(5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

20. Monetary reliefs.

20. Monetary reliefs.-(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,-

(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

21. Custody orders.

21. Custody orders.-Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent: Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

22. Compensation orders.

22. Compensation orders.-In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

23. Power to grant interim and ex parte orders.

23. Power to grant interim and ex parte orders.-(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

24. Court to give copies of order free of cost.

24. Court to give copies of order free of cost.-The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

25. Duration and alteration of orders.

25. Duration and alteration of orders.-(1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

(2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

26. Relief in other suits and legal proceedings.

26. Relief in other suits and legal proceedings.-(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court. (3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

27. Jurisdiction.

27. Jurisdiction.-(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

28. Procedure.

28. Procedure.-(1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

29. Appeal.

29. Appeal.-There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

CHAPTER V MISCELLANEOUS

CHAPTER V MISCELLANEOUS

30. Protection Officers and members of service providers to be public servants.

30. Protection Officers and members of service providers to be public servants.-The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

31. Penalty for breach of protection order by respondent.

31. Penalty for breach of protection order by respondent.-(1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

(2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.

(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions.

32. Cognizance and proof.

32. Cognizance and proof.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable. (2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused.

33. Penalty for not discharging duty by Protection Officer.

33. Penalty for not discharging duty by Protection Officer.-If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

34. Cognizance of offence committed by Protection Officer.

34. Cognizance of offence committed by Protection Officer.-No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

35. Protection of action taken in good faith.

35. Protection of action taken in good faith.-No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

36. Act not in derogation of any other law.

36. Act not in derogation of any other law.-The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

37. Power of Central Government to make rules.

37. Power of Central Government to make rules.-(1) The Central 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 power, such rules may provide for all or any of the following matters, namely:- (a) the qualifications and experience which a Protection Officer shall possess under sub-section (2) of section 8;

(b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8;

(c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9;

(d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9;

(e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9;

- (f) the other duties to be performed by the Protection Officer under clause (i) of sub-section (1) of section 9;
- (g) the rules regulating registration of service providers under sub-section (1) of section 10;
- (h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section;
- (i) the means of serving notices under sub-section (1) of section 13;
- (j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13;
- (k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14;
- (l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23;
- (m) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act 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 thirty days which may be comprised in one session or in 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 or both Houses agree that the rule should not be made, the rule 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. ---- BRAHM AVTAR AGRAWAL, Addl. Secretary to the Govt. of India. {}

FREQUENT ASKED QUESTIONS

1. Why was this law needed?

This law recognizes the right of a woman to live in violence free home and provides legal remedies if this right is violated. Legal remedies pertain to civil reliefs such as injunctions, compensation and monetary relief. There can be no arrests made on a complaint filed under this law. This is a civil law aimed at providing immediate support to women facing domestic violence. It is different from criminal law, which is directed at providing punishment to perpetrators of violence (those who commit violence) through imprisonment or fines. The advantage of a civil law is that it is victim-oriented and the woman is not dependent on the police to initiate action.

1A. Can a woman continues to use Section 498A IPC?

In addition to the above reliefs, under the Act a woman can also file criminal complaints under criminal law (Section 498A of the Indian Penal Code) seeking the arrest of the perpetrator of violence, under the circumstances mentioned therein [Section 5(e)]. The decision of whether to go under the new law or S. 498A IPC is that of the woman and depends on her goals.

2. What is “domestic violence”? [Section 3]

1. Any form of abuse causing harm or injury to the physical and / or mental health of the woman or compromising her life and safety.
2. Any harassment for dowry or to meet any other unlawful demand.
3. Threats to cause injury or harm.

Forms of abuse recognized under the law

- a. “Physical abuse”- any act that causes bodily injury or hurt.

E.g.- beating, kicking, punching, etc.

- b. “Sexual abuse”- any humiliating or degrading sexual act.

E.g. – forced sexual intercourse by the husband, making a woman watch pornography against her will etc.

- c. “Verbal and emotional abuse” – insults, ridicule and threat causing harm or injury.

E.g. – name calling, ostracizing, blaming a woman for not having a male child etc.

- d. “Economic abuse ”- deprivation of the basic necessities of life and entitlements that causes injury or harm.

E.g. – denial of food, disposing off household assets to the detriment of the woman, disposing off her own assets (such as Stridhan) against her will etc.

In all such cases, the judge must bear in mind the overall circumstances of the case in arriving at a conclusion that an act of domestic violence has been committed.

3. Who can claim relief under the Act?

Any woman facing violence in a domestic relationship [Section 2(a)].

3a. What is a “domestic relationship”? [Section 2(f)]

Domestic relationships are relationships between a woman and a man living in a shared household. Domestic relationships can be through: " Marriage – such as wives, daughter-in-laws, sister-in-laws, widows etc. with other members of the family"

Blood relationships – such as mothers-sons, sisters-brothers, daughters-fathers, widows etc."

Other relations – through adoption, relationships in the nature of marriage (including victims of legally invalid marriages, bigamous marriages etc.)

3b. What is a “shared household”? [Section 2(s)]

A shared household is a household where the woman resides with the man in a domestic relationship. It can also mean the household where she has lived in a domestic relationship and from which she has been subsequently thrown out. It does not matter that the shared household is not owned by either the woman or the man. This law applies even in cases where the house is on lease / license or rent or is part of a joint family property. All that has to be proved is that the woman lives or has lived with the perpetrator of violence in this home in a conjugal relationship; or in a familial relationship as described above.

4. What is a woman's right in a shared household? [Section 17]

The PWDVA recognises a woman's right to reside in the shared household. This means that she cannot be thrown out of such a household except through procedure established by law. In cases where she is thrown out she can be brought back again after obtaining an order from the court. The court can also direct the perpetrator of violence to provide alternative accommodation in cases where she does not want to return to a violent home.

5. Who can a woman complain against? [Section 2(q)]

A woman can file a complaint against any adult male perpetrator of an act of violence. In cases where the woman is married, or lives in a relationship that is in the nature of marriage, she can also file a complaint against the male or female relatives of the husband/ male partner who have perpetrated the violence.

6. What can a woman get by filing a complaint under this law?

A woman can get reliefs from the court. This includes much needed support and compensation. The orders the court can direct are as follows:

1. Protection Order [Section 18]-

This can also be termed as a “stop violence” order. Through this order the court can direct the other party to immediately stop the acts of violence.

The following incidents can also be prevented through the “Protection Orders”:

- a. Preventing the perpetrator from entering the woman's place of employment and causing harassment.
- b. Preventing any communication with the woman from the perpetrator.
- c. Preventing any violence being caused to a person related to the woman.
- d. Preventing any financial action from being taken by the perpetrator to the woman's detriment.

2. Residence Order [Section 19]-

A residence order may be passed by the court in cases where the woman apprehends being thrown out of the house (shared household) or in cases where she has been thrown out and wants to return to her house. The aim of this order is to ensure that women have a shelter that is safe. In cases where a woman does not feel safe living with the male perpetrator of violence, she can apply for an order seeking his removal from the shared household. Or else the court can direct the perpetrator to provide alternate accommodation for the woman. No orders for removal from a shared household can be obtained against female relatives under the PWDVA.

3. Monetary relief [Section 20] -

This order can be sought to meet any expenses the woman may have incurred as a result of the violence faced. This may include payment of medical bills, any loss of belongings, etc. Married women or women living in the nature of marriages can also claim maintenance from the husband/ male partner. The amount claimed under this provision is to take care of actual expenditure incurred by the woman.

4. Compensation order [Section 22] -

A compensation order can be asked for by the woman for injuries (mental and physical) sustained. This is over and above the actual expenditure that can be obtained by a monetary order explained above.

5. Custody order [Section 21] -

A woman can also ask for temporary custody orders for her children. This is to prevent the woman from being separated from her children, which itself is a form of emotional abuse and blackmail. This order is temporary in nature and does not affect rights under existing laws on custody and guardianship.

6. Interim / Ex parte order [Section 23] -

An interim order can be given by the court at the time the proceedings are initiated under the PWDVA and before a final order is passed. This is to ensure that women are not detrimentally affected during the course of the legal proceedings. In order to get interim orders, a woman has to show that she has or she is facing violence, or fears violence. An ex parte order means an order that is passed in the absence of the other party to the dispute. Such orders are interim in nature and passed only if there is an immediate danger to the person making the application or when the other party refuses to appear in court despite prior intimation given by the court.

E.g. Sylvie has filed an application in court for a “stop violence” order against her brother, Edward who has been beating her. The threat to her life and safety is so severe that she needs an immediate order. The court can then pass an ex parte “stop violence” order against him even without hearing him. The order will be served on him along with the application. He will of course have the right to be then heard and ask for the order to be vacated (i.e. direction by the court to bring the order to an end).

7. How long will these orders be in effect?

These orders will be in force till such time the woman requires it. She can ask for a discharge of the order by applying in court [Section 25(1)]. E.g. a woman (Radha) has got an order for monetary relief from the court stating that she will get Rs 5000/- a month from her husband. However, subsequently, both Radha and her husband agree on a mutual consent divorce with a settlement giving her a lump sum amount. She can then go to court and ask for an order stopping the

payment of Rs 5000/- per month as monetary relief under the new law. Any of the parties, i.e. the woman or the man can, at any time, apply to the court for altering or modifying the order [Section 25(2)]. In order to get this alteration, a change in circumstances has to be shown. E.g. – an application can be made to alter the amount received as monetary relief.

8. What if the perpetrator continues to commit violence or violates the orders passed by the court?

Violation or not complying with the order of the court is a criminal offence under this Act. In such cases, the woman can complain to the magistrate or the police or the Protection Officer. The perpetrator can be arrested following such complaint. Violation of an order of the court attracts imprisonment for a maximum of 1 year and / or a fine of Rs 20,000/- [Section 31(1)]. The court can also initiate proceedings under criminal law, i.e. Section 498A of the IPC in addition to the above [Section 31(3)].

9. What if the woman or the other party is not satisfied with the order that is received?

In such cases either party may appeal against the order in the higher court. If the application has been filed in the Magistrate's court then the appeal shall lie before the Session's Court. All appeals have to be filed within a period of 30 days from the date on which either of the parties gets to officially know of the order [Section 29].

10. Who can help the woman in getting the reliefs under the Act?

The woman can get assistance from the Protection Officer (PO) & the Service provider (SP) for getting the reliefs under the PWDVA. Protection Officer (PO) is an outreach officer of the court (not yet appointed in most states), who can help a woman in making complaints, filing an application before the Magistrate for orders, getting support like medical aid, counseling etc., and making sure that the orders passed by the court are enforced [Section 9 & Rule 8, 10].

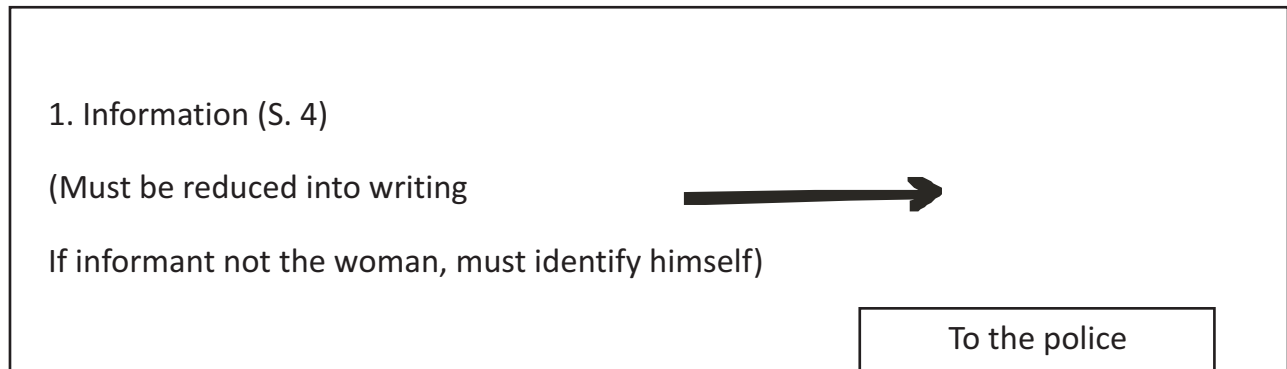
E.g. if a woman has been beaten up by her husband and needs to go to a hospital, she can approach the PO to arrange for transportation to the hospital and make sure that she gets proper treatment. Service Provider is a NGO or other voluntary association registered with state governments. They provide assistance and support to the woman facing domestic violence. A woman can go to a registered SP for making a complaint under the Act. An SP will assist her by providing legal aid, medical care, counseling or any other support [Section 10]. Though there will be other unregistered NGOs providing support services to women, but the major difference between the unregistered SPs and registered SPs under the law is that complaints can be lodged only with the registered SPs. E.g. if a woman has been thrown out of her house and needs shelter, then along with lodging a complaint, the SP will also take her to a shelter home where she can stay temporarily.

11. How can a woman get help if she faces violence at night or if she cannot immediately go to the police or PO?

In such cases of emergency, either the woman herself or any other person on her behalf can give information of the incident of domestic violence to the PO or SP even through email or telephone. This can be done anytime during the day or even at night. The PO or SP will then herself go to the place where the incident has taken place with the police and record the DIR. They will then immediately present this DIR to the Magistrate for an immediate order to make sure that the woman is safe and violence is stopped [Rule 9]. The PO, SP and police are under a duty to assist and protect the woman in such emergency situations, and she does not have to go to them to lodge a DIR.

12. How can a woman get the orders from the court? Step 1- Information [Section 4].

A woman or any person on her behalf can give information of domestic violence to the PO or to the Police. If the informant is not the woman who is facing domestic violence, he/she must sign the information provided.



A complaint can be filed based on the information provided only if the woman herself wants to initiate legal proceedings.

Step 2- Complaint [Section 5, Rule 5 & Form I].

A woman can lodge a complaint of domestic violence with the PO, the SP, the Police or directly with the Magistrate.

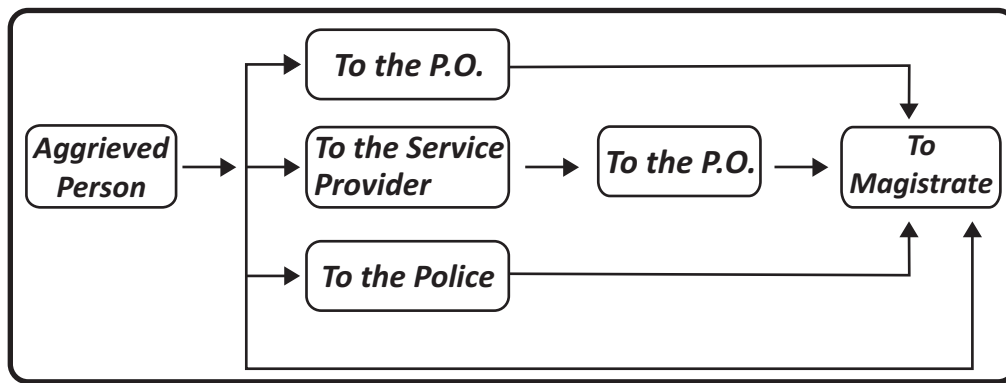
This complaint is made in the form of a Domestic Incident Report. (If a woman wants to file a complaint under criminal law, she has to lodge an FIR. But since this Act is a civil law, she must file her complaint as a Domestic Incident Report).

A Domestic Incident Report (DIR) is the official format in which the complaint will be registered. This is an extremely simple format, which is available in Form I in the Rules of the Act. A woman can get this Form I from police stations, POs or SPs and fill it herself.

If the woman cannot fill the Form herself, the PO, SP or Police will convert her complaint into this Form I as a DIR and explain the contents to her.

The PO, SP or Police will then send the complaint (DIR) to the Magistrate/ court.

2. Complaint (to be converted into DIR as provided in Form I of Rules)



Step 3- Application [Section 12]

An application for reliefs under PWDVA to the Magistrate can be made by:

- The woman herself, directly to the court.
- The PO on behalf of the woman, if she consents.
- Any person on behalf of the woman, if she consents.

An application asking for reliefs (orders passed by court) can also be filed in existing legal proceedings i.e. divorce cases, maintenance cases etc.

