

**WOMEN AND CHILD DEVELOPMENT AND EMPOWERMENT OF DIFFERENTLY ABLED  
AND SENIOR CITIZENS SECRETARIAT**

**NOTIFICATION**

**NO. WCD 209 PHP 2017 (Part-2), BENGALURU, DATED: 30.08.2019**

Whereas the draft of the Karnataka State Rights of Persons with Disabilities Rules, 2019 was published as required by section 101 of the Rights of Persons with Disabilities Act, 2016 (Central Act 49 of 2016) in Notification No.WCD209 PHP 2017 (Part-2), Dated: 20.02.2019 in Part - IVA No.129 of the Karnataka Gazette extraordinary dated: 20th February 2019 inviting objections and suggestions from all persons likely to be affected thereby within thirty days from the date of its publication in the Official Gazette.

Whereas the said Gazette was made available to the public on 20.02.2019.

And whereas, the objections and suggestions received in respect of the said draft within the period specified above have been considered by the State Government;

Now, therefore, in exercise of the powers conferred by section 101 of the Rights of Persons with Disabilities Act, 2016 (Central Act 49 of 2016), the Government of Karnataka hereby makes the following rules, namely:-

**RULES**

**CHAPTER I**

**PRELIMINARY**

**1. Title and commencement.-** (1) These rules may be called the Karnataka State Rights of Persons with Disabilities Rules, 2019.

(2) They shall come into force from the date of their publication in the Official Gazette. \*

**2. Definitions.-** In these rules, unless the context otherwise requires,-

- (a) "Act" means the Rights of Persons with Disabilities Act, 2016 (Central Act 49 of 2016);
- (b) "Advisory Board" means the Karnataka State Advisory Board on disability constituted by the State Government by notification under section 66 of the Act;
- (c) "Certificate of disability" means a certificate of disability issued by a certifying authority under section 58 of the Act;
- (d) "Certificate of registration" means a certificate of registration of institution for persons with disability issued by the competent authority under section 50 of the Act;
- (e) "Form" means a form appended to these rules;
- (f) "Government " means the Government of Karnataka; and
- (g) "Section" means section of the Act.

(2) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

**CHAPTER II**

**RIGHTS AND ENTITLEMENTS**

**3. Steps to be taken by the Government Authorities or private establishment on receiving complaint on the ground of disability.-** (1) The head of the establishment shall ensure that the provision of sub-section (3) of section 3 of the Act are not misused to deny any right or benefit to persons with disabilities covered under the Act.

(2) If the head of the Government establishment or a private establishment employing twenty or more persons receives a complaint from an aggrieved person regarding the discrimination on the ground of disability, he shall –

- (a) Initiate action in accordance with the provisions of the Act; or
- (b) Inform the aggrieved person in writing as to how the impugned act or omission is a proportionate means of achieving a legitimate aim.

(3) If the aggrieved person submits a complaint to the Chief Commissioner or the State Commissioner for Persons with Disabilities, or the Deputy Commissioner at the District level, as the case may be, the complaint shall be disposed of within a period of sixty days:

Provided that in exceptional cases, the Chief Commissioner or the State Commissioner or the Deputy Commissioner may dispose of such complaint within thirty days.

(4) No establishment shall compel a person with disability to partly or fully pay the costs incurred for "reasonable accommodation" as defined in the Act.

**4. State Committee for Research on Disability:-** (1) The State Government shall, by notification in the Official Gazette, constitute a Committee for Research on Disability as under clause (ii) of sub – section (2) of section-6, which shall consist of the following members, namely:-

