

**National Trust for Providing High
Support for Persons with Disabilities
Amendment Act of 2011**

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Chapter I
PRELIMINARY
Short Title & Extent

1. (1) The Act may be called the **National Trust for Providing High Support for Persons with Disabilities Amendment Act of 2011**
- (2) It extends to the whole of India. However, its application to the State of Jammu & Kashmir shall be specified by the President of India by order only after the Government of Jammu & Kashmir gives its concurrence on the application of this law to that State.
2. In this Act unless the context otherwise requires:
 - a) "**Board**" means Board of trustees constituted under Section 3;
 - b) "**Chairperson**" means the Chairperson of the Board appointed under clause (a) of sub-section (4) of section 3;
 - c) "**Chief Executive Officer**" means the Chief Executive Officer appointed under sub-section (1) of section 8;
 - d) "**Good Faith**" shall have the same meaning as is assigned to it in the Indian Penal Code (45 of 1860);
 - e) "**High Support**" is that support which may be needed by individuals who require ongoing intensive support for activities of daily living independent and informed decision-making; accessing facilities and participating in all areas of life including education; employment; family and community life; treatment and therapy; recreation and leisure. The need for high support often arises due to significant disability in a single area or multiple or cumulative disabilities in cognition, communication, sensory-perceptual processing (but not including blindness), emotional regulation, socialization, behavior and mobility in interaction with attitudinal and environmental barriers
 - f) "**Member**" means a Member of the Board and includes the Chairperson;
 - g) "**Notification**" means a notification published in the official Gazette;
 - h) "**Peer support**" is a process whereby persons with disabilities provide knowledge, experience, emotional, social or practical help to each other on a reciprocal basis.

- i) **“Person with Disability”** is a person who requires high support to realize his or her rights on an equal basis with others;
- j) **“prescribed”** means prescribed by rules made under this Act;
- k) **“registered organisation”** means an association of persons with disabilities or an association of parents and families of persons with disabilities or a voluntary organization working for persons with disabilities registered under section 12;
- l) **“regulations”** means the regulations made by the Board under this Act;
- m) **“State Disability Tribunal”** means a Tribunal as constituted under Section (ee) of PwD Act;
- n) **“Support network”** in section 12A (8) refers to a group which supports a person with disability in carrying out his or her life activities. This network may be made of family members, friends, service providers and others who have a personal connection and are in a trusted relationship with the person with disability;
- o) **“Trust”** means the National Trust for the person with disability as constituted and re-designated under sub-section (1) of section 3;
- p) **“Expressions”** used but not defined in this Act but defined in the Rights of Persons with Disabilities Act, 2011 shall have the meaning assigned to them in that Act.

Chapter II
National Trust for Providing High Support to Persons with Disabilities

3. Re-designation of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities as the National Trust for Providing High Support to Persons with Disabilities

- (1) With effect from such date as the Central Government may, by notification, appoint the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, which was constituted as a body corporate with the aforesaid name, having perpetual succession and a common seal, under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act shall be re-designated as the **National Trust for Providing High Support to Persons with Disabilities** and shall have the power in accordance with the provisions of this Amendment Act to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued;
- (2) The general superintendence, direction and management of the affairs and business of the Trust shall vest in a Board which may exercise all powers and do all acts and things which may be exercised or done by the Trust;
- (3) The head office of the Trust shall be in the National Capital Region but to facilitate State level monitoring and to render the Trust geographically accessible to the people the Board may establish offices at other places in India;
- (4) The Board shall consist of:
 - (a) A Chairperson to be appointed by the Central Government from amongst persons having expertise and experience in service provision, advocacy and building social networks for persons with disabilities and who shall be of the rank of Secretary to the Government of India;
 - (b) Twelve persons to be appointed in accordance with such procedure as may be prescribed out of which four members each shall be from voluntary organizations, associations of parents and families of persons with disabilities, associations of persons with disabilities, and members;

Provided that initial appointment under this clause shall be made by the Central Government by nomination;

- (c) In order to enhance the participation of persons with disabilities in the functioning of the Trust, the Board may nominate three persons with disabilities on the Board as members. Such members shall have the right to participate in all proceedings of the Board and shall have the same powers and duties as elected members of the Board including the right to vote at Board meetings;

- (d) Nine persons not below the rank of Joint Secretary to the Government of India nominated by the Government to represent the Ministries or Departments of Social Justice and Empowerment, Women and Child Development, Health and Family Welfare, Finance, Labour, Education, Urban Affairs and Employment, Rural Employment and Poverty Alleviation, and Panchayati Raj, members, ex officio;
 - (e) Three Persons to be nominated by the Board representing the associations of trade, commerce, industry and philanthropic activities, members;
 - (f) The Chief Executive Officer, who, shall be of the rank of Joint Secretary to the Government of India, Member-Secretary, ex officio.
- (5) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire for carrying out the objects of the Trust;

Provided that such person shall have a right to take part in the discussions relevant to that purposes but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purposes;

Provided further that the maximum number of persons so associated shall not exceed eight and so far as possible persons so associated shall belong to the registered organizations or from the professionals.

