

## Comparison of the Rights of Persons with Disabilities Bill, 2014, the official amendments and the recommendations of the Standing Committee

The Rights of Persons with Disabilities Bill, 2014 was introduced in the Rajya Sabha on February 7, 2013. The Bill confers several rights and entitlements to disabled persons. The Bill repeals the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

The Standing Committee on Social Justice and Empowerment (Chairperson: Mr. Ramesh Bais) submitted its report on the Rights of Persons with Disabilities Bill, 2014 on May 7, 2015. The official amendments were released in Rajya Sabha on December 1, 2016.

The table below compares the provisions in the Bill with the official amendments and the Standing Committee recommendations. Recommendations by the Standing Committee not addressed by the official amendments have been listed after the comparison table.

**Table 1: Comparison of the key provisions in the Bill with the official amendments and the Standing Committee recommendations**

| The Rights of Persons with Disabilities Bill, 2014 as introduced   | Official amendments (2016)   | Standing Committee Recommendations (2015)   |
|--|--|---|
| <b>Extension to Jammu and Kashmir (Clause 1(2))</b>  |  |   |
| Extended to the whole of India except Jammu and Kashmir.   | It covers Jammu and Kashmir as well.   | Provision modified as per Committee recommendation.   |
| <b>Specified disabilities (Clause 2(x))</b>  |  |   |
| Disability is defined to include 19 conditions such as: autism; low vision and blindness; cerebral palsy; deafblindness; haemophilia; hearing impairment; leprosy; intellectual disability; mental illness; muscular dystrophy; multiple sclerosis; learning disability; speech and language disability; sickle cell disease; thalassemia; chronic neurological conditions; and multiple disability. | Removed: deafblindness.<br>Added: dwarfism, acid attack victims, parkinson's disease, hearing impairment (deaf and hard of hearing).   | Recommendation regarding specification of disabilities has been partially accepted.   |
| <b>Definition of 'discrimination' (Clause 2(ga))</b>   |  |   |
| Discrimination not defined.  | Discrimination has been defined.<br>Discrimination in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation. | Provision modified as per Committee recommendation of defining 'discrimination' as per the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). |
| <b>Provision for guardianship (Clause 13)</b>  |  |   |
| <b>Coverage:</b> If a district court finds that a 'mentally ill person' is not capable of taking care of himself or of taking legally binding decisions, it may order guardianship to a person.  | <b>Coverage:</b> If a district court finds that a 'person with disability' is not capable of taking care of himself or of taking legally binding decisions, it may order guardianship to a person.   | Provision modified as per Committee recommendation.   |

| The Rights of Persons with Disabilities Bill, 2014 as introduced  | Official amendments (2016)  | Standing Committee Recommendations (2015)                  |
|---|---|--|
| <b>Type of guardianship</b>   |   |  |
| <p><b>Type of guardianship:</b> There can be two kinds of guardianship: (i) plenary: the guardian takes all legally binding decisions for the person with disability; and (ii) limited: the guardian will take joint decisions with the person with disability.</p>   | <p><b>Type of guardianship:</b> District court shall review decision regarding the support to be given the person with disability where limited guardianship is being granted repeatedly. Further, any person with disability aggrieved by the decision of the appointment of a legal guardian may appeal against it to an appellate authority.</p>   |  |
| <b>Reservation (Clause 33)</b>  |   |  |
| <p>At least five percent of the vacancies are to be filled by persons or class of persons with at least 40 percent of any of the disabilities. Of this, one per cent shall be reserved for persons with,</p> <p>(i) blindness and low vision;<br/> (ii) hearing and speech impairment;<br/> (iii) locomotor disability including leprosy cured;<br/> (iv) autism, intellectual disability and mental illness; and<br/> (v) multiple disabilities.</p> | <p>At least four percent of the vacancies are to be filled by persons or class of persons with at least 40 percent of any of the disabilities. Of this, one per cent shall be reserved for persons with,</p> <p>(i) blindness and low vision;<br/> (ii) deaf and hard of hearing;<br/> (iii) locomotor disability and leprosy cured, dwarfism, acid attack victims;<br/> (iv) autism, intellectual disability, specific learning disability and mental illness; and<br/> (v) multiple disabilities.</p>                       | <p>Provision modified as per Committee recommendation.</p> |
| <b>Nature of establishment (Clause 2(h))</b>  |   |  |
| <p>'Establishment' defined as a government corporation, authority, body, company or a department of government.</p>   | <p>Establishments include government and private establishments.</p>  | <p>Provision modified as per Committee recommendation.</p> |
| <b>Definition of private establishment, public building and public facilities and services (Clause 2)</b>   |   |  |
| <p>Private establishment, public building, public facilities and services have not been defined in the Bill.</p>  | <p>Private establishment: Includes establishments like a company, firm, associations and unions specified as a private establishment through notification by the appropriate government.</p> <p>Public building: Government or private building used or accessed by the public at large for various purposes including educational, commercial and cultural purposes.</p> <p>Public facilities and services: All forms of delivery of services to the public at large including housing, employment and medical services.</p> | <p>No recommendation.</p>                                  |
| <b>Certificate of registration for institutions for persons with disabilities (Clause 50)</b>   |   |  |
| <p>The certificate of registration for institutions for persons with disabilities shall be granted upon fulfilment of the requirements under the Bill.</p>  | <p>The certificate of registration shall be granted within 90 days of the receipt of application upon fulfilment of the requirements under the Bill.</p>  | <p>Provision modified as per Committee recommendation.</p> |
| <b>Legal capacity (Clause 12)</b>   |   |  |
| <p>Disabled persons have the right, equally with others, to own and inherit movable and immovable property, as well as control their financial affairs.</p>   | <p>Further specification that the government shall ensure that the persons with disabilities enjoy 'legal capacity' and equal recognition before law on an equal basis on all aspects of life, in addition to the property and financial affairs.</p>   | <p>Provision modified as per Committee recommendation.</p> |