1	An eminent person having vast experience in the field of science and medical research, nominated by the State Government.	Chairperson
2	The Director, Department of Health and Family Welfare	Member
3	The Director, Department of Medical Education	Member
4	Five persons drawn from the State or Central Institutes each representing one of the five groups of disabilities under the Act i.e., Locomotor, Visual, hearing, Intellectual and Multiple Disabilities to be nominated by the State Government.	Members
5	Five persons as representatives of the registered organizations, from each of the five groups of specified disabilities in the Schedule to the Act, to be nominated by the State Government	Members
6	The Vice Chancellor or his nominee of the Rajiv Gandhi University of Health Sciences, Bengaluru	Ex-officio Member
7	The Vice Chancellor or his nominee, The Bengaluru University, Bengaluru	Ex-officio Member
8	The Director, NIMHANS or his nominee, Bengaluru	Ex officio Member
9	The Principal, Helen-Keller Teacher Training Institution, the Department for Empowerment of Differently Abled and senior citizens	Ex officio Member
10	The Director, Department of Empowerment of Persons with Disabilities and senior citizen in the State Government	Member Secretary
11	Representative of the Social Welfare Department not below the rank of Deputy Secretary	Member
12	The Commissioner of Public Instruction or his nominee who shall be an officer not below the rank of Director of Public Instructions	Member
13.	Representative of the Women and Child Development Department of the rank not below Joint Director	Member

Provided that at least one representative of the registered organizations shall be a woman.

(2) The Chairperson may invite any expert as a special invitee.

(3) The term of office of the nominated members shall be for a period of three years from the date on which they enter upon office, and the nominated member shall be eligible for re-nomination for one more term.

(4) One third of the members shall constitute the quorum of the meeting.

(5) The non-official members and special invitees shall be entitled for travelling allowance and daily allowance as admissible to a Group "A" Officer of the State Government.

(6) The State Government may provide the Committee with such secretarial and other staff as it deems necessary.

(7) The Committee for research shall receive applications regarding permission to subject any person with disability and shall examine the reasons and may grant permission within stipulated timeline in cases which are with free consent attained through accessible modes, means and formats of communication from the persons with disability and where it involves no torture, cruelty or inhuman or degrading treatments.

(8) The committee shall frame guidelines on timeline and research norms subject to approval of the Government.

**5. Procedure to be followed by the Executive Magistrate.-** For the purpose of dealing with the complaints under section 7 of the Act, the Executive Magistrate shall follow the procedure provided in sections 133 to 143 of the Code of Criminal Procedure, 1973 (2 of 1974).

**6. Limited Guardianship.-** (1) The designated authority shall grant the support of limited guardianship to a person with disability to take a legally binding decision on his behalf.

(2) The designated authority before granting limited guardianship for a person with disability shall satisfy itself that such person is not in a position to take legally binding decision on his own.

(3) The designated authority shall take a decision preferably within a period of one month from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to its notice of the need of such limited guardianship:

Provided that the consent of the person to act as a limited guardian shall also be obtained before grant of such limited guardianship.

(4) The validity of the limited guardianship as appointed under sub-rule (1) shall be initially for a period of five years which can be further extended by the District Court:

Provided that the designated authority while extending the validity of the limited guardianship shall follow the same procedure as followed while granting the initial guardianship.

(5) While granting the support of such limited guardianship the designated authority shall consider a suitable person to be appointed as a limited guardian from among the following;

- (a) The parents or adult children or spouse of the person with disability
- (b) Immediate brother or sister
- (c) Other Blood relatives or care givers or prominent personality
- (d) The head of institution where the person with disability is under care.

(6) Only those individuals who are over the age of eighteen years and who have not been previously convicted of any cognizable offence as defined in the Code of Criminal Procedure, 1973 (1 of 1974) shall be appointed.

(7) The limited guardian appointed under sub-rule (1) shall consult the person with disability in all matters before taking any legally binding decisions on his behalf.

(8) The appointed limited guardian shall ensure that the legally binding decisions taken on behalf of the person with disability are in the best interest of the person with disability.

(9) The Designated Authority at the district level shall consist of;

- (a) The Deputy Commissioner – Chairperson
- (b) Five persons drawn from the State Institutes each representing each of the five groups of disabilities under the Act i.e., Loco motor, Visual, hearing, Intellectual and Multiple Disabilities to be nominated by the Deputy Commissioner – Members
- (c) District Disability Welfare Officer of the District – Member Secretary

(10) The State Commissioner for Persons with Disabilities shall be the appellate authority for the purpose of sub-section (3) of Section.14 of the Act.