4. Term of office of Chairperson and Members, meeting of Board, etc.

- (1) The Chairperson or a Member shall hold office for a term of five years from the date of appointment or until a successor has been duly appointed, whichever is longer;

Provided that no person shall hold office as the Chairperson or the Member after attaining the age of sixty five years;

- (2) The conditions of service of the Chairperson and other Members shall be such as may be prescribed;
- (3) A casual vacancy in the Board shall be filled in accordance with the provisions of section 3 and a person appointed to hold such office shall serve on the Board for the remainder of the term for which the Member, in whose place the appointment has been made, would have held that office;
- (4) Before appointing any person as the Chairperson or Member, the Central Government shall satisfy itself that such persons do not and will not have any

financial or other interest that would prejudice their performance as Chairperson or Member;

- (5) No Member of the Board shall be a beneficiary of the Trust during the period such Member holds office;
- (6) The Board shall meet at least once in three months at such time and place as may be determined by the Board by regulations and shall observe such rules of procedure in the transaction of business at a meeting as may be prescribed;
- (7) The Chairperson, if for any reason is unable to attend the meeting of the Board, any member elected by the Members present from amongst themselves at the meeting, shall preside at the meeting;
- (8) All questions which come before any meeting of the Board shall be decided by a majority of the Members present and voting.

Provided that in the event of a tie, the Chairperson or the person presiding in absence of the Chairperson shall have a second or casting vote.

5. Resignation of Chairperson and Members-

- (1) The Chairperson may resign from office by submitting a letter of resignation addressed to the Central Government;

Provided that the Chairperson shall continue in office until the appointment of a successor is made by the Central Government.

- (2) A Member may resign from office by submitting a letter of resignation addressed to the Chairperson.

6. Disqualifications –No person shall be a Member –

- (a) on being convicted of an offence which in the opinion of the Central Government involves moral turpitude; or
- (b) if insolvent, or at any time has been adjudicated as an insolvent.

7. Vacation of office by Member -If a Member-

- (a) becomes subject to any of the disqualifications mentioned in section 6; or
- (b) is, without obtaining leave of absence, absent from three consecutive meetings of the Board; or
- (c) tenders resignation under section 5, the office of the Member shall thereupon fall vacant.

8. Chief Executive Officer and Staff of Trust-

- (1) The Central Government shall appoint the Chief Executive Officer to exercise such powers and perform such duties under the direction of the Board as may be prescribed or as may be delegated by the Chairperson;
- (2) Subject to the Rules made on this behalf by the Central Government the Board shall appoint such other officers and employees as it considers necessary to carry out the objectives of the Trust;
- (3) The salary and allowances payable to, and the other terms and conditions of service of, the Chief Executive Officer, other officers and employees of the Trust shall be such as may be determined by regulations.

8(A) Constitution of a Technical Advisory Committee-

- (1) The Chairperson shall have powers to establish a Technical Advisory Committee for advocating and planning inclusion and support for persons with disabilities;
- (2) The term of members of this Technical Advisory Committee shall be co-terminus with the Chairperson and their other terms and conditions of appointment and pay and allowances shall be such as may be determined by Regulations;
- (3) All things being equal preference shall be accorded to persons with disabilities in their appointment.

9. Vacancies in Board not to invalidate acts, etc. –

No act or proceeding of the Board shall be called in question on the grounds merely of the existence of any vacancy in, or any defect in the constitution of the Board.

Chapter III
OBJECTS AND FUNCTIONS OF THE TRUST

10 The objects of the Trust shall be-

- (a) to make provision for high support to enable and empower persons with disabilities to live independently with dignity and participate fully in all aspects of life on an equal basis with others whilst respecting their evolving capacities and identities;
- (b) to strengthen facilities for persons with disabilities to have access to a range of in-home, extension or other community support services, including personal assistance necessary to support living and inclusion in the community;
- (c) to extend support to registered organizations to provide need based services to persons with disabilities;
- (d) to address the difficulties of persons with disabilities who do not have family or other support;
- (e) to have support network, accessible to persons with disabilities addressing barriers due to disability accompanied with age, gender and social, geographical, economic or any other impediments;
- (f) to facilitate creation of associations or forums for friendship, meeting and advocacy by persons with disabilities;
- (g) to facilitate the realization of equal opportunities, legal capacities, protection of rights and to prevent isolation or segregation from the community;
- (h) to do any other act which is incidental to the aforesaid objects.

10(A) To accomplish its objects the National Trust has the following functions:

- (a) Create accessible support networks, whether human, material, infrastructural, technological to aid all persons with disabilities to exercise their legal capacity in all areas of life;
- (b) Create a cadre of persons providing support to persons with disabilities , conducting their training programmes and prescribing their emoluments and other benefits;

- (c) Facilitate registration of voluntary organizations, association of parents and families of persons with disabilities and associations of persons with disabilities to create an active community of support and to maintain an accessible database of such organizations;
- (d) Provide facilities for formulation of support plans;
- (e) Create systems for monitoring support regimes;
- (f) Design age, gender, and disability sensitive interventions in the forms of schemes, incentives, programmes and procedures;
- (g) Facilitate mediation and personalized consultation for persons with disabilities living in institutions, to help their smooth exit and for developing their own support networks;
- (h) Develop a socio-medical scale for evaluating the barriers faced by a person with disability ;
- (i) Develop human resource for carrying out its functions under this Act or under the Rights of Persons with Disabilities Act 2011;
- (j) Conduct research for developing innovative support methods and systems which would facilitate the exercise of legal capacity and promote the autonomy and dignity of persons with disabilities;
- (k) Evolve procedures in active collaboration with other State Level Agencies for setting up suitable support measures for persons with disabilities ;
- (l) Co-ordinate with other statutory or non-statutory or private bodies to rescue, resettle and rehabilitate persons with disabilities particularly those who are abandoned and abused;
- (m) Create universally accessible social spaces through mediums of art theater, culture, recreation, leisure, and sports for developing ties of friendship amongst and with persons with disabilities;
- (n) Undertake any other activity or function which may be required to further and realize any of the Objects.