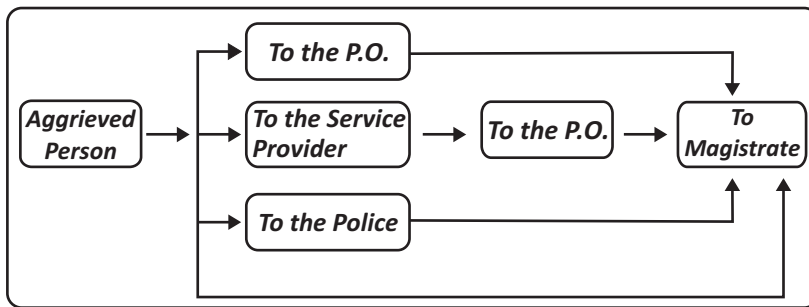
E.g. If there is a pending divorce case between a woman and her husband and she has been facing violence from him, she can ask for a Protection Order in the divorce proceeding itself. She doesn't have to separately approach a Magistrate under PWDVA.

Step 4 – Proceedings in court.

After the filing of application for reliefs before the court, the following can take place:

- The Court shall then fix the next date of hearing in the case for three days after the application has been filed [S. 12(4)].
- In case the woman is facing grave danger, the court can pass an ex parte interim order in her favor and then fix the next date of hearing.
- The other party shall get notice of the proceedings within 3 days and asked to attend court [S. 13].
- In case, the other party does not appear before the court on the date mentioned, the court can pass an ex parte order in favor of the woman [S. 23(2)].
- The court can also pass an interim order in favor of the woman [S. 23(1)].
- The other party shall be directed to respond to the woman's application in writing, i.e. by filing a "written statement". After the filing of the written statement, the parties shall be directed to present evidence and argue their case in court.
- At any stage of proceedings before the court, the court can direct counseling of either/both parties [S. 14]. The court can at any stage take the assistance of family welfare experts [S. 15]. The objective of the counseling is to prevent any further acts of violence from being committed[R. 14(4)]. A settlement can also be attempted at by the counselor, only if the woman requests for the same [R.14 (7)].
- If a case of domestic violence is proved, the court can pass an order providing the woman with the relief she had asked for in the application. The entire court proceedings should be completed within 60 days of filing the application [S.12 (5)].

Proceedings in the Court (To be disposed off in 60 days)



Step 5- Passing of order.

Within 60 days of the filing of the application, the court can pass the orders asked for by the woman. In case the court thinks that there is the need for any other kind of direction to make sure that the violence is stopped, it can also give such kind of direction in addition to the orders that she had asked for in the application.

Step 6- Discharge/ Alteration/ Modification of order.

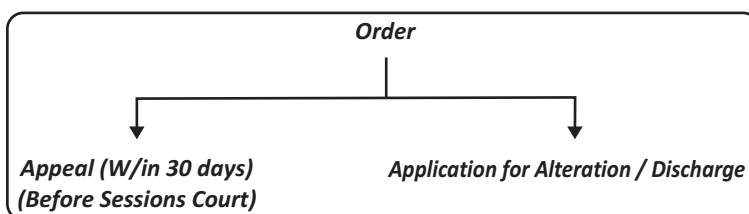
The order passed by the court will continue to be in force till the woman herself files another application asking the court to discharge the order, as explained above. E.g. Asma has successfully got a Custody Order from the court for temporary custody of her son. But in the meantime, there was also pending litigation for permanent custody under guardianship law. The court in that case has given her permanent custody of her son. She can now go to court and ask for discharge of the temporary custody order under PWDVA.

Either party can also ask for alteration or modification of the orders passed by the court.

Step 7- Appeal [S. 29]

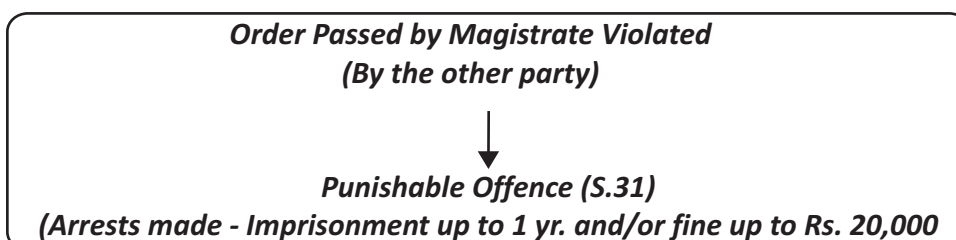
Either party can appeal against the order passed by the court to a higher court within 30 days from the date on which they received official information of the order.

Post-Order Proceedings



Step 8 Violation of Order of Court [S. 31]

If the order passed by court is violated by the other party, a woman can report to the PO and then file a complaint before the court. The violator can be immediately arrested, as it is a criminal offence. The only provision for arrest under this law is where the other party has violated the court order, and the violator is then and only then arrested



13. What is the scope of counseling under the PWDVA?

Under the PWDVA, either of the parties can be directed to undergo counseling by the court. There can be no counseling, after the application has been filed, without an order from the court.

A counselor shall be appointed from the “List of counselors” prepared by the Protection Officer. This list will comprise of representatives from registered service providers or other organizations who have experience in providing counseling [R. 8(viii), (ix), (x)].

The objective of counseling is to get an undertaking from the perpetrator to stop the violence and harassment. The perpetrator of violence will not be allowed to justify his acts of violence at the stage of counselling [R. 14(4), (5)].

If the woman wants, then she can request the counselor to settle the matter [R.14(7)].

If the settlement is arrived at, then the counselor will go back to the court with the terms of settlement. The court then shall satisfy itself that the settlement has not been forced on the woman. Once the court has satisfied itself, the court can uphold the settlement and pass appropriate orders [R. 14(13), (14)].

14. What can a woman do to get relief from court if there is no Protection Officer or registered SP in her area?

A woman can go to the police to file a criminal complaint under Section 498A of the IPC.

She can also request the police to record a DIR under PWDVA at the same time and forward the same to the Magistrate.

If the police refuse to file a FIR or a DIR then the woman can directly approach the Magistrate's court with the following:

*A “private complaint” requesting the court to direct the police to register the FIR.

And / Or

*She can file an application under the PWDVA. For this she can fill a DIR herself and attach it to her application.

If the woman already has a pending case, then she can fill in an application under the PWDVA and file it as an “Interim Application” in the pending proceedings.

E.g.- Savitri has filed a civil case for injunction against her husband, preventing him from throwing her out of the shared household. This case is pending in court. If she faces domestic violence from him while the case is going on, she can fill out an application form under the PWDVA for a residence order and file it in court as an “interim application”.

15. List of Protection Officers and their contact details

Contact the State Women and Child Development Department for details.

16. List of Service Providers and their contact details.

Contact the State Women and Child Development Department for details.

II. HEALTH AND SOCIAL CARE

1. MAHARASHTRA MEDICARE SERVICE PERSONS AND MEDICARE SERVICE INSTITUTIONS, 2010

MAHARASHTRA ACT No. XI OF 2010

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 28th April 2010.)

An Act to provide for the prevention of violence against Medicare Service Persons and prevention of damage or loss of property of Medicare Service Institutions in the State of Maharashtra and for matters connected therewith or incidental thereto.

WHEREAS acts of violence of causing injury or danger to life of Medicare Service Persons and damage or loss to the property of Medicare Service Institutions were on increase in the State creating unrest in Medicare Service Persons and professionals resulting in total hindrance of such services in the State;

AND WHEREAS it had become necessary to provide for the prevention of violence against Medicare Service Persons and prevention of damage or loss of property of Medicare Service Institutions from such violent activities;

AND WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make necessary provisions, for the purposes aforesaid; and, therefore, promulgated the Maharashtra Medicare Service Persons and Medicare Service Institution (Prevention of Violence and Damage or Loss to Property) Ordinance, 2010, on the 17th February 2010;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-first Year of the Republic of India as follows:-

1. SHORT TITLE, EXTENT AND COMMENCEMENT

1. SHORT TITLE, EXTENT AND COMMENCEMENT

(1) This Act may be called the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 17th February 2010.

2. DEFINITIONS

2. DEFINITIONS : In this Act, unless the context otherwise requires:-

(a) "Medicare Service Institutions" means an Institution, providing medicare service to people either in Medicare Service Institutions or through Mobile Medicare Unit or by arranging medical check up camps, under the control of the sick and used for their reception or stay in any private maternity home, where women are usually received and accommodated for the purpose of confinement and antenatal and post natal care in connection with the child birth or anything connected therewith and any private nursing home used or intended to be used for the reception and accommodation of person suffering from any sickness, injury or infirmity, whether of body or mind, and providing of treatment or nursing or both of them and includes convalescent home;

(b) "Medicare Service Person", in relation to Medicare Service Institution, shall include:-

(i) Registered Medical Practitioner, Practitioner or Registered Practitioner (including a person having provisional registration) working in a Medicare Service Institution other than the public servant within the meaning of section 21 of the Indian Penal Code(45 of 1860);

(ii) Registered Nurse, registered under the Maharashtra Nurses Act, 1966, other than the public servant within the meaning of section 21 of the Indian Penal Code;

(iii) Medical Student;

(iv) Nursing Student; and

(v) Para- Medical Worker and other member staff or worker directly or indirectly employed by a Medicare Service Institution for providing required services other than the public servant within the meaning of section 21 of the Indian Penal Code.

Explanation:- For the purpose of this Act, the expression Registered Medical Practitioner, Practitioner or Registered Practitioner, Nurse, shall have the same meanings, as assigned to them in the Maharashtra Medical Practitioners' Act, 1961, the Maharashtra Medical Council Act, 1965, the Bombay Homoeopathic Practitioners' Act, 1959 and the Maharashtra Nurses Act, 1966;

(c) "Medical Student" means a student, who is undergoing training or studies in medical profession;

(d) "Mobile Medical Unit" means an ambulance equipped with medical equipment, used for providing medicare services;

(e) "Nursing Student" means a student, who is undergoing training or studies in nursing profession;

(f) "Offender" means any person, who either by himself or as a member or leader of a group of persons or organization commits or attempts to commit or abets or incites the commission of violence under this Act;

(g) "Para- Medical Worker" means a person, who assists the Medicare Service Person providing medicare services;

(h) " Property" means any property, movable or immovable or medical equipment or medical machinery owned by or in possession of, or under the control of any Medicare Service Person or Medicare Service Institution;

(i) "Violence" means an act, which causes or may cause any harm, injury or endangering the life of, or intimidation, obstruction or hindrance to, any Medicare Service Person in discharging his duty in a Medicare Service Institution or causing damage or loss to the property in a Medicare Service Institution.

3. PROHIBITION OF VIOLENCE

3. PROHIBITION OF VIOLENCE: Any act of violence against a Medicare Service Person or damage or loss to the property in a Medicare Service Institution, shall be prohibited.

4. PENALTY, COGNIZANCE, AND LIABILITY

4. PENALTY: Any offender, who commits or attempts to commit or abets or incites the commission of any act of violence in contravention of the provisions of section 3, shall be punished with imprisonment which may extend to three years and with fine, which may extend to fifty thousand rupees.

5. COGNIZANCE OF OFFENCE

5. COGNIZANCE OF OFFENCE Any offence committed under this Act, shall be cognizable and non-bailable and triable by the Court of Judicial Magistrate of the First Class.

6. LIABILITY TO PAY COMPENSATION FOR LOSS OR DAMAGE CAUSED TO THE PROPERTY

6. LIABILITY TO PAY COMPENSATION FOR LOSS OR DAMAGE CAUSED TO THE PROPERTY

(1) In addition to the punishment specified in section 4, the offender shall be liable to pay compensation of twice the amount of damage or loss caused to the property, as may be determined by the Court referred to in section 5.

(2) If the offender has not paid the compensation imposed under sub-section (1), the same sum shall be recovered as if it were an arrear of land revenue.

7. AUTHORITY TO AIS AND ADVISE VICTIMS OF MEDICAL NEGLIGENCE

7. AUTHORITY TO AIS AND ADVISE VICTIMS OF MEDICAL NEGLIGENCE

(1) The State Government shall, by notification in the Official Gazette, establish the Authority for the area as may be specified in such notification, to hear grievances of victims for taking recourse to an appropriate forum for suitable relief.

(2) The Authority shall consist of experts one each from the field of medical, law, consumer movement and health management.

(3) The conditions of service of the experts mentioned in sub-section (2), and the procedure to be followed by the Authority shall be such as may be specified by the State Government by an order in this behalf.

8. ACT NOT IN DEROGATION OF ANY OTHER LAW

8. ACT NOT IN DEROGATION OF ANY OTHER LAW

The provisions of this Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

9. REPEAL OF MAHARASHTRA ORDINANCE 1 OF 2010 AND SAVING

9. REPEAL OF MAHARASHTRA ORDINANCE 1 OF 2010 AND SAVING

(1) The Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Ordinance, 2010, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

III. PREVENTION OF RISK

1. EPIDEMIC DISEASE ACT, 1897

Epidemic Act 1897 is an archaic framework, 113-year-old. The century old Act over the years has accumulated quite a number of flaws which can be attributed to the changing priorities in public health emergency management. Epidemic Act 1897 is silent on the definition of dangerous epidemic disease. Moreover, it being a century old act, the territorial boundaries of the act needs a relook. Apart from the isolation or quarantine measure the act is mum on the legal framework of availability and distribution of vaccine and drugs and implementation of response measures. There is no explicit reference pertaining to the ethical aspects or human rights principles during a response to an epidemic. The punishment for violation of regulations under section 188 of Indian Penal Code also warrants a revision. Can section 188 IPC guarantee justice to all those who suffered from the plague epidemic which cost the Indian economy over \$600 million and took the toll of hundreds of lives is a big question, and we certainly have no answers to that.

Although India has a number of legal mechanisms to support public health measures in an epidemic situation, they are not being addressed under a single legislation. There is an urgent need to assemble all the provisions in one over-arching public health legislation, so that the implementation of the responses to an epidemic can be effectively monitored. Without a comprehensive public health Act, we are dependent upon old blunt instruments like Epidemic Act 1897 which is nonfunctional in itself. Constant efforts are underway to strengthen public health legislation in India. In 1955 and again in 1987 the central government developed a Model Public Health Act, but could not advocate states to adopt them. The latest revision done by NICD in 2003 is still pending for approval by central authorities. The National Health Bill 2009 seeks to ensure broad legal framework for providing essential public health services and functions and powers to respond to public health emergencies through effective collaboration between center and the states. Some states like Gujarat and Karnataka have gone a long way in drafting the Public Health Bill.

Integrated Disease Surveillance Project (IDSP) was another initiative launched in 2004 which collects routine disease surveillance data to detect and respond to disease epidemics quickly. On an average, IDSP reports 30-40 outbreaks every week by the states.^[2] But these provisions seem to be adequate to deal with small scale emergencies but do not appear to be sufficient for large scale health crisis during pandemics. With the advent of emerging and reemerging infectious diseases and widespread global movement, the legal frameworks need to be strengthened under a sound public health law infrastructure under areas like isolation or quarantine of infected or suspected patients, travel or movement restrictions, prohibition of mass gatherings, closure of educational and other institutions, compulsory vaccination, etc.

CHAPTER-1 PRELIMINARY

1. Short title and extent

1. (1) Short title and extent. This Act may be called the Epidemic Diseases Act, 1897. 2*[(2) It extends to the whole of India except 3*[the territories Part B States.]] 4* * * * *.

CHAPTER-2 POWERS, PENALTY AND PROTECTION

4*[2A. Powers of Central Government. When the Central Government is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take measures and prescribe regulations for the inspection of any ship or vessel leaving or arriving at any port in 5*[the territories to which this Act extends] and for such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.]

3. Penalty. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code (45 of 1860).

4. Protection to persons acting under Act. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act. -----

----- 1 Subs. by the A.O. 1937, for " G. I. in C.". 2 Paragraph (a) omitted, ibid. 3 Sub-section (3) omitted by Act 38 of 1920, s. 2 and Sch. I. 4 Subs. by the A.O. 1937, for s. 2A ins. by Act 38 of 1920, s. 2 and Sch. I. 5 Subs. by the Adaptation of Laws (No. 2) Order, 1956 for ,a Part A State or a Part C State". -----

FREQUENT ASKED QUESTION

Ques 1) what is epidemic?

Answer) Rapid spread of a disease in a specific area or among a certain population groups.

Ques 2) what are the measures of this act?

Answer)1)The provincial Government may take measures and prescribe regulations for the inspection of persons travelling by railway or otherwise and the segregation in hospital, temporary accommodation or otherwise of persons suspected by the inspecting officer of being infected with any such disease.

2) The provincial government may by general or special order, empower a (district co-ordination officer) to exercise in relation to the district all the powers under this section exercisable by the provincial government in relation to the province, other than the power to determine in what manner and by whom any expenses incurred shall be defrayed.

Ques 3) what are the penalty of this act?

Answer) Any person disobeying and regulation or order made under this act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code (45 of 1860).