| <b>The Rights of Persons with Disabilities Bill, 2014 as introduced</b>   | <b>Official amendments (2016)</b>  | <b>Standing Committee Recommendations (2015)</b>    |
|---|--|---|
| <b>Healthcare (Clause 24)</b>   |  |   |
| Barrier free access to hospitals, other healthcare institutions and centres run by the appropriate governments.   | Barrier free access to government and private hospitals and other healthcare institutions and centres.   | Provision modified as per Committee recommendation. |
| <b>Vocational training and self-employment (Clause 18)</b>  |  |   |
| The appropriate government shall formulate schemes and programmes for persons with disabilities for vocational training and self-employment.  | Schemes and programmes specified and include (i) inclusion in mainstream formal and non-formal vocational and skill training; (ii) adequate support to avail specific training; and (iii) marketing products made by persons with disabilities.                                | Provision modified as per Committee recommendation. |
| <b>Women and children with disabilities (Clause 3)</b>  |  |   |
| The appropriate government shall take special measures to protect the rights of women and children with disability.   | In addition to the special measures to protect the rights of women and children with disability, children with disabilities shall have equal rights to (i) freely express their views on matters affecting them; and (ii) appropriate support as per their age and disability. | Provision modified as per Committee recommendation. |
| <b>Ethics Committee (Clause 5(2))</b>   |  |   |
| Prior permission of an Ethics Committee shall be sought for protection of persons with disabilities against cruelty and inhuman treatment.  | In place of an Ethics Committee, prior permission of a Committee for Research on Disability shall be sought for protection of persons with disabilities against cruelty and inhuman treatment.   | No recommendation.                                  |
| <b>National and state commissions (Chapters 12,13)</b>  |  |   |
| National and state commissions for persons with disabilities to be constituted by the central and state governments respectively. Their primary functions include (i) identifying and suggesting corrective steps for actions inconsistent with the provisions of the Bill; (ii) reviewing the safeguards provided under the Bill; and (iii) monitor utilisation of funds for benefit of persons with disabilities. | National and state commission provisions deleted. Chief commissioner and State commissioner at the centre and state levels respectively shall be appointed to carry out the functions of the commissions instead.  | No recommendation.                                  |
| <b>Offences and penalties (Clause 102)</b>  |  |   |
| The Bill states that any person who violates provisions of the Act, or any rule or regulation made under it, shall be punishable with imprisonment up to six months, and/or fine of Rs 10,000. For any subsequent violation, imprisonment of up to two years and/or a fine of Rs 50,000 to Rs five lakh can be awarded.   | Imprisonment as a penalty has been removed, however, the fine structure remains the same.  | No recommendation.                                  |
| <b>State fund for persons with disabilities</b>   |  |   |
| No provision.   | State fund for persons with disabilities shall be constituted, utilised and managed in the manner prescribed by the state government.  | Provision modified as per Committee recommendation. |

Sources: The Rights of Persons with Disabilities Bill, 2014; The Mental Healthcare Bill, 2016; Notice of Amendments to Rajya Sabha, December 1, 2016; Report on the Rights of Persons with Disabilities Bill by the Standing Committee on Social Justice and Empowerment, May 7, 2015; PRS.

Note: The Standing Committee also recommends the following which have not been addressed in the official amendments:

- (i) **Financial sources:** Specification of the manner of funding to implement the various aspects of the Bill including disability budgets allocated to ministries and organisations at the state and central level. Further, basic social security should be provided free of cost, to the extent possible to persons with disabilities without any income ceiling or below poverty line criteria.
- (ii) **Insurance:** Provisions regarding insurance matters of persons with disabilities must be incorporated explicitly in the Bill and the Committee recommends amending the Insurance Regulatory and Development Authority of India Act, 1999 to ensure insurance companies do not charge higher premiums for persons with disabilities as compared to others.
- (iii) **Specified disabilities:** Adding 'spinal cord injury' to the specified disabilities and replacing 'mental illness' with the term 'psycho-social disabilities'.
- (iv) **Time bound redressal:** Specific time frame to dispose off cases in Special Courts.

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