Chapter IV
POWERS AND DUTIES OF THE BOARD

11 (1) The Board shall-

- (a) Firstly receive from the Central Government a contribution of not less than rupees one thousand crores, towards the corpus of the re-designated Trust in order to enable the Trust to fulfill the obligations placed upon it by the Amendment Act. This enhanced contribution shall join with the original corpus of rupees one hundred crores paid by the central government to the National Trust for the Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and the income whereof shall be utilized to fulfill the Objects of the Trust;
- (b) Receive from time to time such suitable contribution from the central or state government towards the corpus of the Trust as may be necessary to increase the income of the Trust to enable the Board to fulfill the obligations of the Trust;
- (c) accept the grants and bequests of money, movable and immovable properties and other donations for furtherance of its Objects;
- (d) receive from the Central Government and State Governments such sums as may be considered necessary in each financial year for providing financial assistance to registered organizations for carrying out its functions and approved programmes to further the Objects of the Trust.

(2) For the purposes of sub section (1) the expression approved programme includes:

- (a) Any programme which promotes independent living in the community for persons with disabilities and especially for persons with disabilities presently living in institutions by *inter-alia*
 - (i) setting up a range of in-home, extension and other community services, including personal assistance necessary to support living and inclusion in the community;
 - (ii) care-modelling community services and facilities for the general population in such manner that they are available on an equal basis to persons with disabilities and are responsive to persons with disabilities and the needs expressed by them;
 - (iii) undertaking personalised interactions with persons with disabilities living in institutions to smoothly exit that system and create support networks along with community participation promoting their independent living.

- (b) Any programme which enables personal growth and capacity building by persons with disabilities;
- (i) any programme which may be required to support persons with disabilities to participate effectively in a free society;
 - (ii) any programme which assists in the creation of individualized support measures for the realization of the rights guaranteed in the Rights of Persons with Disabilities Act;
 - (iii) any programme which assists in the development of peer or community support and self-advocacy groups of persons with disabilities;
 - (iv) any programme which promotes the mobilization of the disability community ties and civil society for the realization of the rights of persons with disabilities;
- (c) Any programme which promotes the exercise of legal capacity and informed decision making for persons with disabilities in the matters of seeking treatment, executing financial instruments, or in exercising any decision for which the person with disability may require support. It shall include, amongst other things, the programmes for:
- (i) Generating awareness about legal capacity and supported decision making;
 - (ii) Training persons in providing personalised support to a person with disability ;
 - (iii) Gender, age and disability specific interventions for persons with disabilities, including special training of persons to provide for necessary support enabling them in exercising legal capacity and informed decision-making.
- (d) Any programme in coordination with relevant bodies for the rehabilitation and resettlement for the persons with disabilities who may require the same. It shall include, amongst other things, the programmes for:
- (i) collaboration with the local bodies, health-care centres and other relevant governmental and non-governmental organisations to carry out rescue and rehabilitation of persons with disabilities with increased vulnerabilities particularly those who have been abandoned or neglected by their families, the victims of abuse, violence or exploitation, or the victims of natural or man-made disaster;
 - (ii) facilitating independent living in community and productive employment wherever possible;
 - (iii) creating facilities for resettlement including wherever possible, in-home, extension and other community facilities, including personal assistance necessary to support living and inclusion in the community.

- (e) Any programme for persons with disabilities living under the system of plenary guardianship to smoothly exit that system towards exercising full legal capacity, which includes, amongst other things, the following:
 - (i) undertaking mediation exercises assisting persons with disabilities in identifying their support requirements and creation of support networks to promote exercise of their legal capacity and independent living;
 - (ii) generating awareness amongst the persons with disabilities and the guardians about the meaning and import of legal capacity and supported decision making;
 - (iii) special sessions for the existing guardians on the obligations and consequences of their new role as limited guardians or personal assistants and on communicating with the person with disabilities in obtaining their informed consent and supported decision making;
 - (iv) Undertaking consultations with the existing limited guardians in order to determine the specific kinds of assistance they may require to discharge their supported decision making obligations of arriving at legally binding decisions in accordance with the will and preference of the person with disabilities
- (ee) Any programme which facilitates exercise of legal capacity and participation in the community for persons with disabilities and includes, amongst others:
 - (i) personalised consultations to identify the barriers and to devise appropriate support for the individual person with disability
 - (ii) Devising of new support mechanism whether material or personal and generation of awareness for such innovative support ;
- (ee1) Any programme for obtaining feedback on the services rendered by the support networks, particularly the human and technological assistance;
- f) Such other programmes which promote the objects of the Trust.
- (3) While ear-marking funds for the various approved programmes a dedicated allocation shall be made for programmes concerning women, children and elders with disabilities.