Protection to persons acting under act:-No suit or legal proceeding shall lie against any person for anything done or in good faith intended to be done under this act.

2. DISASTER MANAGEMENT ACT 2005

High powered committee set up in August 1999. Until 2001 the responsibility was with Agriculture Ministry. Later it was transferred to Ministry of Home Affairs in June 2002. National Disaster Management Authority established and Disaster Management Act is passed in December 2005. The Government of India through an Act of the Parliament have decided to put in place, necessary institutional mechanisms for drawing up and monitoring the implementation of disaster management plans, ensuring measures by various wings of Government for prevention of and mitigating the effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

THE DISASTER MANAGEMENT ACT, 2005

NO. 53 OF 2005 § [23rd December, 2005.]

An Act to provide for the effective management of disasters and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

1. Short title, extent and commencement.-(1) This Act may be called the Disaster Management Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

2. Definitions.

2. Definitions.-In this Act, unless the context otherwise requires,- (a) "affected area" means an area or part of the country affected by a disaster;

(b) "capacity-building" includes- (i) identification of existing resources and resources to be acquired or created;

(ii) acquiring or creating resources identified under sub-clause (i);

(iii) organisation and training of personnel and coordination of such training for effective management of disasters;

(c) "Central Government" means the Ministry or Department of the Government of India having administrative control of disaster management;

(d) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(e) "disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for- (i) prevention of danger or threat of any disaster;

(ii) mitigation or reduction of risk of any disaster or its severity or consequences;

(iii) capacity-building;

(iv) preparedness to deal with any disaster;

(v) prompt response to any threatening disaster situation or disaster;

(vi) assessing the severity or magnitude of effects of any disaster;

(vii) evacuation, rescue and relief; (viii) rehabilitation and reconstruction;

(f) "District Authority" means the District Disaster Management Authority constituted under sub-section (1) of section 25;

(g) "District Plan" means the plan for disaster management for the district prepared under section 31;

(h) "local authority" includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zila Parishad or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specified local area;

(i) "mitigation" means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;

(j) "National Authority" means the National Disaster Management Authority established under sub-section (1) of section 3;

(k) "National Executive Committee" means the Executive Committee of the National Authority constituted under sub-section (1) of section 8;

(l) "National Plan" means the plan for disaster management for the whole of the country prepared under section 11;

(m) "preparedness" means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "reconstruction" means construction or restoration of any property after a disaster;

(p) "resources" includes manpower, services, materials and provisions;

(q) "State Authority" means the State Disaster Management Authority established under sub-section (1) of section 14 and includes the Disaster Management Authority for the Union territory constituted under that section;

(r) "State Executive Committee" means the Executive Committee of a State Authority constituted under sub-section (1) of section 20;

(s) "State Government" means the Department of Government of the State having administrative control of disaster management and includes Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(t) "State Plan" means the plan for disaster management for the whole of the State prepared under section 23.

CHAPTER II THE NATIONAL DISASTER MANAGEMENT AUTHORITY

CHAPTER II THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. Establishment of National Disaster Management Authority.

3. Establishment of National Disaster Management Authority.-(1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, an authority to be known as the National Disaster Management Authority.

(2) The National Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the Central Government and, unless the rules otherwise provide, the National Authority shall consist of the following:- (a) the Prime Minister of India, who shall be the Chairperson of the National Authority, ex officio;

(b) other members, not exceeding nine, to be nominated by the Chairperson of the National Authority. (3) The Chairperson of the National Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the National Authority.

(4) The term of office and conditions of service of members of the National Authority shall be such as may be prescribed.

4. Meetings of National Authority.

4. Meetings of National Authority.-(1) The National Authority shall meet as and when necessary and at such time and place as the Chairperson of the National Authority may think fit.

(2) The Chairperson of the National Authority shall preside over the meetings of the National Authority. (3) If for any reason the Chairperson of the National Authority is unable to attend any meeting of the National Authority, the Vice-Chairperson of the National Authority shall preside over the meeting.

5. Appointment of officers and other employees of the National Authority.

5. Appointment of officers and other employees of the National Authority.-The Central Government shall provide the National Authority with such officers, consultants and employees, as it considers necessary for carrying out the functions of the National Authority.

6. Powers and functions of National Authority.

6. Powers and functions of National Authority.-(1) Subject to the provisions of this Act, the National Authority shall have the responsibility for laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster.

(2) Without prejudice to generality of the provisions contained in sub-section (1), the National Authority may - (a) lay down policies on disaster management;

(b) approve the National Plan;

(c) approve plans prepared by the Ministries or Departments of the Government of India in accordance with the National Plan;

(d) lay down guidelines to be followed by the State Authorities in drawing up the State Plan;

- (e) lay down guidelines to be followed by the different Ministries or Departments of the Government of India for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;
 - (f) coordinate the enforcement and implementation of the policy and plan for disaster management;
 - (g) recommend provision of funds for the purpose of mitigation;
 - (h) provide such support to other countries affected by major disasters as may be determined by the Central Government;
 - (i) take such other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary;
 - (j) lay down broad policies and guidelines for the functioning of the National Institute of Disaster Management.
- (3) The Chairperson of the National Authority shall, in the case of emergency, have power to exercise all or any of the powers of the National Authority but exercise of such powers shall be subject to ex post facto ratification by the National Authority.

7. Constitution of advisory committee by National Authority.

7. Constitution of advisory committee by National Authority.-(1) The National Authority may constitute an advisory committee consisting of experts in the field of disaster management and having practical experience of disaster management at the national, State or district level to make recommendations on different aspects of disaster management.
- (2) The members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government in consultation with the National Authority.

8. Constitution of National Executive Committee.

8. Constitution of National Executive Committee.-(1) The Central Government shall, immediately after issue of notification under sub-section (1) of section 3, constitute a National Executive Committee to assist the National Authority in the performance of its functions under this Act.
- (2) The National Executive Committee shall consist of the following members, namely:- (a) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the disaster management, who shall be Chairperson, ex officio;
- (b) the Secretaries to the Government of India in the Ministries or Departments having administrative control of the agriculture, atomic energy, defence, drinking water supply, environment and forests, finance (expenditure), health, power, rural development, science and technology, space, telecommunication, urban development, water resources and the Chief of the Integrated Defence Staff of the Chiefs of Staff Committee, ex officio.
- (3) The Chairperson of the National Executive Committee may invite any other officer of the Central Government or a State Government for taking part in any meeting of the National Executive Committee and shall exercise such powers and perform such functions as may be prescribed by the Central Government in consultation with the National Authority.
- (4) The procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the Central Government.

9. Constitution of sub-committees.

9. Constitution of sub-committees.-(1) The National Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for the efficient discharge of its functions.

(2) The National Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.

10. Powers and functions of National Executive Committee.

10. Powers and functions of National Executive Committee.-(1) The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and ensure the compliance of directions issued by the Central Government for the purpose of disaster management in the country.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the National Executive Committee may - (a) act as the coordinating and monitoring body for disaster management;

(b) prepare the National Plan to be approved by the National Authority;

(c) coordinate and monitor the implementation of the National Policy;

(d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;

(e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;

(f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;

(g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;

(h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;

(i) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;

(k) coordinate response in the event of any threatening disaster situation or disaster;

(l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;

(m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;

- (n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or non-governmental organisations and others engaged in disaster management;
- (o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;
- (p) promote general education and awareness in relation to disaster management; and
- (q) perform such other functions as the National Authority may require it to perform.

11. National Plan.

11. National Plan.-(1) There shall be drawn up a plan for disaster management for the whole of the country to be called the National Plan.

(2) The National Plan shall be prepared by the National Executive Committee having regard to the National Policy and in consultation with the State Governments and expert bodies or organisations in the field of disaster management to be approved by the National Authority.

(3) The National Plan shall include- (a) measures to be taken for the prevention of disasters, or the mitigation of their effects;

(b) measures to be taken for the integration of mitigation measures in the development plans;

(c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster;

(d) roles and responsibilities of different Ministries or Departments of the Government of India in respect of measures specified in clauses (a), (b) and (c).

(4) The National Plan shall be reviewed and updated annually.

(5) Appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.

(6) Copies of the National Plan referred to in sub-sections (2) and (4) shall be made available to the Ministries or Departments of the Government of India and such Ministries or Departments shall draw up their own plans in accordance with the National Plan.

12. Guidelines for minimum standards of relief.

12. Guidelines for minimum standards of relief.-The National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,-

(i) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;

(ii) the special provisions to be made for widows and orphans;

(iii) ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.

13. Relief in loan repayment, etc.

13. Relief in loan repayment, etc.-The National Authority may, in cases of disasters of severe magnitude, recommend relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

CHAPTER III STATE DISASTER MANAGEMENT AUTHORITIES

CHAPTER III STATE DISASTER MANAGEMENT AUTHORITIES

14. Establishment of State Disaster Management Authority.

14. Establishment of State Disaster Management Authority.-(1) Every State Government shall, as soon as may be after the issue of the notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a State Disaster Management Authority for the State with such name as may be specified in the notification of the State Government.

(2) A State Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the State Government and, unless the rules otherwise provide, the State Authority shall consist of the following members, namely:-

(a) the Chief Minister of the State, who shall be Chairperson, ex officio;

(b) other members, not exceeding eight, to be nominated by the Chairperson of the State Authority;

(c) the Chairperson of the State Executive Committee, ex officio.

(3) The Chairperson of the State Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the State Authority.

(4) The Chairperson of the State Executive Committee shall be the Chief Executive Officer of the State Authority, ex officio: Provided that in the case of a Union territory having Legislative Assembly, except the Union territory of Delhi, the Chief Minister shall be the Chairperson of the Authority established under this section and in case of other Union territories, the Lieutenant Governor or the Administrator shall be the Chairperson of that Authority: Provided further that the Lieutenant Governor of the Union territory of Delhi shall be the Chairperson and the Chief Minister thereof shall be the Vice-Chairperson of the State Authority.

(5) The term of office and conditions of service of members of the State Authority shall be such as may be prescribed.

15. Meetings of the State Authority.

15. Meetings of the State Authority.-(1) The State Authority shall meet as and when necessary and at such time and place as the Chairperson of the State Authority may think fit.

(2) The Chairperson of the State Authority shall preside over the meetings of the State Authority.

(3) If for any reason, the Chairperson of the State Authority is unable to attend the meeting of the State Authority, the Vice-Chairperson of the State Authority shall preside at the meeting.

16. Appointment of officers and other employees of State Authority.

16. Appointment of officers and other employees of State Authority.-The State Government shall provide the State Authority with such officers, consultants and employees, as it considers necessary, for carrying out the functions of the State Authority.

17. Constitution of advisory committee by the State Authority.

17. Constitution of advisory committee by the State Authority.-(1) A State Authority may, as and when it considers necessary, constitute an advisory committee, consisting of experts in the field of disaster management and having practical experience of disaster management to make recommendations on different aspects of disaster management.

(2) The members of the advisory committee shall be paid such allowances as may be prescribed by the State Government.

18. Powers and functions of State Authority.

18. Powers and functions of State Authority.-(1) Subject to the provisions of this Act, a State Authority shall have the responsibility for laying down policies and plans for disaster management in the State.

(2) Without prejudice to the generality of provisions contained in sub-section (1), the State Authority may-

- (a) lay down the State disaster management policy;

- (b) approve the State Plan in accordance with the guidelines laid down by the National Authority;

- (c) approve the disaster management plans prepared by the departments of the Government of the State;

- (d) lay down guidelines to be followed by the departments of the Government of the State for the purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

- (e) coordinate the implementation of the State Plan;

- (f) recommend provision of funds for mitigation and preparedness measures;

- (g) review the development plans of the different departments of the State and ensure that prevention and mitigation measures are integrated therein;

- (h) review the measures being taken for mitigation, capacity building and preparedness by the departments of the Government of the State and issue such guidelines as may be necessary.

(3) The Chairperson of the State Authority shall, in the case of emergency, have power to exercise all or any of the powers of the State Authority but the exercise of such powers shall be subject to ex post facto ratification of the State Authority.

19. Guidelines for minimum standard of relief by State Authority.

19. Guidelines for minimum standard of relief by State Authority.-The State Authority shall lay down detailed guidelines for providing standards of relief to persons affected by disaster in the State: Provided that such standards shall in no case be less than the minimum standards in the guidelines laid down by the National Authority in this regard.

20. Constitution of State Executive Committee.

20. Constitution of State Executive Committee.-(1) The State Government shall, immediately after issue of notification under sub-section (1) of section 14, constitute a State Executive Committee to assist the State Authority in the performance of its functions and to coordinate action in accordance with the guidelines laid down by the State Authority and ensure the compliance of directions issued by the State Government under this Act.

(2) The State Executive Committee shall consist of the following members, namely:-

(a) the Chief Secretary to the State Government, who shall be Chairperson, ex officio;

(b) four Secretaries to the Government of the State of such departments as the State Government may think fit, ex officio.

(3) The Chairperson of the State Executive Committee shall exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the State Authority.

(4) The procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the State Government.

21. Constitution of sub-committees by State Executive Committee.

21. Constitution of sub-committees by State Executive Committee.-(1) The State Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for efficient discharge of its functions.

(2) The State Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the State Government.

22. Functions of the State Executive Committee.

22. Functions of the State Executive Committee.-(1) The State Executive Committee shall have the responsibility for implementing the National Plan and State Plan and act as the coordinating and monitoring body for management of disaster in the State.

(2) Without prejudice to the generality of the provisions of sub-section (1), the State Executive Committee may- (a) coordinate and monitor the implementation of the National Policy, the National Plan and the State Plan;

(b) examine the vulnerability of different parts of the State to different forms of disasters and specify measures to be taken for their prevention or mitigation;

(c) lay down guidelines for preparation of disaster management plans by the departments of the Government of the State and the District Authorities;

(d) monitor the implementation of disaster management plans prepared by the departments of the Government of the State and District Authorities;

(e) monitor the implementation of the guidelines laid down by the State Authority for integrating of measures for prevention of disasters and mitigation by the departments in their development plans and projects;

(f) evaluate preparedness at all governmental or non-governmental levels to respond to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(g) coordinate response in the event of any threatening disaster situation or disaster;

- (h) give directions to any Department of the Government of the State or any other authority or body in the State regarding actions to be taken in response to any threatening disaster situation or disaster;
- (i) promote general education, awareness and community training in regard to the forms of disasters to which different parts of the State are vulnerable and the measures that may be taken by such community to prevent the disaster, mitigate and respond to such disaster;
- (j) advise, assist and coordinate the activities of the Departments of the Government of the State, District Authorities, statutory bodies and other governmental and non-governmental organisations engaged in disaster management;
- (k) provide necessary technical assistance or give advice to District Authorities and local authorities for carrying out their functions effectively;
- (l) advise the State Government regarding all financial matters in relation to disaster management;
- (m) examine the construction, in any local area in the State and, if it is of the opinion that the standards laid for such construction for the prevention of disaster is not being or has not been followed, may direct the District Authority or the local authority, as the case may be, to take such action as may be necessary to secure compliance of such standards;
- (n) provide information to the National Authority relating to different aspects of disaster management;
- (o) lay down, review and update State level response plans and guidelines and ensure that the district level plans are prepared, reviewed and updated;
- (p) ensure that communication systems are in order and the disaster management drills are carried out periodically;
- (q) perform such other functions as may be assigned to it by the State Authority or as it may consider necessary.

23. State Plan.

23. State Plan.-(1) There shall be a plan for disaster management for every State to be called the State Disaster Management Plan.

(2) The State Plan shall be prepared by the State Executive Committee having regard to the guidelines laid down by the National Authority and after such consultation with local authorities, district authorities and the people's representatives as the State Executive Committee may deem fit.

(3) The State Plan prepared by the State Executive Committee under sub-section (2) shall be approved by the State Authority.

(4) The State Plan shall include,- (a) the vulnerability of different parts of the State to different forms of disasters;

(b) the measures to be adopted for prevention and mitigation of disasters;

(c) the manner in which the mitigation measures shall be integrated with the development plans and projects;

- (d) the capacity-building and preparedness measures to be taken;
- (e) the roles and responsibilities of each Department of the Government of the State in relation to the measures specified in clauses (b), (c) and (d) above;
- (f) the roles and responsibilities of different Departments of the Government of the State in responding to any threatening disaster situation or disaster.
- (5) The State Plan shall be reviewed and updated annually.
- (6) Appropriate provisions shall be made by the State Government for financing for the measures to be carried out under the State Plan.
- (7) Copies of the State Plan referred to in sub-sections (2) and (5) shall be made available to the Departments of the Government of the State and such Departments shall draw up their own plans in accordance with the State Plan.