Chapter V
PROCEDURE FOR REGISTRATION

12 A (1) Any association whether of persons with disabilities as defined under this Act or under the Persons with Disabilities Act of 2011 , or any association of their parents and families or a voluntary organization whose main object is advancement of disability rights may make an application for registration to the Board;

Provided that any of the aforesaid associations and organizations can apply for registration with the National Trust and function thereof notwithstanding any restrictive provisions of any Act including Persons with Disabilities Act, 1995.

- (2) An application for registration shall be made in such form and manner and at such place as the Board may by regulation provide and shall contain such particulars and accompanied with such documents and such non-refundable processing fees as may be provided in the regulations;
- (3) On receipt of application for registration, the Board may make such enquiries as it thinks fit in respect of genuineness of the application and correctness of any particulars thereon;
- (4) Upon receipt of such application the Board shall either grant registration to the applicant or reject such application for reasons to be recorded in writing;

Provided that where registration has been refused to the applicant, the said applicant may again make an application for registration after removing defects, if any, in its previous application;

- (5) The tenure and other terms and conditions of registration and renewal of registration shall be determined by regulations.

12 (B) Suspension and Cancellation of Registration

The Board shall have powers to suspend the operation of registration, or cancel the same during continuance of it for violation of any provisions of the Act, or the rules and regulations, after giving opportunity to applicant of being heard.

Chapter V A
LEGAL CAPACITY AND SUPPORT

12 C Provision of Support

- (1) In furtherance of the recognition of the legal capacity of persons with disabilities in the Rights of Persons with Disabilities Act 2011 the National Trust shall devise appropriate policies and schemes which provide suitable support to enable the realization of the social, political, economic and cultural rights guaranteed to persons with disabilities by any applicable national and international law;
- (2) Without prejudice to the generality of this obligation the National Trust shall take immediate steps to put in place suitable support measures for the exercise of legal capacity by persons with disabilities, and especially for those living in institutions.

12 D National Support Mission

- (1) Keeping in view the universal need for support and interdependence the National Trust with due consultation shall formulate a plan for a National Support Mission within one year of its operation to provide an integrated support system for all persons particularly the persons with disabilities;
- (2) Whilst formulating the plan the National Trust shall consult persons with disabilities and their organizations; the representatives of the Local Level Committees, experts working in the field of policy planning and human rights, non-governmental organizations working with and for the rights of persons with disabilities and other socially and economically backward groups to assess their common and unique needs of support for living within the community and thereby create a platform of support for all.
- (3) The National Trust shall present the plan to the Central Government for its approval which shall approve the Mission with or without modifications within a period of three months from the submission of the plan by the National Trust.

12E National Depository of Resources

- (1) There shall be a National Depository of Resources which will be maintained by the Board;
- (2) All persons with disabilities receiving support either through the Local Level Committee or parents, families, friends, organizations, or service providers may choose to register their support plan in accordance with the form provided by the regulations and such plan shall then be duly recorded in the National Depository of Resources.

Chapter VI

LOCAL LEVEL COMMITTEES

13. Constitution of Local Level Committee-

- (1) The Board shall reconstitute existing Local Level Committees in accordance with the membership specified in sub-section (2) and constitute new committees in such areas as it deems suitable from time to time;
- (2) This Local Level Committee shall consist of:
 - (a) Two persons with disability belonging to a self-advocacy or peer support group and with experience of community mobilization and rights based work, one of them will act as coordinator;
 - (b) a person nominated by a registered organization;
 - (c) an officer of the civil service of the Union or of the State not below the rank of a District Magistrate or a District Commissioner of a district;
 - (d) an officer of the State Government nominated by the District Magistrate or the District Commissioner of the district.
- (3) A Local Level Committee shall continue to work for a period of five years from the date of its constitution or till such time as it is re-constituted by the Board;
- (4) A Local Level Committee shall devise such procedure as it deems suitable for the conduct of its business but shall meet at least once every two months to plan and review its activities;
- (5) The district administration shall cooperate with the Local Level Committee to enable it to undertake its activities;
- (6) The Local Level Committee shall be equipped by the State Government with a fully functional office with appropriate human, financial and other assistance to enable the Coordinator and the committee to fulfill its obligations under the Act;
- (7) The pay and allowances of the Coordinator and the members shall be as specified in the regulations.

13A. Powers and Functions of Local Level Committees

- (1) All Local Level Committees shall be under an obligation to take all such general and specific initiatives whereby all persons with disabilities can exercise their right to legal capacity;
- (2) As a part of such general initiative every Local Level Committee shall-
 - (a) Map, with the active involvement of disabled persons organizations, the presence of persons with disabilities in their local area;
 - (b) Assess, in consultation with persons with disabilities, the nature of support that may be required in its local area to enable it to fulfill its obligation under sub-section (1);
 - (c) Submit the data collected under sub-clause (a) and (b) to the Board to enable it to carry on its function of planning for universal capacity with support;
 - (d) Conduct awareness raising programs to assess needs and create local support networks for persons with disabilities in public-private partnership;
- (3) As part of their individual initiative every Local Level Committee shall:
 - (a) undertake a review of all persons awarded guardianship certificates and whose particulars exist in the National Depository in order to:
 - (i) assess the operation of the limited guardianship system;
 - (ii) assist the person with disability and his or her guardian to devise a more wide ranging and layered system of support than limited guardianship;
 - (b) inform persons with disabilities and their families of their support entitlements and the manner in which support plans can be designed to organize support;
 - (c) inform persons with disabilities and their families of the public spirited individuals, professionals and service providers in their local area who can be invited to join their support network;
 - (d) facilitate meetings between persons who wish to provide and receive support;

- (e) Provide such information or assistance as is sought by persons with disabilities in the creation of their personal support plan and in obtaining access to peer support , public-spirited individuals, non-governmental organizations, service providers and professionals;
- (f) formulate support plans and individual support instruments and record them in the National Depository of Resources.