24. Powers and functions of State Executive Committee in the event of threatening disaster situation.

24. Powers and functions of State Executive Committee in the event of threatening disaster situation.- For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the State Executive Committee may-

- (a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;
- (b) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;
- (c) remove debris, conduct search and carry out rescue operations;
- (d) provide shelter, food, drinking water, essential provisions, healthcare and services in accordance with the standards laid down by the National Authority and State Authority;
- (e) give direction to the concerned Department of the Government of the State, any District Authority or other authority, within the local limits of the State to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;
- (f) require any department of the Government of the State or any other body or authority or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;
- (g) require experts and consultants in the field of disasters to provide advice and assistance for rescue and relief;
- (h) procure exclusive or preferential use of amenities from any authority or person as and when required;
- (i) construct temporary bridges or other necessary structures and demolish unsafe structures which may be hazardous to public;
- (j) ensure that non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;
- (k) disseminate information to public to deal with any threatening disaster situation or disaster;
- (l) take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.

CHAPTER IV DISTRICT DISASTER MANAGEMENT AUTHORITY

CHAPTER IV DISTRICT DISASTER MANAGEMENT AUTHORITY

25. Constitution of District Disaster Management Authority.

25. Constitution of District Disaster Management Authority.-(1) Every State Government shall, as soon as may be after issue of notification under sub-section (1) of section 14, by notification in the Official Gazette, establish a District Disaster Management Authority for every district in the State with such name as may be specified in that notification.

(2) The District Authority shall consist of the Chairperson and such number of other members, not exceeding seven, as may be prescribed by the State Government, and unless the rules otherwise provide, it shall consist of the following, namely:-

(a) the Collector or District Magistrate or Deputy Commissioner, as the case may be, of the district who shall be Chairperson, ex officio;

(b) the elected representative of the local authority who shall be the co-Chairperson, ex officio: Provided that in the Tribal Areas, as referred to in the Sixth Schedule to the Constitution, the Chief Executive Member of the district council of autonomous district, shall be the co-Chairperson, ex officio;

(c) the Chief Executive Officer of the District Authority, ex officio;

(d) the Superintendent of Police, ex officio;

(e) the Chief Medical Officer of the district, ex officio;

(f) not exceeding two other district level officers, to be appointed by the State Government.

(3) In any district where zila parishad exists, the Chairperson thereof shall be the co-Chairperson of the District Authority.

(4) The State Government shall appoint an officer not below the rank of Additional Collector or Additional District Magistrate or Additional Deputy Commissioner, as the case may be, of the district to be the Chief Executive Officer of the District Authority to exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the District Authority.

26. Powers of Chairperson of District Authority.

26. Powers of Chairperson of District Authority.-(1) The Chairperson of the District Authority shall, in addition to presiding over the meetings of the District Authority, exercise and discharge such powers and functions of the District Authority as the District Authority may delegate to him.

(2) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to ex post facto ratification of the District Authority.

(3) The District Authority or the Chairperson of the District Authority may, by general or special order, in writing, delegate such of its or his powers and functions, under sub-section (1) or (2), as the case may be, to the Chief Executive Officer of the District Authority, subject to such conditions and limitations, if any, as it or he deems fit.

27. Meetings.

27. Meetings.-The District Authority shall meet as and when necessary and at such time and place as the Chairperson may think fit.

28. Constitution of advisory committees and other committees.

28. Constitution of advisory committees and other committees.-(1) The District Authority may, as and when it considers necessary, constitute one or more advisory committees and other committees for the efficient discharge of its functions.

(2) The District Authority shall, from amongst its members, appoint the Chairperson of the Committee referred to in sub-section (1).

(3) Any person associated as an expert with any committee or sub-committee constituted under sub-section (1) may be paid such allowances as may be prescribed by the State Government.

29. Appointment of officers and other employees of District Authority.

29. Appointment of officers and other employees of District Authority.-The State Government shall provide the District Authority with such officers, consultants and other employees as it considers necessary for carrying out the functions of District Authority.

30. Powers and functions of District Authority.

30. Powers and functions of District Authority.-(1) The District Authority shall act as the district planning, coordinating and implementing body for disaster management and take all measures for the purposes of disaster management in the district in accordance with the guidelines laid down by the National Authority and the State Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1), the District Authority may-

(i) prepare a disaster management plan including district response plan for the district;

(ii) coordinate and monitor the implementation of the National Policy, State Policy, National Plan, State Plan and District Plan;

(iii) ensure that the areas in the district vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the Government at the district level as well as by the local authorities;

(iv) ensure that the guidelines for prevention of disasters, mitigation of its effects, preparedness and response measures as laid down by the National Authority and the State Authority are followed by all departments of the Government at the district level and the local authorities in the district;

(v) give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;

(vi) lay down guidelines for prevention of disaster management plans by the department of the Government at the districts level and local authorities in the district;

(vii) monitor the implementation of disaster management plans prepared by the Departments of the Government at the district level;

- (viii) lay down guidelines to be followed by the Departments of the Government at the district level for purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;
- (ix) monitor the implementation of measures referred to in clause (viii);
- (x) review the state of capabilities for responding to any disaster or threatening disaster situation in the district and give directions to the relevant departments or authorities at the district level for their upgradation as may be necessary;
- (xi) review the preparedness measures and give directions to the concerned departments at the district level or other concerned authorities where necessary for bringing the preparedness measures to the levels required for responding effectively to any disaster or threatening disaster situation;
- (xii) organise and coordinate specialised training programmes for different levels of officers, employees and voluntary rescue workers in the district;
- (xiii) facilitate community training and awareness programmes for prevention of disaster or mitigation with the support of local authorities, governmental and non-governmental organisations;
- (xiv) set up, maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to public;
- (xv) prepare, review and update district level response plan and guidelines;
- (xvi) coordinate response to any threatening disaster situation or disaster;
- (xvii) ensure that the Departments of the Government at the district level and the local authorities prepare their response plans in accordance with the district response plan;
- (xviii) lay down guidelines for, or give direction to, the concerned Department of the Government at the district level or any other authorities within the local limits of the district to take measures to respond effectively to any threatening disaster situation or disaster;
- (xix) advise, assist and coordinate the activities of the Departments of the Government at the district level, statutory bodies and other governmental and non-governmental organisations in the district engaged in the disaster management;
- (xx) coordinate with, and give guidelines to, local authorities in the district to ensure that measures for the prevention or mitigation of threatening disaster situation or disaster in the district are carried out promptly and effectively;
- (xxi) provide necessary technical assistance or give advise to the local authorities in the district for carrying out their functions;
- (xxii) review development plans prepared by the Departments of the Government at the district level, statutory authorities or local authorities with a view to make necessary provisions therein for prevention of disaster or mitigation;
- (xxiii) examine the construction in any area in the district and, if it is of the opinion that the standards for the prevention of disaster or mitigation laid down for such construction is not being or has not been followed, may direct the concerned authority to take such action as may be necessary to secure compliance of such standards;
- (xxiv) identify buildings and places which could, in the event of any threatening disaster situation or disaster, be used as relief centers or camps and make arrangements for water supply and sanitation in such buildings or places;

(xxv) establish stockpiles of relief and rescue materials or ensure preparedness to make such materials available at a short notice;

(xxvi) provide information to the State Authority relating to different aspects of disaster management;

(xxvii) encourage the involvement of non-governmental organisations and voluntary social-welfare institutions working at the grassroots level in the district for disaster management;

(xxviii) ensure communication systems are in order, and disaster management drills are carried out periodically;

(xxix) perform such other functions as the State Government or State Authority may assign to it or as it deems necessary for disaster management in the District.

31. District Plan.

31. District Plan.-(1) There shall be a plan for disaster management for every district of the State.

(2) The District Plan shall be prepared by the District Authority, after consultation with the local authorities and having regard to the National Plan and the State Plan, to be approved by the State Authority.

(3) The District Plan shall include- (a) the areas in the district vulnerable to different forms of disasters; (b) the measures to be taken, for prevention and mitigation of disaster, by the Departments of the Government at the district level and local authorities in the district;

(c) the capacity-building and preparedness measures required to be taken by the Departments of the Government at the district level and the local authorities in the district to respond to any threatening disaster situation or disaster;

(d) the response plans and procedures, in the event of a disaster, providing for- (i) allocation of responsibilities to the Departments of the Government at the district level and the local authorities in the district;

(ii) prompt response to disaster and relief thereof;

(iii) procurement of essential resources;

(iv) establishment of communication links; and

(v) the dissemination of information to the public;

(e) such other matters as may be required by the State Authority.

(4) The District Plan shall be reviewed and updated annually.

(5) The copies of the District Plan referred to in sub-sections (2) and (4) shall be made available to the Departments of the Government in the district.

(6) The District Authority shall send a copy of the District Plan to the State Authority which shall forward it to the State Government.

(7) The District Authority shall, review from time to time, the implementation of the Plan and issue such instructions to different departments of the Government in the district as it may deem necessary for the implementation thereof.

32. Plans by different authorities at district level and their implementation.

32. Plans by different authorities at district level and their implementation.-Every office of the Government of India and of the State Government at the district level and the local authorities shall, subject to the supervision of the District Authority, -

(a) prepare a disaster management plan setting out the following, namely:- (i) provisions for prevention and mitigation measures as provided for in the District Plan and as is assigned to the department or agency concerned;

(ii) provisions for taking measures relating to capacity-building and preparedness as laid down in the District Plan;

- (iii) the response plans and procedures, in the event of, any threatening disaster situation or disaster;
- (b) coordinate the preparation and the implementation of its plan with those of the other organisations at the district level including local authority, communities and other stakeholders;
- (c) regularly review and update the plan; and
- (d) submit a copy of its disaster management plan, and of any amendment thereto, to the District Authority.

33. Requisition by the District Authority.

33. Requisition by the District Authority.-The District Authority may by order require any officer or any Department at the district level or any local authority to take such measures for the prevention or mitigation of disaster, or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

34. Powers and functions of District Authority in the event of any threatening disaster situation or disaster.

34. Powers and functions of District Authority in the event of any threatening disaster situation or disaster.-For the purpose of assisting, protecting or providing relief to the community, in response to any threatening disaster situation or disaster, the District Authority may-

- (a) give directions for the release and use of resources available with any Department of the Government and the local authority in the district;
- (b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;
- (c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;
- (d) remove debris, conduct search and carry out rescue operations;
- (e) provide shelter, food, drinking water and essential provisions, healthcare and services;
- (f) establish emergency communication systems in the affected area;
- (g) make arrangements for the disposal of the unclaimed dead bodies;
- (h) recommend to any Department of the Government of the State or any authority or body under that Government at the district level to take such measures as are necessary in its opinion;
- (i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;
- (j) procure exclusive or preferential use of amenities from any authority or person;
- (k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to public or aggravate the effects of the disaster;
- (l) ensure that the non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;
- (m) take such other steps as may be required or warranted to be taken in such a situation.

CHAPTER V MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

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35. Central Government to take measures.

35. Central Government to take measures.-(1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:-

(a) coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;

(b) ensure the integration of measures for prevention of disasters and mitigation by Ministries or Departments of the Government of India into their development plans and projects;

(c) ensure appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India;

(d) ensure that the Ministries or Departments of the Government of India take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;

(e) cooperation and assistance to State Governments, as requested by them or otherwise deemed appropriate by it;

(f) deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act;

(g) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;

(h) establish institutions for research, training, and developmental programmes in the field of disaster management;

(i) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Central Government may extend such support to other countries affected by major disaster as it may deem appropriate.

36. Responsibilities of Ministries or Departments of Government of India.

36. Responsibilities of Ministries or Departments of Government of India.-It shall be the responsibility of every Ministry or Department of the Government of India to - (a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority;

(b) integrate into its development plans and projects, the measures for prevention or mitigation of disasters in accordance with the guidelines laid down by the National Authority;

(c) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the guidelines of the National Authority or the directions of the National Executive Committee in this behalf;

- (d) review the enactments administered by it, its policies, rules and regulations, with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;
- (e) allocate funds for measures for prevention of disaster, mitigation, capacity-building and preparedness;
- (f) provide assistance to the National Authority and State Governments for- (i) drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;
- (ii) carrying out rescue and relief operations in the affected area;
- (iii) assessing the damage from any disaster;
- (iv) carrying out rehabilitation and reconstruction;
- (g) make available its resources to the National Executive Committee or a State Executive Committee for the purposes of responding promptly and effectively to any threatening disaster situation or disaster, including measures for- (i) providing emergency communication in a vulnerable or affected area;
- (ii) transporting personnel and relief goods to and from the affected area;
- (iii) providing evacuation, rescue, temporary shelter or other immediate relief;
- (iv) setting up temporary bridges, jetties and landing places;
- (v) providing, drinking water, essential provisions, healthcare, and services in an affected area;
- (h) take such other actions as it may consider necessary for disaster management.

37. Disaster management plans of Ministries or Departments of Government of India.

37. Disaster management plans of Ministries or Departments of Government of India.-

(1) Every Ministry or Department of the Government of India shall-

- (a) prepare a disaster management plan specifying the following particulars, namely:- (i) the measures to be taken by it for prevention and mitigation of disasters in accordance with the National Plan;
- (ii) the specifications regarding integration of mitigation measures in its development plans in accordance with the guidelines of the National Authority and the National Executive Committee; (iii) its roles and responsibilities in relation to preparedness and capacity-building to deal with any threatening disaster situation or disaster;
- (iv) its roles and responsibilities in regard to promptly and effectively responding to any threatening disaster situation or disaster;
- (v) the present status of its preparedness to perform the roles and responsibilities specified in sub-clauses (iii) and (iv);
- (vi) the measures required to be taken in order to enable it to perform its responsibilities specified in sub-clauses (iii) and (iv);
- (b) review and update annually the plan referred to in clause (a);
- (c) forward a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the Central Government which Government shall forward a copy thereof to the National Authority for its approval.

(2) Every Ministry or Department of the Government of India shall- (a) make, while preparing disaster management plan under clause (a) of sub-section (1), provisions for financing the activities specified therein;

(b) furnish a status report regarding the implementation of the plan referred to in clause (a) of sub-section (1) to the National Authority, as and when required by it.

38. State Government to take measures.

38. State Government to take measures.-(1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

(2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely:- (a) coordination of actions of different departments of the Government of the State, the State Authority, District Authorities, local authority and other non-governmental organisations;

(b) cooperation and assistance in the disaster management to the National Authority and National Executive Committee, the State Authority and the State Executive Committee, and the District Authorities;

(c) cooperation with, and assistance to, the Ministries or Departments of the Government of India in disaster management, as requested by them or otherwise deemed appropriate by it;

(d) allocation of funds for measures for prevention of disaster, mitigation, capacity-building and preparedness by the departments of the Government of the State in accordance with the provisions of the State Plan and the District Plans;

(e) ensure that the integration of measures for prevention of disaster or mitigation by the departments of the Government of the State in their development plans and projects;

(f) integrate in the State development plan, measures to reduce or mitigate the vulnerability of different parts of the State to different disasters;

(g) ensure the preparation of disaster management plans by different departments of the State in accordance with the guidelines laid down by the National Authority and the State Authority;

(h) establishment of adequate warning systems up to the level of vulnerable communities;

(i) ensure that different departments of the Government of the State and the District Authorities take appropriate preparedness measures;

(j) ensure that in a threatening disaster situation or disaster, the resources of different departments of the Government of the State are made available to the National Executive Committee or the State Executive Committee or the District Authorities, as the case may be, for the purposes of effective response, rescue and relief in any threatening disaster situation or disaster;

(k) provide rehabilitation and reconstruction assistance to the victims of any disaster; and

(l) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act.

39. Responsibilities of departments of the State Government.

39. Responsibilities of departments of the State Government.-It shall be the responsibility of every department of the Government of a State to- (a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;

(b) integrate into its development plans and projects, the measures for prevention of disaster and mitigation;

(c) allocate funds for prevention of disaster, mitigation, capacity-building and preparedness;

- (d) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the State Plan, and in accordance with the guidelines or directions of the National Executive Committee and the State Executive Committee;
- (e) review the enactments administered by it, its policies, rules and regulations with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;
- (f) provide assistance, as required, by the National Executive Committee, the State Executive Committee and District Authorities, for-
 - (i) drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;
 - (ii) assessing the damage from any disaster;
 - (iii) carrying out rehabilitation and reconstruction;
- (g) make provision for resources in consultation with the State Authority for the implementation of the District Plan by its authorities at the district level;
- (h) make available its resources to the National Executive Committee or the State Executive Committee or the District Authorities for the purposes of responding promptly and effectively to any disaster in the State, including measures for-
 - (i) providing emergency communication with a vulnerable or affected area;
 - (ii) transporting personnel and relief goods to and from the affected area;
 - (iii) providing evacuation, rescue, temporary shelter or other immediate relief;
 - (iv) carrying out evacuation of persons or live-stock from an area of any threatening disaster situation or disaster;
 - (v) setting up temporary bridges, jetties and landing places;
 - (vi) providing drinking water, essential provisions, healthcare and services in an affected area;
 - (i) such other actions as may be necessary for disaster management.