14 Support Plans-

- (1) All support plans whether made with or without the assistance of the Local Level Committee shall respect the individual preference of the person with disability and shall be so created as to enhance the community participation of persons with disabilities;
- (2) The support plans could be devised keeping in view the nature of support if any required by persons with disabilities to exercise their legal capacity in different areas of life. In order to facilitate the creation of support plans and without prejudice to the freedom of persons with disabilities to devise such support plans which they deem suitable for their life situation an illustrative list of supports along with the purposes for which it can be employed and how its misuse can be prevented shall be listed in Schedule I of this Act;
- (3) The Board may on the basis of reports received from the Local Level Committee, the State Level Committee, the Associations of Persons with Disabilities, Associations of Parents of Persons with Disabilities or otherwise make such additions or modifications in this Schedule to advance the object of promoting the exercise of legal capacity of all persons with disabilities in all areas of life-

14A Safeguards in a Support Arrangement:

- (1) The Local Level Committee and the provider of support shall interact with one another on the basis of good faith;
- (2) A range of support plans shall be made available to choose from;
- (3) The Local Level Committee shall regularly consult persons with disabilities about the quality of the support they are receiving and take where required appropriate measures for improvement.

14B Convergence of Support Networks and Local Level Committees

- (1) In order to facilitate community interaction and mutual learning the Local Level Committee or support networks with the assistance of the Local Level Committee shall call at least two meetings every year of the support networks in the local area;
- (2) Such meetings should be so organized that they are as far be held in different parts of the local area; In order to have an understanding of how the support system for persons with disabilities operates on the ground the National Trust shall hold at least one State level meeting of all Local Level Committees functioning under the National Trust Act;
- (3) The Trust shall take steps to share information on best practices and innovative models of support between all Local Level Committees and support networks in the country.

15. Denial of Legal Capacity

- (1) If the Local Level Committee comes to know from the persons with disabilities or otherwise that the persons with disabilities has been denied the exercise of his or her legal capacity by any state or non state agency;
 - (a) the Committee may after consulting with the person with disability , along with bringing the matter to the notice of the Board, undertake one or more of the following course of actions:
 - (i) take up the matter with the concerned agency and apprise it of the illegality of its action and the necessity of revoking it;
 - (ii) assist the person with disability to obtain the intervention of the State Level Committee;
 - (iii) assist the person with disability to file a petition before the District Disability Rights Tribunal to obtain redress.

16. Periodic Reports to the Board and State Level Committee

- 1) Every Local Level Committee shall submit quarterly reports to the State Level Committee who will submit consolidated quarterly report to the Board;
- 2) Such report shall especially describe the manner in which it is addressing the issue of legal capacity and the various support mechanisms utilized or devised by the Committee in its local area and the special difficulties it encountered in obtaining recognition for the legal capacity.

17. Redress of Grievance against Support Network-

- (1) When a Local Level Committee comes to know that the support network has either become dysfunctional or is acting in contravention of the norms specified in this statute, and if the same is confirmed by persons with disabilities, then it shall take following measures:
 - (a) draw upon community resources to firstly initiate mediation or conciliation proceedings;
 - (b) if such proceedings fail to provide redress then in consultation with the person with disability, file a petition before the district panel of the State Disability Tribunal for redress.

17A Complaints against Local Level Committee-

- (1) Any complaint against the Local Level Committee shall lie before the State level Committee;

Provisions of this section will not affect the powers of the Board to dismiss or dissolve the Local Level Committee and take steps to constitute a new committee.

Chapter VI (A)
STATE LEVEL COMMITTEE

17 (B) (1) Every State Government and the administration of the Union Territories shall establish by notification in its official Gazette, a State Level Committee.

(2) The State Level Committee shall consist of –

- (a) Secretary to the State Government in-charge of the Department of Social Welfare looking after the matters concerning persons with disabilities- Chairperson, *ex officio*;
- (b) Commissioner for persons with disabilities as appointed under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996),- Member, *ex-officio*;
- (c) Director, Department of Social Welfare looking after the matters concerning persons with disabilities in the State-Member, *ex-officio*;
- (d) Five persons, as far as practicable, being persons with disabilities, to represent registered organizations, to be nominated by the Board, one of which to be nominated as Member Secretary- Members;

(3) The State Level Committee shall have following functions:

- (a) Monitoring of the implementation of programmes and schemes for persons with disabilities;
- (b) Ensuring co-ordination amongst the Local Level Committees for effective implementation of programmes and schemes for persons with disabilities in the territories of the respective state;
- (c) Ensure that every district of the state has a functioning local level committee office and conduct training and orientation programmes as may be required for the officials of the Local Level Committee;
- (d) Collate and compile the findings and studies by the Local Level Committee in its report which shall be submitted to the Board twice every year or with such frequency as the Board may require;
- (e) Assist the Local Level Committees with the funding required for carrying out its obligations under this Act;
- (f) Ensure that all Local Level Committees discharge their obligations under this Act and in case of non-compliance, summoning the concerned Local Level Committee and upon giving due hearing take the corrective actions as may be required including providing human, material or financial assistance or in appropriate case, referring the matter to the Board of the National Trust;

- (g) Conduct State Level meetings of all Local Level Committees on bi-annual basis to foster convergence; allow for deliberation of the issues faced by local level committees and to promote best practices.
- (3)** The Committee shall meet at least once in every three months or at such shorter intervals as may be necessary and send its report to the Board;

Chapter VII
ACCOUNTABILITY AND MONITORING

18 Accountability

- 1) The Board shall have powers to give directions to Registered Organisations and Local Level Committees and seek compliance;

Provided in order to comply with such directions if any financial resource is required, the same shall be made available by the Board.

- 2) The books and documents in the possession of the Local Level Committee and registered organization shall be open to inspection by the Board in the manner as specified in regulations.

19 Monitoring

- (1) The Board shall determine by regulations the procedure for evaluating the pre-funding status of registered organizations seeking financial assistance from it and such regulations may also provide for the guidelines for monitoring and evaluating the activities of the registered organizations who are receiving financial assistance from the Trust;
- (2) The Board shall constitute one or more teams of persons with disabilities and associate them in following activities:
 - (a) to undertake periodic performance audit of approved programmes and support plans in order to assess their effectiveness and feasibility in promoting and protecting the rights of persons with disabilities ;
 - (b) to evaluate functioning of Local Level Committees and to build their capacity.

20 Annual General Meeting

- (1) The Board shall in each year hold an annual general meeting of all registered organizations and not less than six months shall elapse between the date of one Annual General Meeting and that of the next;
- (2) A notice of the annual general meeting along with a statement of accounts and records of its activities during the preceding year shall be sent by the Board to every registered organization at such time as may be determined by regulations;
- (3) The quorum of such meeting shall be such number of persons of the registered organizations as may be determined by regulations;

- (4) The Board shall formulate regulations to facilitate participation of persons with disabilities and their associations at the annual general meeting;
- (5) The agenda of every annual general meeting shall allocate dedicated time to persons with disabilities and their associations to present their views on the programmes and policies of the Trust.

Chapter VIII
FINANCE, ACCOUNTS AND AUDIT

21 Grants by the Central Government

- (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, make appropriate contributions to the Trust for a Corpus of not less than rupees one thousand crores and make such additional contributions from time to time as may be considered necessary to enhance the Corpus, the income whereof shall be utilized to fulfill the Objects of the Trust;
- (2) The Central Government shall in each year make appropriate financial allocations for the implementation of the National Support Mission in addition to its contribution to the Corpus of the Trust.
- (3) Any corporate contribution to the corpus of the Trust or towards the National Support Mission shall be seen as furtherance of the obligations of corporate social responsibility

22 National Trust Fund

- (1) There shall be constituted a Fund to be called National Trust Fund for persons with disabilities and there shall be credited thereto:-
 - (a) all moneys received from the Central or State Government;
 - (b) all movable and immovable property received by the Trust by way of grants, gifts, donations, benefactions, bequests and transfers;
 - (c) all moneys, movable and immovable property received by the Trust in any other manner or from any other source.
- (2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as the Board may decide;
- (3) The Fund shall be applied towards meeting the administrative and other expenses of the Trust including expenses incurred in the exercise of its powers and performance of duties by the Board in relation to any of its activities under section 10 or for anything relatable thereto.

23 Budget

The Board shall prepare, in such form and at such time in each financial year as may be prescribed, the budget for the next financial year showing the estimated receipt and expenditure of the Trust and shall forward the same to the Central Government.

24 Accounts and Audit

- (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Trust including the income and expenditure accounts in such form as the Central Government may prescribe and in accordance with such general direction as may be issued by that Government in consultation with the Comptroller and Auditor-General of India;
- (2) The accounts of the Trust shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred by him in connection with such audit shall be payable by Board to the Comptroller and Auditor General of India;
- (3) The Comptroller and Auditor General of India and any other person appointed by him in connection with the audit of accounts of the Trust shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor General of India generally has in connection with the audit of the Government accounts and in particular, shall have right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Trust;
- (4) The accounts of the Trust as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government, and that Government shall cause the same to be laid before each House of Parliament.

25 Annual Report

The Board shall prepare every year, in such form and within 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 each House of Parliament.

26 Authentication of orders etc.

All orders and decisions of the Board and instruments issued in the name of the Trust shall be authenticated by the signature of Chairperson, the Chief Executive Officer or any other officer authorized by the Chairperson in this behalf.

27 Returns and Information

The Board shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.

Chapter IX
MISCELLANEOUS

28 Power of Central Government to issue directions -

- (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time;

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section;

- (2) The decision of the Central Government whether a question is one of policy or not shall be final.