40. Disaster management plan of departments of State.

40. Disaster management plan of departments of State.-(1) Every department of the State Government, in conformity with the guidelines laid down by the State Authority, shall-

- (a) prepare a disaster management plan which shall lay down the following :- (i) the types of disasters to which different parts of the State are vulnerable;
- (ii) integration of strategies for the prevention of disaster or the mitigation of its effects or both with the development plans and programmes by the department;
- (iii) the roles and responsibilities of the department of the State in the event of any threatening disaster situation or disaster and emergency support function it is required to perform;
- (iv) present status of its preparedness to perform such roles or responsibilities or emergency support function under sub-clause (iii);
- (v) the capacity-building and preparedness measures proposed to be put into effect in order to enable the Ministries or Departments of the Government of India to discharge their responsibilities under section 37;
- (b) annually review and update the plan referred to in clause (a); and
- (c) furnish a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the State Authority.

(2) Every department of the State Government, while preparing the plan under sub-section (1), shall make provisions for financing the activities specified therein.

(3) Every department of the State Government shall furnish an implementation status report to the State Executive Committee regarding the implementation of the disaster management plan referred to in sub-section (1).

CHAPTER VI LOCAL AUTHORITIES

CHAPTER VI LOCAL AUTHORITIES

41. Functions of the local authority.

41. Functions of the local authority.-(1) Subject to the directions of the District Authority, a local authority shall-

- (a) ensure that its officers and employees are trained for disaster management;
- (b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster;
- (c) ensure all construction projects under it or within its jurisdiction conform to the standards and specifications laid down for prevention of disasters and mitigation by the National Authority, State Authority and the District Authority;
- (d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the State Plan and the District Plan.

(2) The local authority may take such other measures as may be necessary for the disaster management.

CHAPTER VII NATIONAL INSTITUTE OF DISASTER MANAGEMENT

CHAPTER VII NATIONAL INSTITUTE OF DISASTER MANAGEMENT

42. National Institute of Disaster Management.

42. National Institute of Disaster Management.-(1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be constituted an institute to be called the National Institute of Disaster Management.

(2) The National Institute of Disaster Management shall consist of such number of members as may be prescribed by the Central Government.

(3) The term of office of, and vacancies among, members of the National Institute of Disaster Management and manner of filling such vacancies shall be such as may be prescribed.

(4) There shall be a governing body of the National Institute of Disaster Management which shall be constituted by the Central Government from amongst the members of the National Institute of Disaster Management in such manner as may be prescribed.

(5) The governing body of the National Institute of Disaster Management shall exercise such powers and discharge such functions as may be prescribed by regulations.

(6) The procedure to be followed in exercise of its powers and discharge of its functions by the governing body, and the term of office of, and the manner of filling vacancies among the members of the governing body, shall be such as may be prescribed by regulations.

(7) Until the regulations are made under this section, the Central Government may make such regulations; and any regulation so made may be altered or rescinded by the National Institute of Disaster Management in exercise of its powers.

(8) Subject to the provisions of this Act, the National Institute of Disaster Management shall function within the broad policies and guidelines laid down by the National Authority and be responsible for planning and promoting training and research in the area of disaster management, documentation and development of national level information base relating to disaster management policies, prevention mechanisms and mitigation measures.

(9) Without prejudice to the generality of the provisions contained in sub-section (8), the National Institute, for the discharge of its functions, may - (a) develop training modules, undertake research and documentation in disaster management and organise training programmes;

(b) formulate and implement a comprehensive human resource development plan covering all aspects of disaster management;

(c) provide assistance in national level policy formulation;

(d) provide required assistance to the training and research institutes for development of training and research programmes for stakeholders including Government functionaries and undertake training of faculty members of the State level training institutes;

(e) provide assistance to the State Governments and State training institutes in the formulation of State level policies, strategies, disaster management framework and any other assistance as may be required by the State Governments or State training institutes for capacity-building of stakeholders, Government including its functionaries, civil society members, corporate sector and people's elected representatives;

(f) develop educational materials for disaster management including academic and professional courses;

(g) promote awareness among stakeholders including college or school teachers and students, technical personnel and others associated with multi-hazard mitigation, preparedness and response measures;

(h) undertake, organise and facilitate study courses, conferences, lectures, seminars within and outside the country to promote the aforesaid objects;

(i) undertake and provide for publication of journals, research papers and books and establish and maintain libraries in furtherance of the aforesaid objects;

(j) do all such other lawful things as are conducive or incidental to the attainment of the above objects; and

(k) undertake any other function as may be assigned to it by the Central Government.

43. Officers and other employees of the National Institute.

43. Officers and other employees of the National Institute.-The Central Government shall provide the National Institute of Disaster Management with such officers, consultants and other employees, as it considers necessary, for carrying out its functions.

CHAPTER VIII NATIONAL DISASTER RESPONSE FORCE

CHAPTER VIII NATIONAL DISASTER RESPONSE FORCE

44. National Disaster Response Force.

44. National Disaster Response Force.-(1) There shall be constituted a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

(2) Subject to the provisions of this Act, the Force shall be constituted in such manner and, the conditions of service of the members of the Force, including disciplinary provisions therefor, be such as may be prescribed.

45. Control, direction, etc.

45. Control, direction, etc.-The general superintendence, direction and control of the Force shall be vested and exercised by the National Authority and the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

CHAPTER IX FINANCE, ACCOUNTS AND AUDIT

CHAPTER IX FINANCE, ACCOUNTS AND AUDIT

46. National Disaster Response Fund.

46. National Disaster Response Fund.-(1) The Central Government may, by notification in the Official Gazette, constitute a fund to be called the National Disaster Response Fund for meeting any threatening disaster situation or disaster and there shall be credited thereto-

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide;

(b) any grants that may be made by any person or institution for the purpose of disaster management.

(2) The National Disaster Response Fund shall be made available to the National Executive Committee to be applied towards meeting the expenses for emergency response, relief and rehabilitation in accordance with the guidelines laid down by the Central Government in consultation with the National Authority.

47. National Disaster Mitigation Fund.

47. National Disaster Mitigation Fund.-(1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

(2) The National Disaster Mitigation Fund shall be applied by the National Authority.

48. Establishment of funds by State Government.

48. Establishment of funds by State Government.-(1) The State Government shall, immediately after notifications issued for constituting the State Authority and the District Authorities, establish for the purposes of this Act the following funds, namely:-

- (a) the fund to be called the State Disaster Response Fund;
- (b) the fund to be called the District Disaster Response Fund;
- (c) the fund to be called the State Disaster Mitigation Fund;
- (d) the fund to be called the District Disaster Mitigation Fund.

(2) The State Government shall ensure that the funds established- (i) under clause (a) of sub-section (1) is available to the State Executive Committee;

(ii) under sub-clause (c) of sub-section (1) is available to the State Authority;

(iii) under clauses (b) and (d) of sub-section (1) are available to the District Authority.

49. Allocation of funds by Ministries and Departments.

49. Allocation of funds by Ministries and Departments.-(1) Every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

(2) The provisions of sub-section (1) shall, mutatis mutandis, apply to departments of the Government of the State.

50. Emergency procurement and accounting.

50. Emergency procurement and accounting.-Where by reason of any threatening disaster situation or disaster, the National Authority or the State Authority or the District Authority is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief,-

(a) it may authorise the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders shall be deemed to be waived;

(b) a certificate about utilisation of provisions or materials by the controlling officer authorised by the National Authority, State Authority or District Authority, as the case may be, shall be deemed to be a valid document or voucher for the purpose of accounting of emergency, procurement of such provisions or materials.

CHAPTER X OFFENCES AND PENALTIES

CHAPTER X OFFENCES AND PENALTIES

51. Punishment for obstruction, etc.

51. Punishment for obstruction, etc.-Whoever, without reasonable cause-

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act, shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Punishment for false claim.

52. Punishment for false claim.-Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.

53. Punishment for misappropriation of money or materials, etc.-Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.

54. Punishment for false warning.-Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.

55. Offences by Departments of the Government.-(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.-Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. *Penalty for contravention of any order regarding requisitioning.*

57. Penalty for contravention of any order regarding requisitioning.-If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. *Offence by companies.*

58. Offence by companies.-(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purpose of this section - (a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

59. *Previous sanction for prosecution.*

59. Previous sanction for prosecution.-No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorized in this behalf, by general or special order, by such Government.

60. *Cognizance of offences.*

60. Cognizance of offences.-No court shall take cognizance of an offence under this Act except on a complaint made by- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or

(b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid."

CHAPTER XI MISCELLANEOUS

CHAPTER XI MISCELLANEOUS

61. Prohibition against discrimination.

61. Prohibition against discrimination.-While providing compensation and relief to the victims of disaster, there shall be no discrimination on the ground of sex, caste, community, descent or religion.

62. Power to issue direction by Central Government.

62. Power to issue direction by Central Government.-Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Central Government to issue direction in writing to the Ministries or Departments of the Government of India, or the National Executive Committee or the State Government, State Authority, State Executive Committee, statutory bodies or any of its officers or employees, as the case may be, to facilitate or assist in the disaster management and such Ministry or Department or Government or Authority, Executive Committee, statutory body, officer or employee shall be bound to comply with such direction.

63. Powers to be made available for rescue operations.

63. Powers to be made available for rescue operations.-Any officer or authority of the Union or a State, when requested by the National Executive Committee, any State Executive Committee or District Authority or any person authorised by such Committee or Authority in this behalf, shall make available to that Committee or authority or person, such officers and employees as requested for, to perform any of the functions in connection with the prevention of disaster or mitigation or rescue or relief work.

64. Making or amending rules, etc., in certain circumstances.

64. Making or amending rules, etc., in certain circumstances.-Subject to the provisions of this Act, if it appears to the National Executive Committee, State Executive Committee or the District Authority, as the case may be, that provisions of any rule, regulation, notification, guideline, instruction, order, scheme or bye-laws, as the case may be, are required to be made or amended for the purposes of prevention of disasters or the mitigation thereof, it may require the amendment of such rules, regulation, notification, guidelines, instruction, order, scheme or bye-laws, as the case may be, for that purpose, and the appropriate department or authority shall take necessary action to comply with the requirements.

65. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.

65. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.-(1) If it appears to the National Executive Committee, State Executive Committee or District Authority or any officer as may be authorised by it in this behalf that-

- (a) any resources with any authority or person are needed for the purpose of prompt response;
- (b) any premises are needed or likely to be needed for the purpose of rescue operations; or
- (c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction, such authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section,- (a) "resources" includes men and material resources;

(b) "services" includes facilities;

(c) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(d) "vehicle" means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

66. Payment of compensation.

66. Payment of compensation.-(1) Whenever any Committee, Authority or officer referred to in sub-section (1) of section 65, in pursuance of that section requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:-

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if as consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change: Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the thirty days to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine: Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government or the State Government, as the case may be, to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator. Explanation.-In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 65 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever any Committee, Authority or officer, referred to in sub-section (1) of section 65 in pursuance of that section requisitions any vehicle, there shall be paid to the owner thereof compensation the amount of which shall be determined by the Central Government or the State Government, as the case may be, on the basis of the fares or rates prevailing in the locality for the hire of such vehicle: Provided that where the owner of such vehicle being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine: Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government or the State Government, as the case may be, in this behalf may decide.

67. Direction to medial for communication of warnings, etc.

67. Direction to medial for communication of warnings, etc.-The National Authority, the State Authority, or a District Authority may recommend to the Government to give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said means of communication and media as designated shall comply with such direction.

68. Authentication of orders or decisions.

68. Authentication of orders or decisions.-Every order or decision of the National Authority or the National Executive Committee, the State Authority, or the State Executive Committee or the District Authority, shall be authenticated by such officers of the National Authority or the National Executive Committee or, the State Executive Committee, or the District Authority, as may be authorised by it in this behalf.

69. Delegation of powers.

69. Delegation of powers.-The National Executive Committee, State Executive Committee, as the case may be, by general or special order in writing, may delegate to the Chairperson or any other member or to any officer, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

70. Annual report.

70. Annual report.-(1) The National Authority shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament within one month of its receipt.

(2) The State Authority shall prepare once in every year, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the State Government and that Government shall cause the same to be laid before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

71. Bar of jurisdiction of court.

71. Bar of jurisdiction of court.-No court (except the Supreme Court or a High Court) shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Central Government, National Authority, State Government, State Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.

72. Act to have overriding effect.

72. Act to have overriding effect.-The provisions of this Act, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

73. Action taken in good faith.

73. Action taken in good faith.-No suit or prosecution or other proceeding shall lie in any court against the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any officer or employee of the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any person working for on behalf of such Government or authority in respect of any work done or purported to have been done or intended to be done in good faith by such authority or Government or such officer or employee or such person under the provisions of this Act or the rules or regulations made thereunder.

74. Immunity from legal process.

74. Immunity from legal process.-Officers and employees of the Central Government, National Authority, National Executive Committee, State Government, State Authority, State Executive Committee or District Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.

75. Power of Central Government to make rules.

75. Power of Central Government to make rules.-(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :- (a) the composition and number of the members of the National Authority under sub-section (2), and the term of office and conditions of service of members of the National Authority under sub-section (4), of section 3;

(b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 7;

(c) the powers and functions of the Chairperson of the National Executive Committee under sub-section (3) of section 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 8;

(d) allowances to be paid to the persons associated with the sub-committee constituted by the National Executive Committee under sub-section (3) of section 9;

(e) the number of members of the National Institute of Disaster Management under sub-section (2), the term of the office and vacancies among members and the manner of filling such vacancies under sub-section (3) and the manner of constituting the Governing Body of the National Institute of Disaster Management under sub-section (4) of section 42;

(f) the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-section (2) of section 44;

(g) the manner in which notice of the offence and of the intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government or the other authority or officer under clause (b) of section 60;

(h) the form in which and the time within which annual report is to be prepared under section 70;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

76. Power to make regulations.

76. Power to make regulations.-(1) The National Institute of Disaster Management, with the previous approval of the Central Government may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:- (a) powers and functions to be exercised and discharged by the governing body;

(b) procedure to be followed by the governing body in exercise of the powers and discharge of its functions;

(c) any other matter for which under this Act provision may be made by the regulations.

77. Rules and regulations to be laid before Parliament.

77. Rules and regulations to be laid before Parliament.-Every rule made by the Central Government and every regulation made by the National Institute of Disaster Management under this Act 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 thirty days which may be comprised of one session or in 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 or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.

78. Power of State Government to make rules.

78. Power of State Government to make rules.-(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- (a) the composition and number of the members of the State Authority under sub-section (2), and the term of office and conditions of service of the members of the State Authority under sub-section (5), of section 14;

(b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 17;

(c) the powers and functions of the Chairperson of the State Executive Committee under sub-section (3), and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 20;

(d) allowances to be paid to the persons associated with the sub-committee constituted by the State Executive Committee under sub-section (3) of section 21;

(e) the composition and the number of members of the District Authority under sub-section (2), and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-section (3) of section 25;

(f) allowances payable to the persons associated with any committee constituted by the District Authority as experts under sub-section (3) of section 28;

(g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House before that House.

79. Power to remove difficulties.

79. Power to remove difficulties.-(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government or the State Government, as the case may be, by notification in the Official Gazette, make order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty: Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament or the Legislature, as the case may be. ---- T. K. VISWANATHAN, Secy. to the Govt. of India.

FREQUENT ASKED QUESTION

1. What is the objective of Disaster Management Act, 2005.?

Ans: Disaster Management Act, 2005 primarily provides mechanism for the effective management of disasters and related matters.

2. What is the Short title, extent and commencement of Disaster Management Act?

Ans-1) This Act may be called the Disaster Management Act, 2005.(2) It extends to the whole of India.(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

3. Define "disaster" as per Disaster Management Act, 2005.

Ans-"Disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of property, or damage to, or degradation of, environment, and is of enormous magnitude and is beyond the managing capacity of the community of the affected area.

4. Define "Disaster Management" as per Disaster Management act 2005?

Ans-"disaster management" means a continuous and integrated process of planning, organizing, coordinating and implementing measures which are necessary or expedient for-

- (i) prevention of danger or threat of any disaster;
- (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
- (iii) capacity-building;
- (iv) preparedness to deal with any disaster;
- (v) prompt response to any threatening disaster situation or disaster;
- (vi) assessing the severity or magnitude of effects of any disaster;
- (vii) evacuation, rescue and relief;
- (viii) rehabilitation and reconstruction;

5. Who is having administrative control of disaster management?

Ans. The overall administrative control of disaster management is with Central Government through the Ministry of Home Affairs.

6. What is mitigation?

Ans- "Mitigation" means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation.

7. How many levels of Disaster Management Authorities are expected as per the Disaster Management act 2005?

Answer: Following four authorities are expected and they are functioning.

1) National Disaster Management Authority (NDMA)

2) State Disaster Management authority

3) District Disaster Management authority

4) Local Disaster management Authority

8. What are the salient features of the National Plan for disaster management?

Ans-(1) There should be drawn up a plan for disaster management for the whole of the country to be called the National Plan.

(2) The National Plan is prepared by the National Executive Committee considering the National Policy and in consultation with the State Governments and expert bodies or organisations in the field of disaster management to be approved by the National Authority.

(3) The National Plan should include-

(a) measures to be taken for the prevention of disasters, or the mitigation of their effects;

(b) measures to be taken for the integration of mitigation measures in the development plans;

(c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster;

(d) roles and responsibilities of different Ministries or Departments of the Government of India in respect of measures specified in clauses (a), (b) and (c).

(4) The National Plan is reviewed and updated annually.

(5) Appropriate provisions are made by the Central Government for financing the measures to be carried out under the National Plan.

(6) Copies of the National Plan referred to in sub-sections (2) and (4) shall be made available to the Ministries or Departments of the Government of India and certain Ministries or Departments shall draw up their own plans in accordance with the National Plan.

9. What is the constitution and functions of National Disaster Management Authority (NDMA)?

Ans- The Disaster Management Act, 2005 calls for the establishment of National Disaster Management Authority (NDMA), with the Prime Minister of India as chairperson. The NDMA may have not more than nine members including a Vice-Chairperson. The tenure of the members of the NDMA shall be five years. The NDMA was initially established in 2005 by an executive order, and subsequently in 2006 on formal basis. The NDMA is responsible for "laying down the policies, plans and guidelines for disaster management" and to ensure "timely and effective response to disaster". Under section 6 of the Act it is responsible for laying "down guidelines to be followed by the State Authorities in drawing up the State Plans".

10. What is the schedule of Meetings of National Authority?

Ans- The National Authority shall meet as and when necessary and at such time and place as the Chairperson of the National Authority may think fit. The Chairperson of the National Authority shall preside over the meetings of the National Authority. If for any reason the Chairperson of the National Authority is unable to attend any meeting of the National Authority, the Vice-Chairperson of the National Authority shall preside over the meeting.

11. What is constitution and functions of National Executive Committee?

Ans-The Act under Section 8 enjoins the Central Government to Constitute a National Executive Committee(NEC) to assist the National Authority. The NEC consists of Secretaries to the Government of India in the Ministries of home, agriculture, atomic energy, defence, drinking water supply, environment and forests, finance (expenditure), health, power, rural development, science and technology, space, telecommunication, urban development, and water resources, with the Home secretary serving as the Chairperson, ex officio. The Chief of the Integrated Defence Staff of the Chiefs of Staff Committee, is an ex officio member of the NEC. The NEC under section of the Act is responsible for the preparation of the National Disaster Management Plan for the whole country and to ensure that it is "reviewed and updated annually".

12. What is constitution and functions of State Disaster Management Authority?

Ans- State Governments are mandated under Section 14 of the act to establish a State Disaster Management Authority (SDMA). The SDMA consists of the Chief Minister of the State, who is the Chairperson, and no more than eight members appointed by the Chief Minister. State Executive Committee is responsible (Section 22) for drawing up the state disaster management plan, and implementing the National Plan. The SDMA is mandated under section 28 to ensure that all the departments of the State prepare disaster management plans as prescribed by the National and State Authorities.

13. What is State Disaster Management Plan?

Ans- (1) There shall be a plan for disaster management for every State to be called the State Disaster Management Plan.

(2) The State Plan shall be prepared by the State Executive Committee having regard to the guidelines laid down by the National Authority and after such consultation with local authorities, district authorities and the people's representatives as the State Executive Committee may deem fit.

(3) The State Plan prepared by the State Executive Committee under sub-section (2) shall be approved by the State Authority.

14. What should State Disaster Management Plan includes?

Ans- The State Plan should include,-

(a) the vulnerability of different parts of the State to different forms of disasters;

(b) the measures to be adopted for prevention and mitigation of disasters;

(c) the manner in which the mitigation measures shall be integrated with the development plans and projects;

(d) the capacity-building and preparedness measures to be taken;

(e) the roles and responsibilities of each Department of the Government of the State in relation to the measures specified in clauses (b), (c) and (d) above;

(f) the roles and responsibilities of different Departments of the Government of the State in responding to any threatening disaster situation or disaster.

(2) The State Plan shall be reviewed and updated annually.

(3) Appropriate provisions shall be made by the State Government for financing for the measures to be carried out under the State Plan.

(4) Copies of the State Plan referred to in sub-sections (2) and (5) shall be made available to the Departments of the Government of the State and such Departments shall draw up their own plans in accordance with the State Plan.

15. Who is the Chairperson of District Disaster Management Authority (DDMA)?

Ans- The Chairperson of District Disaster Management Authority (DDMA) will be the Collector or District Magistrate or Deputy Commissioner of the district. The elected representative of the area is member of the DDMA as an ex officio Chairperson, (Section 25).

16.What is National Disaster Response Force?

Ans - The Section 44-45 of the Act provides for constituting a National Disaster Response Force "for the purpose of specialist response to a threatening disaster situation or disaster" under a Director General to be appointed by the Central Government.

Vincent Parikurlangara v. Union of India, AIR (1989) SC 142

In a landmark case of Vincent Parikurlangara v. Union of India[10], the Hon'ble Supreme Court held that the right to maintenance and improvement of public health is included in the right to live with human dignity enshrined in Article 21. A healthy body is the very foundation of all human activities. In a welfare State it is an obligation of the State to ensure the creation and sustaining of conditions congenial to good health. The liberal interpretation of this judgment on lines of human rights based approach would explicitly mean that during the times of disaster it is the prime duty and responsibility of the State to provide medical care and access to health services to the victims of disaster.

Disasters cause mass destruction taking away lives, livelihoods and shelter and leave a profoundly destabilizing effect on the social fabric of communities in the aftermath manifesting itself in increased vulnerabilities of the most marginalized communities. The foremost concern in disaster management in these circumstances is to organize urgent relief to address immediate needs and to provide support to the affected population. These measures also require to be foresighted in terms of rehabilitation and development as disaster management transition from emergency disaster response, to relief operations, to rehabilitation, and ultimately, to reconstruction and development. Humanitarian assistance therefore is a complex process involving diverse stakeholders and critical decision-making in volatile situations fraught with several ethical dilemmas posing a significant challenge to planning and executing relief and rehabilitation work in post disaster contexts, be it floods, earthquakes or social aggression and these decisions have lasting impacts on the affected communities.

3. Bio-Medical Waste (Management & Handling) Rules, 1998

Medical care is vital for our life and health, but the waste generated from medical activities represents a real problem of living nature and human world. Improper management of waste generated in health care facilities causes a direct health impact on the community, the health care workers and on the environment. Every day, relatively large amount of potentially infectious and hazardous waste are generated in the health care hospitals and facilities around the world. Indiscriminate disposal of BMW or hospital waste and exposure to such waste possess serious threat to environment and to human health that requires specific treatment and management prior to its final disposal. It also intends to create awareness amongst the personnel involved in health care unit.

MINISTRY OF ENVIRONMENT & FORESTS NOTIFICATION

New Delhi, 20th July, 1998

S.O. 630 (E).-Whereas a notification in exercise of the powers conferred by Sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986) was published in the Gazette vide S.O. 746 (E) dated 16 October, 1997 inviting objections from the public within 60 days from the date of the publication of the said notification on the Bio-Medical Waste (Management and Handling) Rules, 1998 and whereas all objections received were duly considered..

Now, therefore, in exercise of the powers conferred by section 6, 8 and 25 of the Environment (Protection) Act, 1986 the Central Government hereby notifies the rules for the management and handling of bio-medical waste.

1. SHORT TITLE AND COMMENCEMENT:

- (1) These rules may be called the Bio-Medical Waste (Management and Handling) Rules, 1998.
- (2) They shall come into force on the date of their publication in the official Gazette.

2. APPLICATION:

These rules apply to all persons who generate, collect, receive, store, transport, treat, dispose, or handle bio medical waste in any form.

3. DEFINITIONS: In these rules unless the context otherwise requires

- (1) "**Act**" means the Environment (Protection) Act, 1986 (29 of 1986);
- (2) "**Animal House**" means a place where animals are reared/kept for experiments or testing purposes;
- (3) "**Authorisation**" means permission granted by the prescribed authority for the generation, collection, reception, storage, transportation, treatment, disposal and/or any other form of handling of bio-medical waste in accordance with these rules and any guidelines issued by the Central Government.

- (4) **"Authorised person"** means an occupier or operator authorised by the prescribed authority to generate, collect, receive, store, transport, treat, dispose and/or handle bio-medical waste in accordance with these rules and any guidelines issued by the Central Government;
- (5) **"Bio-medical waste"** means any waste, which is generated during the diagnosis, treatment or immunisation of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals, and including categories mentioned in Schedule;
- (6) **"Biologicals"** means any preparation made from organisms or micro-organisms or product of metabolism and biochemical reactions intended for use in the diagnosis, immunisation or the treatment of human beings or animals or in research activities pertaining thereto;
- (7) **"Bio-medical waste treatment facility"** means any facility wherein treatment. disposal of bio-medical waste or processes incidental to such treatment or disposal is carried out (and includes common treatment facilities). Added by Rule2(1) of the Bio-Medical waste (M&H) (Second Amendment) Rules,2000 notified vide notification No.S.O.545 (E), dated 2-06-2000 and came into force w.e.f 2-6-2000.(7 (a) Form means Form appended to these Rules)
- (8) **"Occupier"** in relation to any institution generating bio-medical waste, which includes a hospital, nursing home, clinic dispensary, veterinary institution, animal house, pathological laboratory, blood bank by whatever name called, means a person who has control over that institution and/or its premises;
- (9) **"Operator of a bio-medical waste facility"** means a person who owns or controls or operates a facility for the collection, reception, storage, transport, treatment, disposal or any other form of handling of bio-medical waste;
- (10) **"Schedule"** means schedule appended to these rules;

4. DUTY OF OCCUPIER:

It shall be the duty of every occupier of an institution generating bio-medical waste which includes a hospital, nursing home, clinic, dispensary, veterinary institution, animal house, pathological laboratory, blood bank by whatever name called to take all steps to ensure that such waste is handled without any adverse effect to human health and the environment.

5. TREATMENT AND DISPOSAL

- (1) Bio-medical waste shall be treated and disposed of in accordance with Schedule I, and in compliance with the standards prescribed in Schedule V.
- (2) Every occupier, where required, shall set up in accordance with the time-schedule in Schedule VI, requisite bio-medical waste treatment facilities like incinerator, autoclave, microwave system for the treatment of waste, or, ensure requisite treatment of waste at a common waste treatment facility or any other waste treatment facility.

6. SEGREGATION, PACKAGING, TRANSPORTATION AND STORAGE

- (1) Bio-medical waste shall not be mixed with other wastes.
- (2) Bio-medical waste shall be segregated into containers/bags at the point of generation in accordance with Schedule II prior to its storage, transportation, treatment and disposal. The containers shall be labeled according to Schedule III.
- (3) If a container is transported from the premises where bio-medical waste is generated to any waste treatment facility outside the premises, the container shall, apart from the label prescribed in Schedule III, also carry information prescribed in Schedule IV
- (4) Notwithstanding anything contained in the Motor Vehicles Act, 1988, or rules there under, untreated biomedical waste shall be transported only in such vehicle as may be authorised for the purpose by the competent authority as specified by the government.
- (5) No untreated bio-medical waste shall be kept stored beyond a period of 48 hours

Provided that if for any reason it becomes necessary to store the waste beyond such period, the authorised person must take permission of the prescribed authority and take measures to ensure that the waste does not adversely affect human health and the environment.

- (6) The Municipal body of the area shall continue to pick up and transport segregated non bio-medical solid waste generated in hospitals and nursing homes, as well as duly treated bio-medical wastes for disposal at municipal dump site. Inserted by Rules 3 of the Bio-Medical Waste (Management & Handling) (Second Amendment) Rules,2000 vide notification S.O.545 (E), dated 2-6-2000.

7. PRESCRIBED AUTHORITY

1[(1)² Save as otherwise provide, the prescribed authority for enforcement) of the provisions of these rules shall be the State Pollution Control Boards in respect of States and the Pollution Control Committees in respect of the Union Territories and all pending cases with a prescribed authority appointed earlier shall stand transferred to the concerned State Pollution Control Board, or as the case may be, the Pollution Control Committees).

³ [The prescribed authority for enforcement of the provisions of these rules in respect of all health care establishments including hospitals, nursing homes, clinics, dispensaries, veterinary institutions, Animal houses, pathological laboratories and blood banks of the Armed Forces under the Ministry of Defence shall be the Director General, Armed Forces Medical Services].

- 1) SUBSTITUED BY Rule-4 of the Bio-Medical Waste (M&H) (Second Amendment) Rules,2000 vide notification S.O.545 (E), dt 2-6-2000
- 2) Substituted by Rule2 (a) of the Bio-Medical Waste (M&H) (Amendment) Rules,2003 vide notification S.O.1069 (E) dated 17-09-2003
- 3) Inserted sub-rule (1A) by Rule 2(b), ibid

- (2) The prescribed authority for the State or Union Territory shall be appointed within one month of the coming into force of these rules.
- (3) The prescribed authority shall function under the supervision and control of the respective Government of the State or Union Territory.
- (4) The prescribed authority shall on receipt of Form 1 make such enquiry as it deems fit and if it is satisfied that the applicant possesses the necessary capacity to handle bio-medical waste in accordance with these rules, grant or renew an authorisation as the case may be.
- (5) An authorisation shall be granted for a period of three years, including an initial trial period of one year from the date of issue. Thereafter, an application shall be made by the occupier/operator for renewal. All such subsequent authorisation shall be for a period of three years. A provisional authorisation will be granted for the trial period, to enable the occupier/operator to demonstrate the capacity of the facility.
- (6) The prescribed authority may after giving reasonable opportunity of being heard to the applicant and for reasons thereof to be recorded in writing, refuse to grant or renew authorisation.
- (7) Every application for authorisation shall be disposed of by the prescribed authority within ninety days from the date of receipt of the application.
- (8) The prescribed authority may cancel or suspend an authorisation, if for reasons, to be recorded in writing, the occupier/operator has failed to comply with any provision of the Act or these rules :

Provided that no authorisation shall be cancelled or suspended without giving a reasonable opportunity to the occupier/operator of being heard.

8. AUTHORISATION

- (1) Every occupier of an institution generating, collecting, receiving, storing, transporting, treating, disposing and/or handling bio-medical waste in any other manner, except such occupier of clinics, dispensaries, pathological laboratories, blood banks providing treatment/service to less than 1000 (one thousand) patients per month, shall make an application in Form 1 to the prescribed authority for grant of authorisation.
- (2) Every operator of a bio-medical waste facility shall make an application in Form 1 to the prescribed authority for grant of authorisation.
- (3) Every application in Form 1 for grant of authorisation shall be accompanied by a fee as may be prescribed by the Government of the State or Union Territory.
- ¹[(4) The authorization to operate a facility shall be issued in Form-IV, subject to conditions laid therein and such other condition, as the prescribed authority, may consider it necessary.]

9. ADVISORY COMMITTEE

²[(1)] The Government of every State/Union Territory shall constitute an advisory committee. The committee will include experts in the field of medical and health, animal husbandry and veterinary sciences, environmental management, municipal administration, and any other related department or organisation including non-governmental organisations. As and when required, the committee shall advise the Government of the State/Union Territory and the prescribed authority about matters related to the implementation of these rules.

⁴[(2)] Notwithstanding anything contained in sub-rule(1), the Ministry of Defence shall constitute in that Ministry, an Advisory Committee consisting of the following in respect of all health care establishments including hospitals, nursing homes, clinics, dispensaries, veterinary institution, animal houses, pathological laboratories and blood banks of the Armed Forces under the Ministry of Defence, to advise the Director General, Armed Forces Medical Services and the Ministry of Defence in matters relating to implementation of these Rules.