29 Power of Central Government to supersede Board -

- (1) If the Central Government on the complaint of a registered organization or otherwise has reason to believe that the Board is unable to perform or has persistently made default in the performance of the duties imposed on it, the Central Government may issue notice to the Board asking why it should not be superseded;

Provided that no order superseding the Board shall be made by the Central Government, unless a notice affording reasonable opportunity to the Board has been given in writing that why it should not be superseded.

- (2) The Central Government after recording reasons in writing and by issuing a notification in the Official Gazette supersedes the Board for a period of not more than six months;

Provided that on the expiration of the period of supersession, the Central Government may reconstitute the Board, in accordance with section 3.

- (3) Upon the publication of the notification under sub-section (2),

- (a) all the members of the Board shall, notwithstanding that their term of office had not expired as on the date of supersession, vacate their office as such members;
- (b) all the powers and duties which may, by or under the provision of this Act, be exercised or performed by or on behalf of the Trust shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct.

- (4) On the expiration of the period of supersession specified in the notification issued under sub-section (2), the Central Government may-

- (a) extend the period of supersession for such further period as it may consider necessary so that the total period of supersession does not exceed more than six months; or
- (b) reconstitute the Board in the manner provided in section 3.

30 Exemption from Tax on Income

Notwithstanding anything contained in the Income-tax Act, 1961, or any other law for the time being in force relating to tax on income, profits or gains, the Trust shall not be liable to pay income-tax or any other tax in respect of its income, profits or gains derived.

31 Protection of action taken in Good Faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or the Trust or any member of the Board or Chief Executive Officer or any officer or other employee of the Trust or any other person authorized by the Board to perform duties under this Act for any loss or damage caused or likely to be caused by anything which is done in good faith.

32 Chairperson, Members and Officers of Trust to be public servants

All Members, Chief Executive Officer, other officers and employees of the Trust shall be deemed, when acting or purposing to act in pursuance of any of the provisions of this Act, to be public servant within the meaning of section 21 of the Indian Penal Code.

33 Delegation

The Board may, by general or special order in writing, delegate to the Chairperson or any member or any officer of the Trust or any other person subject to such conditions and limitations, if any, as may be specified in the order such of its powers under this Act (except the power to make regulations under section 35) as it may deem necessary.

34 Power to make rules-

- (1) The Central Government may, by notification in the Official Gazette, 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 of the following matters, namely:-

- (a) the procedure in accordance with which the persons representing registered organizations shall be elected under clause (b) of sub -section (4) of section 3;
- (b) the conditions of service of the Chairperson and Members under sub-section (2) of section (4);
- (c) the rules of procedure in the transaction of business at meetings of the Board under sub- section (6) of section 4;
- (d) the powers and duties of the Chief Executive Officer under sub-section (1) of section 8;
- (e) the terms and conditions of appointment and the pay and allowances of the members of the Technical Advisory Committee as required by section 8A (5);
- (f) the terms and conditions of appointment and the pay and allowances of the Coordinator of the Local Level Committee as required by Section 13 (1)
- (g) the form in which, and the time within which, the budget of the Trust shall be forwarded to the Central Government under section 23;
- (h) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 24,
- (j) the form in which, and the time within which, the annual reports shall be prepared and forwarded under section 25;
- (k) any other matter which is required to be, or may be, prescribed.

35 Power to make regulations-

- (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and rules generally 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) the manner and purpose for which person may be associated under subsection (5) of section 3;
 - (b) the time and place at which the Board shall meet under sub-section (6) of section 4;
 - (c) the terms and conditions of service of Chief Executive Officer, other officers and employees of the Trust under sub-section (3) of section 8;

- (d) the form and manner in which the application shall be made, processed and decided for registration under sub- section (2) of section 12 and the particulars which such application shall contain under that sub-section;
- (da) the procedure in accordance with which registration of an organization may be suspended or cancelled under section 12B;
- (e) The qualifications of the members of the Technical Advisory Committee as required by section 8A(4)
- (ea) the forms by which support plans can be registered under section 12E ;
- (f) The participation of persons with disabilities and their associations at the annual general meeting as required by section 20(4).
- (g) The procedure for evaluating the pre-funding status of the registered organizations and framing of guidelines for monitoring and evaluating the activities of such registered organizations under section 19(1);
- (gg) The procedure for conducting performance audit and guidelines for evaluating the programmes under Section 19(2);
- (h) the time within which notice for annual general meeting shall be sent and quorum for such meeting under sub-sections (2) and (3) of section 20;
- (i) any other matter which is required to be, or may be, provided by regulations.

36 Schedule, Rules and Regulations to be laid before Parliament

Any change in Schedule I of the Act and every rule and every regulation 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 schedule, rule or regulation or both houses agree that the schedule, rule or regulation should not be made, the schedule, 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 schedule, rule or regulation.

SCHEDULE I

A support plan can be any or a combination of the arrangements detailed below:

(1) Advance Directive:

- Advance Directive can be used by persons with disabilities in order to make their life choices of health, financial, and property matters to be known. It is a useful mechanism to ensure that the individual's will and preference prevail over all affairs in relation to an individual and in the event of the non availability of the individual guides others who are managing his or her affairs as to how he or she would want them managed. An Advance Directive even if reduced in writing can be changed, modified or replaced by the maker of the directive. Thus this legal instrument in no way prevents persons with disabilities to change their mind in the future. If a later directive is made it supersedes the earlier one.

- Advance Directives may be used by persons with disabilities to state their preference is in a particular matter or for a particular mode of operation. An Advance Directive can also be employed by persons with disabilities to appoint a person to make decisions for them in particular areas of life. Thus, the former kind of directive (living will) is useful if the persons with disabilities wish to ensure that their will or preference is not tampered with in any way and the latter kind (proxy) is helpful when the persons with disabilities do not wish to undertake certain kinds of activities and would prefer that some other person perform the same for them. It is possible to merge both kinds of directive insofar as a proxy could be appointed to manage affairs with explicit instructions on how specific affairs should be managed.

- A proxy is morally required but could also be mandated by the terms of the appointment to preserve the privacy and confidentiality of the personal information about the person with disability.

(2) Enduring Power of Attorney

- Enduring Power of Attorney ("EPA") can be employed to appoint an attorney to make binding legal decisions for the person with disabilities.

(3) EPA can be of two kinds-

- Special EPA whereby the person with disability permits the attorney to make specific legal decisions. And
- General EPA The person with disability permits the attorney to make all legal decisions.
- It is possible to have as many attorneys as one desired. In order to maximize the utility of this support it is essential to clearly demarcate the responsibilities of each attorney and provide for a procedure by which their inter se differences shall be resolved. The advantage of this method is that the person with disabilities has the benefit of a variety of advice and is not dependent on any one person.
- In order to avoid disputes and for clear allocation of duties an EPA should be in writing, signed by the person with disability, attorney and in the presence of two independent witnesses not in any way connected with the person with disability or his/her legal affairs.
- As further protection against misuse an EPA could be registered with the Local Level Committee to obtain the support of the Committee for due enforcement.
- Persons with disabilities may create any conditions and impose whatever restrictions he or she chooses when issuing the attorney

For example: the attorney/s must provide accounts each year to a recognized lawyer, chartered accountant, the Local Level Committee, or a family member or friend. Further, the person with disability may have a condition that prevents the attorney from selling the house.

- An attorney would be under a general professional obligation to disclose to the person with disability or the Local Level Committee if whilst acting for the person with disabilities he or she enters into any financial transaction which may jeopardize the person with disability. Failure to do so could be seen as both professional misconduct and fraudulent behaviour and could invite proceedings accordingly.

(4) Personal Assistant-

- Personal Assistant provides practical services to persons with disabilities in personal and legal tasks so they can live independently in a community.

Explanation: A personal Assistant can perform a variety of functions ranging from daily activities such as cooking and assistance in mobility to banking and paying bills.

- There may be more than one personal assistant at any given time performing the same or different tasks the needs and wishes of the person with disability shall exclusively determine the scope of the support service.

Responsibilities of a Personal Assistant:

- Performance of tasks with care and attention to the needs of the person with disability and develop a factor of trust with the person with disability.
- To preserve the privacy and confidentiality of personal information about the person with disability.

(5) Supported Decision-Maker -

- A Supported Decision-Maker is an Associate who assists the person with disability in deliberating choices, providing needed information for making choices, and may also help in communicating decisions to others.

For example: Keeping accounts and a monthly budget, banking, decisions on where to live and how to travel, whether to take a job and so on.

- It is possible to have more than one Associate for the same decision, or two or more Associates jointly for separate decisions.
- Whilst a person with disabilities can enter into either a written or oral agreement with the Associate. The formality of the agreement could well depend upon the task for which a person with disabilities is requiring an associate. For a financial decision a written agreement may be preferred whilst for more personal matters an oral understanding preferred.
- The formal nature of the arrangement may also depend upon the relationship between the person with disabilities and the associate thus for example, an oral arrangement between a person with disability and his/her parents, relative or trusted friend without witnesses may be considered sufficient by both parties. However if there are disputes in the family then a written agreement with independent witnesses may be preferred.

(6) Care Plan-

- A Care plan is a person centered support plan which advises, mentors, and provides information to people with disabilities about planning their living and housing, education, and employment; health; legal rights; and finances. A Care Plan allows people with disabilities to shape their lives by guiding them and sharing resources and opportunities.
- A Local Level Committee would partner with non-governmental organizations, private organizations, professionals such as doctors, lawyers, bankers and accountants, and other associations to provide general and specific Care Plans for people with disabilities.
- Under such plans professionals within the community would provide expert guidance and information about types of living arrangements and resources about housing options; lawyers can act as public advocates or provide legal advice; doctors and nurses may provide nursing and medical consultation; employment agencies may inform of job vacancies; and accountants and bankers may give financial advice.

Informal and Customary Arrangements

- Other than these relatively formal arrangements there can be formal and informal support networks of family, relatives, friends, individuals, groups and associations, and non-governmental organizations who can be drawn upon to devise a plan of support which is in accord with the life preferences of the individual person with disability.

Safeguards in a support arrangement:

- A cluster of support plans must be innovatively made available on a personalized basis for a person with disability such that it can encompass a diversity among support providers from different age groups and skills and drawn up for a reasonable time frame to suit the lifestyle of the person with disability.
- In devising support plans it essential to ensure that that there must be a collegial relationship between the person with disability and the providers of support.