1) Inserted by Rules 5 of the Bio-Medical Waste (Second Amendment) Rules 2000 vide notification S.O.545(E), dated 2-6-2000

2) Re-numbered as sub Rule(I) by Rule-3 of the Bio Medical Waste (M&H) (Amendment) Rule,2003 notified vide Notification No.S.O1069 (E), dated 17-9-2003

3) Omitted by Rule6 of the Bio-Medical Waste (M&H) (second amendment) Rules,2000 vide notification s.O.545 (E), dated 2.6.2000.

4) Inserted sub Rule (2) by Rule 3 of the Bio Medical Waste (M&H) (Amendment) Rules, 2003 notified vide Notification No. S.O 1069 (E), dated 17-09-2003

(1) Additional Director General of Armed Forces Medical Services	Chairman
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(2) A representative of the Ministry of Defence not below the rank of Deputy Secretary, to be nominated by that Ministry	Member
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(3) A representative of the Ministry of Environment and Forests not below the rank of deputy Secretary to be nominated by that Ministry	Member
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(4) A representative of the Indian Society of Hospital's Waste Management, Pune	Member
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1 [9A. MONITORING OF IMPLEMENTATION OF THE RULES IN ARMED FORCES HEALTH CARE ESTABLISHMENTS

- 1) The Central Pollution Control Board shall monitor the implementation of these rules in respect all the Armed Forces health care establishments under the Ministry of Defence.
- 2) After giving prior notice to the Director General Armed Forces Medical Services, the Central Pollution Control Board along with one or more representatives of the Advisory Committee constituted under sub-rule (2) of rule 9 may, if it considers it necessary, inspect any Armed Forces health care establishments.]

10. ANNUAL REPORT

Every occupier/operator shall submit an annual report to the prescribed authority in Form 11 by 31 January every year, to include information about the categories and quantities of bio-medical wastes handled during the preceding year. The prescribed authority shall send this information in a compiled form to the Central Pollution Control Board by 31 March every year.

11. MAINTENANCE OF RECORDS

- (1) Every authorised person shall maintain records related to the generation, collection, reception, storage, transportation, treatment, disposal and/or any form of handling of bio-medical waste in accordance with these rules and any guidelines issued.
- (2) All records shall be subject to inspection and verification by the prescribed authority at any time.

12. ACCIDENT REPORTING

When any accident occurs at any institution or facility or any other site where bio-medical waste is handled or during transportation of such waste, the authorised person shall report the accident in Form III to the prescribed authority forthwith.

13. APPEAL

(1) ²[Save as otherwise provided in sub-rule (2) any person] aggrieved by an order made by the prescribed authority under these rules may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority as the Government of State / Union Territory may think fit to constitute :

Provided that the authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2)[Any person aggrieved by an order of the Director General, Armed Forces Medical Services under these rules may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the Central Government in the Ministry of Environment and Forests:]

14. COMMON DISPOSAL / INCINERATION SITES

Without prejudice to rule 5 of these rules, the Municipal Corporations, Municipal Boards or Urban Local Bodies, as the case may be, shall be responsible for providing suitable common disposal/incineration sites for the biomedical wastes generated in the area under their jurisdiction and in areas outside the jurisdiction of any municipal body, it shall be the responsibility of the occupier generating bio-medical waste/operator of a bio-medical waste treatment facility to arrange for suitable sites individually or in association, so as to comply with the provisions of these rules].

SHEDULE I

Option	Waste Category	Treatment & Disposal
Category No.1	Human Anatomical (human tissues, organs, body parts)	Incineration @/deep Burial*
Category No.2	Animal Waste (Animal tissues, organs, body parts carcasses bleeding parts, fluid, blood and experimental animals used in research, waste generated by veterinary hospitals colleges, discharge from hospitals animal)	Incineration @/deep Burial*
Category No.3	Microbiology & Biotechnology Waste (wastes from laboratory cultures, stocks or specimens of micro-organisms live or attenuated vaccines, human and animal cell culture used in research and infectious agents from research and industrial laboratories, wastes from production of biologicals, toxins, dishes and devices used for transfer of cultures)	Local autoclaving / micro-waving / incineration@
Category No.4	Waste sharps (needles, syringes, scalpels, blades, glass, etc. that may cause puncture and cuts. This includes both used and unused sharps)	disinfection (chemical treatment @01/ auto claving / micro - waving and mutilation/ shredding"
Category No.5	Discarded Medicines and Cytotoxics drugs (wastes comprising of outdated, contaminated and discarded medicines)	Incineration @/destruction and drugs disposal in secured landfills drugs disposal in secured
Category No.6	Solid Waste (Items contaminated with blood and body fluids including cotton dressing, soiled plaster casts, lines, beddings, other material contaminated with blood)	Incineration @ autoclaving / microwaving
Category No.7	Solid Waste (wastes generated from disposable items other than the waste shaprs such as tubings, catheters, intravenous sets etc).	disinfection by chemical treatment @ @ autoclaving / micro-waving and mutilation

Option	Waste Category	Treatment & Disposal
Category No. 8	Liquid Waste (waste generated from laboratory and washing, cleaning, house-keeping and disinfecting activities)	disinfection by chemical treatment @ @ and discharge into drains.
Category No. 9	Incineration Ash (ash from incineration of any bio-medical waste)	disposal in municipal landfill
Category No. 10	Chemical Waste (chemicals used in production of biologicals, chemicals used in disinfection, as insecticides, etc.)	chemical treatment@@ and discharge into drains for liquids and secured landfill for solids

(See Rule 5) CATEGORIES OF BIO-MEDICAL WASTE

@@ Chemicals treatment using at least 1% hypochlorite solution or any other equivalent chemical reagent. It must be ensured that chemical treatment ensures disinfection.

Multilation/shredding must be such so as to prevent unauthorised reuse.

@ There will be no chemical pretreatment before incineration. Chlorinated plastics shall not be incinerated.

- Deep burial shall be an option available only in towns with population less than five lakhs and in rural areas.

+ Options given above are based on available technologies. Occupier/operator wishing to use other State-of-the-art technologies shall approach the Central Pollution Control Board to get the standards laid down to enable the prescribed authority to consider grant of authorization.

Form-IV

[see Rule 8 (4)]

(authorization for operating a facility for collection, reception, treatment, storage transport and disposal of biomedical wastes).

1. File number of authorization and date of issue
2.of..... is hereby granted an authorization to operate a facility for collection, reception, storage, transport and disposal of biomedical waste on the premises situated at
3. This authorization shall be in force for a period of Years from the date of issue.
4. This authorization is subject to the conditions stated below and to such other conditions as may be specified in the rules for the time being in force under the Environment (Protection) Act, 1986.

Date.....

Signature.....

Designation.....

Terms and conditions of authorization *

1. The authorization shall comply with the provisions of the Environment (Protection) Act, 1986 and the rules made thereunder.
2. The authorization or its renewal shall be produced for inspection at the request of an officer authorized by the prescribed authority.
3. The person authorized shall not rent, lend, sell, transfer or otherwise transport he biomedical wastes without obtaining prior permission of the prescribed authority.
4. Any unauthorized change in personnel, equipment or working conditions as mentioned in the application by the person authorized shall constitute a breach of his authorization.
5. It is the duty of the authorized person to take prior permission of the prescribed authority to close down the facility.

FORM IV

[see rule 13]

Application for filing appeal against order passed by the prescribed authority at district level or regional office of the Pollution Control Board acting, as prescribed authority or the State / Union Territory level authority.

1. Name and address of the person applying for appeal :
2. Number, date of order and address of the authority which passed the order, against which appeal is being made (certified copy of order to be attached)
3. Ground on which the appeal is being made
4. List of enclosures other than the order referred in para 2 against which appeal is being filed.

Date :

Signature.....

Name & Address.....

F.No.23 (2/96-HSMD

V.RAJAGOPLAN, Jt. Secretary

SCHEDULE II

(see Rule 6)

COLOUR CODING AND TYPE OF CONTAINER FOR DISPOSAL OF BIO-MEDICAL WASTES

Colour Coding	Type of Container -I	Waste Category	Treatment options as per Schedule I
Yellow	Plastic bag	Cat. 1, Cat. 2, and Cat. 3, Cat. 6.	Incineration/deep burial
Red	Disinfected container / plastic bag	Cat. 3, Cat. 6, Cat.7.	Autoclaving/Microwaving/ Chemical Treatment
Blue/White translucent	Plastic bag / puncture proof Container	Cat. 4, Cat. 7.	Autoclaving/Microwaving/ Chemical Treatment and destruction/shredding
Black	Plastic bag	Cat. 5 and Cat. 9 and Cat. 10. (solid)	Disposal in secured landfill

Notes:

1. Colour coding of waste categories with multiple treatment options as defined in Schedule I, shall be selected depending on treatment option chosen, which shall be as specified in Schedule I.
2. Waste collection bags for waste types needing incineration shall not be made of chlorinated plastics.
3. Categories 8 and 10 (liquid) do not require containers/bags.
4. Category 3 if disinfected locally need not be put in containers/bags.

SCHEDULE III

(see Rule 6)

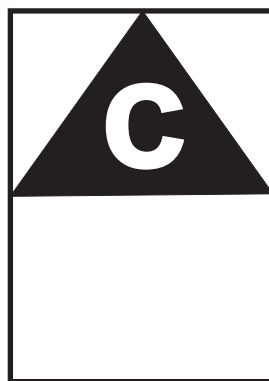
LABEL FOR BIO-MEDICAL WASTE CONTAINERS/BAGS

BIOHAZARD SYMBOL



BIOHAZARD

CYTOTOXIC HAZARD SYMBOL



CYTOTOXIC

HANDLE WITH CARE

Note : Label shall be non-washable and prominently visible.

SCHEDULE IV

(see Rule 6)

LABEL FOR TRANSPORT OF BIO-MEDICAL WASTE CONTAINERS/BAGS

Day Month

Year

Date of generation

Waste category No

Waste class

Waste description

Sender's Name & Address

Receiver's Name & Address

Phone No

Phone No

Telex No

Telex No

Fax No

Fax No

Contact Person

Contact Person.....

In case of emergency please contact

Name & Address :

Phone No.

Note : Label shall be non-washable and prominently visible.

SCHEDULE V
(see Rule 5 and Schedule 1)

STANDARDS FOR TREATMENT AND DISPOSAL OF BIO-MEDICAL WASTES

STANDARDS FOR INCINERATORS:

All incinerators shall meet the following operating and emission standards

A. Operating Standards

1. Combustion efficiency (CE) shall be at least 99.00%.

2. The Combustion efficiency is computed as follows:

$$\text{C.E.} = \frac{\% \text{CO}_2}{\% \text{CO}_2 + \% \text{CO}} \times 100$$

3. The temperature of the primary chamber shall be 800 ± 50 deg. C°.

4. The secondary chamber gas residence time shall be at least I (one) second at 1050 ± 50 C°, with minimum 3% Oxygen in the stack gas.

B. Emission Standards

Parameters	Concentration mg/Nm ³ at (12% CO ₂ correction)
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(1) Particulate matter	150
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(2) Nitrogen Oxides	450
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(3) HCl	50
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(4) Minimum stack height shall be 30 metres above ground	
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(5) Volatile organic compounds in ash shall not be more than 0.01%	
--	--

Note :

- Suitably designed pollution control devices should be installed/retrofitted with the incinerator to achieve the above emission limits, if necessary.
- Wastes to be incinerated shall not be chemically treated with any chlorinated disinfectants.
- Chlorinated plastics shall not be incinerated.
- Toxic metals in incineration ash shall be limited within the regulatory quantities as defined under the Hazardous Waste (Management and Handling Rules,) 1989.
- Only low sulphur fuel like L.D.0dLS.H.S.1Diesel shall be used as fuel in the incinerator.

STANDARDS FOR WASTE AUTOCLAVING:

The autoclave should be dedicated for the purposes of disinfecting and treating bio-medical waste,

- (I) When operating a gravity flow autoclave, medical waste shall be subjected to :
 - (i) a temperature of not less than 121 C° and pressure of 15 pounds per square inch (psi) for an autoclave residence time of not less than 60 minutes; or
 - (ii) a temperature of not less than 135 C° and a pressure of 31 psi for an autoclave residence time of not less than 45 minutes; or
 - (iii) a temperature of not less than 149 C° and a pressure of 52 psi for an autoclave residence time of not less than 30 minutes.
- (II) When operating a vacuum autoclave, medical waste shall be subjected to a minimum of one pre-vacuum pulse to purge the autoclave of all air. The waste shall be subjected to the following:
 - (i) a temperature of not less than 121 C° and pressure of 15 psi per an autoclave residence time of not less than 45 minutes; or
 - (ii) a temperature of not less than 135 C° and a pressure of 31 psi for an autoclave residence time of not less than 30 minutes;
- (III) Medical waste shall not be considered properly treated unless the time, temperature and pressure indicators indicate that the required time, temperature and pressure were reached during the autoclave process. If for any reasons, time temperature or pressure indicator indicates that the required temperature, pressure or residence time was not reached, the entire load of medical waste must be autoclaved again until the proper temperature, pressure and residence time were achieved.

(IV) Recording of operational parameters

Each autoclave shall have graphic or computer recording devices which will automatically and continuously monitor and record dates, time of day, load identification number and operating parameters throughout the entire length of the autoclave cycle.

(V) Validation test

Spore testing:

The autoclave should completely and consistently kill the approved biological indicator at the maximum design capacity of each autoclave unit. Biological indicator for autoclave shall be *Bacillus stearothermophilus* spores using vials or spore Strips; with at least 1×10^4 spores per millilitre. Under no circumstances will an autoclave have minimum operating parameters less than a residence time of 30 minutes, regardless of temperature and pressure, a temperature less than 121 C° or a pressure less than 15 psi.

(VI) Routine Test

A chemical indicator strip/tape that changes colour when a certain temperature is reached can be used to verify that a specific temperature has been achieved. It may be necessary to use more than one strip over the waste package at different locations to ensure that the inner content of the package has been adequately autoclaved.

STANDARD FOR LIQUID WASTE:

The effluent generated from the hospital should conform to the following limits

PARAMETERS	PERMISSIBLE LIMITS
PH	6.3-9.0
Suspended solids	100 mg/l
Oil and grease	10 mg/l
BOD	30 mg/l
COD	250 mg/l
Bioassay test	90% survival of fish after 96 hours in 100% effluent.

These limits are applicable to those hospitals, which are either connected with sewers without terminal sewage treatment plant or not connected to public sewers. For discharge into public sewers with terminal facilities, the general standards as notified under the Environment (Protection) Act, 1986 shall be applicable.

STANDARDS OF MICROWAVING

1. Microwave treatment shall not be used for cytotoxic, hazardous or radioactive wastes, contaminated animal carcasses, body parts and large metal items.
2. The microwave system shall comply with the efficacy test/routine tests and a performance guarantee may be provided by the supplier before operation of the unit.
3. The microwave should completely and consistently kill the bacteria and other pathogenic organisms that is ensured by approved biological indicator at the maximum design capacity of each microwave unit. Biological indicators for microwave shall be *Bacillus Subtilis* spores using vials or spore strips with at least 1×10^1 spores per milliliter.

STANDARDS FOR DEEP BURIAL

1. A pit or trench should be dug about 2 meters deep. It should be half filled with waste, then covered with lime within 50 cm of the surface, before filling the rest of the pit with soil.
2. It must be ensured that animals do not have any access to burial sites. Covers of galvanised iron/wire meshes may be used.
3. On each occasion, when wastes are added to the pit, a layer of 10 cm of soil shall be added to cover the wastes.
4. Burial must be performed under close and dedicated supervision.
5. The deep burial site should be relatively impermeable and no shallow well should be close to the site.
6. The pits should be distant from habitation, and sited so as to ensure that no contamination occurs of any surface water or ground water. The area should not be prone to flooding or erosion.
7. The location of the deep burial site will be authorised by the prescribed authority.
8. The institution shall maintain a record of all pits for deep burial.

SCHEDULE VI

(see Rule 5)

SCHEDULE FOR WASTE TREATMENT FACILITIES LIKE INCINERATOR/ AUTOCLAVE / MICROWAVE SYSTEM

- | | | |
|-----|--|---|
| A. | Hospitals and nursing homes in towns with population of 30 lakhs | by 31st December, 1999 or earlier and above |
| B. | Hospitals and nursing homes in towns with population of below 30 lakhs, | |
| (a) | with 500 beds and above | by 31st December, 1999 or earlier |
| (b) | with 200 beds and above but less than 500 beds | by 31st December, 2000 or earlier |
| (c) | with 50 beds and above but less than 200 beds | by 31st December, 2001 or earlier |
| (d) | with less than 50 beds | by 31st December, 2002 or earlier |
| C. | All other institutions generating bio- medical waste not included in A and B above | by 31st December, 2002 or earlier |

FORM I
(see rule 8)
[APPLICATION FOR AUTHORISATION /RENEWAL OF AUTHORISATION]
(To be submitted in duplicate.)

To

The Prescribed Authority

(Name of the State Govt / UT Administration)

Address.

1. Particulars of Applicant

(i) Name of the Applicant

(In block letters & in full)

(ii) Name of the Institution:

Address:

Tele No., Fax No. Telex No.

2. Activity for which authorisation is sought:

(i) Generation

(ii) Collection

(iii) Reception

(iv) Storage

(v) Transportation

(vi) Treatment

(vii) Disposal

(viii) Any other form of handling

3. Please state whether applying for fresh authorisation or for renewal:

(In case of renewal previous authorisation-number and date)

4. (i) Address of the institution handling bio-medical wastes:

(ii) Address of the place of the treatment facility:

(iii) Address of the place of disposal of the waste:

5. (i) Mode of transportation (in any) of bio-medical waste:

(ii) Mode(s) of treatment:

6. Brief description of method of treatment and disposal (attach details):

7. (i) Category (see Schedule 1) of waste to be handled

(ii) Quantity of waste (category-wise) to be handled per month

8. Declaration

I do hereby declare that the statements made and information given above are true to the best of my knowledge and belief and that I have not concealed any information.

I do also hereby undertake to provide any further information sought by the prescribed authority in relation to these rules and to fulfill any conditions stipulated by the prescribed authority.

Date :

Signature of the Applicant

Place :

Designation of the Applicant

FORM II

(see rule 10)

ANNUAL REPORT

(To be submitted to the prescribed authority by 31 January every year).

1. Particulars of the applicant:

(i) Name of the authorised person (occupier/operator):

(ii) Name of the institution:

Address

Tel. No

Telex No.

Fax No.

2. Categories of waste generated and quantity on a monthly average basis:

3. Brief details of the treatment facility:

In case of off-site facility:

(i) Name of the operator

(ii) Name and address of the facility:

Tel. No., Telex No., Fax No.

4. Category-wise quantity of waste treated:

5. Mode of treatment with details:

6. Any other information:

7. Certified that the above report is for the period from.....

.....

Date

Signature

Place.....

Designation.....

FORM III
(see Rule 12)
ACCIDENT REPORTING

1. Date and time of accident:
2. Sequence of events leading to accident
3. The waste involved in accident:
4. Assessment of the effects of the accidents on human health and the environment,.
5. Emergency measures taken
6. Steps taken to alleviate the effects of accidents
7. Steps taken to prevent the recurrence of such an accident.....

Date

Signature

Place.....

Designation.....

GUIDELINES FOR DESIGN AND CONSTRUCTION OF BIO-MEDICAL WASTE INCINERATOR

1. General

1. These guidelines shall be applicable only to the new installation of incinerators. However, the existing incinerator shall be retrofitted with Air Pollution Control Device as mentioned in these guidelines.
2. Incinerator shall be allowed only at Common Bio-medical Waste Treatment Facility (CBWTF).
3. Installation of individual incineration facility by a healthcare unit shall be discouraged as far as possible but approval may be granted only in certain inevitable situations where no other option is available.

2. Incinerator

Following design criteria may be adopted for better performance:

- I. The incinerator shall be designed for capacity more than 50 kg/hr. For 50 kg/hr capacity, the minimum hearth area shall be 0.75 sq. m (8 sq. feet) and the minimum flow of the flue gas in the secondary chamber shall be 0.6 m³/sec at 1050°C. Each incinerator must be installed with an air pollution control system (as specified in the section 3).
- II. The size of the opening through which the waste is charged shall be larger than the size of the waste bag to be fed. The volume of the primary chamber shall be at least five times the volume of one batch.
- III. The double chamber incinerator shall preferably be designed on "controlled-air" incineration principle, as particulate matter emission is low in such incinerator. Minimum 100% excess air shall be used for overall design. Air supply in the primary and secondary chamber shall be regulated between 30%-80% and 170%- 120% of stoichiometric amount respectively. Primary air shall be admitted near / at the hearth for better contact. Flow meter / suitable flow measurement device shall be provided on the primary & secondary air ducting. The combustion air shall be supplied through a separate forced draft fan after accounting for the air supplied through burners.

Optional: For higher capacity incinerators, typically above 250 kg/hr, other design e.g. Rotary Kiln shall be preferred.

- IV. A minimum negative draft of 1.27 to 2.54 mm of WC (Water Column) shall be maintained in the primary chamber to avoid leakage of gaseous emissions from the chamber and for safety reasons. Provision shall be made in the primary chamber to measure the Water Column pressure.
- V. The waste shall be fed into the incinerator in small batches after the fixed interval of time in case of fixed hearth incinerator and continuous charging using appropriate feeding mechanism in case of rotary kiln incinerator or as recommended by the manufacturer. The size of the hearth i.e. primary chamber shall be designed properly.
- VI. The sides and the top portion of the primary and secondary chambers shall preferably have rounded corner from inside to avoid possibility of formation of black pockets/dead zones.
- VII. The size of the secondary chamber shall be properly designed so as to facilitate a minimum of one second of residence time to gas flow. For the estimation of residence time in the secondary chamber its volume shall be calculated starting from the secondary burner tip to the thermocouple.

- VIII. The refractory lining of the chamber shall be strong enough to sustain minimum temperature of 1000° C in the primary chamber and 1200° C in the secondary chamber. The refractory & insulation bricks shall have minimum 115 mm thickness each & conform to IS:8-1983 & IS:2042-1972 respectively.
- IX. The Incinerator shell shall be made of mild steel plate of adequate thickness (minimum 5 mm thick) & painted externally with heat resistant aluminum paint suitable to withstand temperature of 250°C with proper surface preparation. Refractory lining of the hot duct shall be done with refractory castable (minimum 45 mm thick) & insulating castable (minimum 80 mm thick). Ceramic wool shall be used at hot duct flanges & expansion joints.
- X. The thermocouple location shall be as follows:

In Primary chamber - Before admission of secondary air

In Secondary chamber - At the end of secondary chamber or before admission of dilution medium to cool the gas

There shall be a separate burner each for the Primary & Secondary chamber. The heat input capacity of each burner shall be sufficient to raise the temperature in the primary and secondary chambers as $800 \pm 50^{\circ}\text{C}$ and $1050 \pm 50^{\circ}\text{C}$ respectively within maximum of 60 minutes prior to waste charging. The burners shall have automatic switching "off/on" control to avoid the fluctuations of temperatures beyond the required temperature range.

- a) Each burner shall be equipped with spark igniter and main burner.
- b) Proper flame safeguard of the burner shall be installed.
- c) Provide view ports to observe flame of the burner.
- d) Flame of the primary burner.
- e) shall be pointing towards the centre of the hearth.
- f) shall be having a length such that it touches the waste but does not impinge directly on the refractory floor or wall.
- g) The secondary burner shall be positioned in such a way that the flue gas passes through the flame.

There shall not be any manual handling during charging of waste in to the primary chamber of the incinerator. The waste shall be charged in bags through automatic feeding device at the manufacturer's recommended intervals ensuring no direct exposure of furnace atmosphere to the operator. The device shall prevent leakage of the hot flue gas & any backfire. The waste shall be introduced on the hearth in such a way so as to prevent the heap formation. Suitable raking arrangement shall be provided for uniform spreading of waste on the hearth.

A tamper-proof PLC(Programmable Logic Control) based control system shall be installed to prevent:

- Waste charging until the required temperature in the chambers are attained during beginning of the operation of the incinerator.
 - Waste charging unless primary & secondary chambers are maintained at the specified temperature range.
 - Waste charging in case of any unsafe conditions such as - very high temperature in the primary & secondary chambers; failure of the combustion air fan, ID fan, recirculation pump; low water pressure & high temperature of the flue gas at the outlet of air pollution control device.
- XIV. The incineration system must have an emergency vent. The emergency vent shall remain closed i.e it shall not emit flue gases during normal operation of the incinerator.
- XV. Each incineration system shall have graphic or computer recording devices, which shall automatically and continuously monitor and record dates, time of day, batch sequential number and operating parameters such as temperatures in both the chambers. CO, CO₂, and O₂ in gaseous emission shall also be measured daily (atleast ½ hour at one minute interval).
- XVI. The possibility of providing heat recovery system/heat exchanger with the incinerator shall also be considered wherever possible.
- XVII. Structural design of the chimney / stack shall be as per IS:6533-1989. The chimney/stack shall be lined from inside with minimum of 3 mm thick natural hard rubber suitable for the duty conditions and shall also conform to IS:4682 Part I-1968 to avoid corrosion due to oxygen and acids in the flue gas.
- XVIII. The location and specification of porthole, platform ladder etc. shall be as per the Emission Regulations, Part-3 (COINDS/20/1984-85), published by CPCB.

3. Air Pollution Control Device:

It is not possible to comply with the emission limit of 150 mg/Nm³ (corrected to 12% CO₂) for Particulate Matter, without Air Pollution Control Device (APCD). Therefore, a bio-medical waste incinerator shall always be equipped with APCD.

- i) No incinerator shall be allowed to operate unless equipped with APCD.
- ii) The incinerator shall be equipped with High Pressure Venturi Scrubber System as ordinary APCD such as wet scrubber or cyclonic separator cannot achieve the prescribed emission limit. For the facilities operating for 24 hrs a day, APCD in terms of dry lime injection followed by bag filter can be considered. The details of High Pressure Venturi Scrubber System are given in ANNEXURE-I.

4. Incinerator room and waste storage room :

- i) The incinerator structure shall be built in a room with proper roofing and cross ventilation. There shall be minimum of 1.5 m clear distance in all the directions from the incinerator structure to the wall of the incinerator room.
- ii) Adjacent to the incinerator room, there shall be a waste storage area. It shall be properly ventilated and so designed that waste can be stored in racks and washing can be done very easily. The waste storage room shall be washed and chemically disinfected daily.
- iii) The floor and inner wall of the incinerator and storage rooms shall have outer covering of impervious and glazed material so as to avoid retention of moisture and for easy cleaning.
- iv) The incineration ash shall be stored in a closed sturdy container in a masonry room to avoid any pilferage. Finally, the ash shall be disposed in a secured landfill.

5. Operator of the incinerator :

- i) A skilled person shall be designated to operate and maintain the incinerator. The operator shall have adequate qualification in relevant subject and shall be trained and certified by the incinerator supplier in operation & maintenance of the incinerator.
- ii) There shall be at least one assistant designated at the incinerator plant to keep track of the wastes, records of incinerator operation, cleanliness of the surrounding area and incinerator & waste storage room. They shall also take care of waste charging and incineration ash disposal.
- iii) All the staff at the incinerator plant shall put on protective gears such as gumboots, gloves, eye glasses, etc. for safety reasons.
- iv) Any accident occurred shall immediately be reported to the facility operator. The facility operator shall have well defined strategies to deal with such accident/emergency.

[The guidelines will help in selection/installation of better incinerator system. However, it shall be ensured that the incinerator shall comply with the standards stipulated in the Bio-medical Waste (Management & Handling) Rules, 1998.]

ANNEXURE-I

Details of High Pressure Venturi Scrubber System

1. The venturi scrubber shall have minimum pressure drop of 350 mm WC to achieve the prescribed emission limit. The temperature of the flue gas at the outlet of the venturi scrubber shall be approx 70-80° C to ensure the saturation of the flue gas.
2. The venturi scrubber shall preferably be made of stainless steel - 316L grade or better material or mild steel lined with acid resistant bricks to avoid corrosion.
3. The water to be used in venturi scrubber shall be added with caustic soda solution to maintain the pH of the scrubbing liquid above 6.5.
4. The scrubbing medium shall be circulated @ 2-2.5 ltrs/m³ of saturated flue gas at venturi outlet. This shall be done using a pump & piping made of stainless steel - 316 grades or better material. The scrubbing medium shall be recirculated as far as possible.
5. Venturi scrubber shall be followed by centrifugal type droplet separator to remove water droplets from flue gas.
6. The material of construction of the droplet separator and interconnecting ducting from venturi scrubber to droplet separator, droplet separator to ID fan & ID fan to stack, shall be mild steel lined from inside with minimum 3 mm thick natural hard rubber suitable for the duty conditions and shall also conform to IS: 4682 Part I-1968 to avoid corrosion due to oxygen and acids in the wet flue gas.
7. The wastewater generated from the air pollution control device shall be properly handled so as to avoid any non-compliance of the regulatory requirements.
8. Stack emission monitoring and ash analysis as per the requirement of the Bio-medical Waste (Management & Handling) Rules, 1998, shall be done quarterly i.e. once in every three months and record shall be maintained by the facility operator.

FREQUENT ASKED QUESTION

1). What are biomedical wastes?

Answer. Waste that is generated during the diagnosis, treatment, or immunization of human beings or animals or in research activities pertaining to activities mentioned above or in the production of biological substances.

2). What are the hazards associated with poor health care waste management?

Answer. Proper disposal of biomedical waste is of paramount importance because of its infectious and hazardous characteristics. Improper disposal can result in the following:-

- a) Organic portion ferments and attracts fly breeding.
- b) Injuries from sharp articles to all categories of health care personnel and waste handlers.
- c) Increased risks of infection to medical, nursing and other hospital staff.
- d) Poor infection control can lead to nosocomial infection in patients particularly HIV, Hepatitis B & C. etc.

3). What are the rules and regulations governing the disposal of these wastes?

Answer. The Government of India has promulgated the bio medical waste Rules in 1998. They are applicable to all the persons who generate, collect, receive, store, transport, treat, dispose or handle biomedical wastes. This includes hospitals, nursing homes, clinics, dispensaries, veterinary institution animal houses, pathological laboratories and blood banks.

4). How long can biomedical waste be stored?

Answer. Immediate treatment and disposal are ideal procedure to be followed for disposal of biomedical waste.

- a) Untreated bio medical wastes however, can be stored for not more than 48 hrs.
- b) If for some reason it becomes necessary to store the waste beyond such period permission from the local state authority must be taken and it must be ensured that it does not adversely affect human health and the environment.

5). What is difference between composting and vermiculture?

Answer. The organic wastes are easier to handle because it will decompose over a period of time and the process of composting produce rich manure which is safe and better than chemical fertilizer.

The use of earthworms in the process of composting is called as vermiculture and is proving to be very useful and successful.

6).what materials can be recycled?

Answer. 1) Glass after cleaning and disinfection/sterilization.

2) Paper corrugated cardboard.

3) X-ray film

4) Aluminium

5) Reclaimed silver from x ray film

6) Plastics non-infectious component only.

7) What are the standards and requirements for autoclaving?

Answer. The standards are different for Gravity flow autoclaving and Vacuum autoclaving and are given below.

a) Temp > than 121 °c and 15 pound/sq inch for 60 minutes

b) Temp > than 135 °c and 31 pounds/sq inch for 45 min

c) Temp > than 149 °c and 52 pounds/sq inch for 30 minutes

Vacuum autoclaving

a) Temp > than 121 °c and 15 (psi) for 45 minutes

b) Temp > than 135 °c and 31 (psi) for 30 minutes

BIBLIOGRAPHY

1. <http://www.jmgims.co.in/article.asp?issn=0971-9903; year=2013; volume=18; issue=2; spage=109;epage=111;aulast=Patro#ref6>
2. <http://nihfw.nic.in/ndc-nihfw/html/Legislations/BiomedicalWasteManagement.htm>
3. <http://mpcb.gov.in/images/pdf/draft-bmwmh.pdf>
4. <http://www.advocatekhoj.com/library/bareacts/registrationofbirths/index.php?Title=Registration%20of%20Births%20and%20Deaths%20Act,%201969>
5. <http://www.cwejournal.org/vol7no1/need-of-biomedical-waste-management-system-in-hospitals-an-emerging-issue-a-review/>.
6. Person with Disability Act 1995 Frequently asked questions
7. <http://arogya.maharashtra.gov.in/Site/Uploads/GR/FAQs-on-Registration-of-Births-and-Deaths.pdf>
8. <http://www.slideshare.net/priyankaphonde/registration-of-births-deaths-act-ppt>



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