(11) While considering the application for appointment of a limited guardian, the designated authority shall consider,-

- (i) whether the person with disabilities needs a limited guardian;
- (ii) the opinion of the person with disability if such person is in a position to give such opinion;
- (iii) the purposes for which the limited guardianship is required for persons with disabilities;
- (iv) The period for which it is required but not exceeding five years.

(12) While taking a decision for the appointment of limited guardianship, the designated authority shall ensure that the person whose name has been suggested for appointment as limited guardian,-

- (i) is not of unsound mind;
- (ii) does not have a history of criminal conviction;
- (iii) is not dependent on others for his own living; and
- (iv) has not been declared in-insolvent or bankrupt.

Provided that while making appointment of a limited guardian, the designated authority shall provide for the obligations which are to be fulfilled by the limited guardian and it shall be ensured that any decision taken by the limited guardian shall follow a system of joint decision making between the person with disability and the limited guardian based on mutual trust and understanding.

(13) The application for appointment of limited guardian shall be made in Form I.

(14) The confirmation of appointment of limited guardian on such application shall be issued in Form-II.

(15) Every limited guardian appointed under the Act shall furnish a detailed report to the designated authority within two months before the expiry of one year or expiry of the limited guardianship period, whichever is earlier, as to how the obligation vested on him has been or is being fulfilled.

(16) The designated authority, on receipt of an application for removal of a limited guardian from the person with disability or a parent or a relative of a person with disability or a registered organization on the grounds such as failure to fulfill obligations, abuse of powers, abuse or neglecting a person with disability, misappropriation or neglecting the property or any other genuine reasons shall investigate and take final decision in this regard within a period of ten days.

Provided that the designated authority shall have power to suspend the limited guardianship with immediate effect, without notice, pending his removal, if the designated authority is satisfied that grave and irreversible harm will be caused to the persons with disabilities on account of the continuance of the limited guardianship or when the person with disability himself applies for a revocation of the limited guardianship.

(17) The designated authority shall record in writing its reasons for removal of the limited guardian or rejection of the application.

(18) No decision shall be taken by the designated authority under sub rule (16) without giving the limited guardian an opportunity of being heard.

### CHAPTER III

#### EDUCATION

7. **Terms and conditions before recognition of the educational institution.-** (1) The terms and conditions of grant of recognition to the educational institutions by the competent authority in the State may include the requirements to comply with the provisions of section 16 of the Act;

(2) Every institution applying for recognition shall submit a letter of commitment for inclusion of girls/women with disabilities at all levels of recruitment of staff or admission of students;

(3) The scholarships for students at primary to higher education shall be given based on the principles of gender equality to encourage girls/women to access education.

(4) The Department of Primary and Secondary Education and the Department of Empowerment of Differently Aabled and Senior Citizens shall ensure the availability of Special Educators/Teachers in adequate number. In every institution Training in Braille, Sign Language and other special needs may be given adequate emphasis.

8. **Nodal Officer in the District Education Office.-** There shall be a nodal officer in the District Education Office to deal with the matters relating to admission of children with disabilities and the facilities to be provided to them in schools in accordance with the provisions of sections 16 and 31 of the Act.

### CHAPTER IV

#### VACANCIES FOR PERSONS WITH BENCHMARK DISABILITIES

9. **Computation of vacancy and reservation.-** (1) The State Government shall make suitable reservation policy accommodating and providing equal opportunity for Persons with Disability in Group "A" to Group "D" posts.

(2) The reservation for persons with disabilities in accordance with the provisions of the Act shall be horizontal and the vacancies for persons with benchmark disabilities shall be maintained as a separate class.

(3) The posts to be filled by Persons with Disability shall be identified by the Committee of experts headed by the Secretary to Government, Women and Child Development Department and the members as notified by the Government from time to time.

### CHAPTER V

#### EMPLOYMENT

10. **Manner of publication of equal opportunity policy.-** (1) Every establishment shall publish equal opportunity policy for persons with disabilities.

(2) The establishment shall display the equal opportunity policy preferably on their website, failing which, at conspicuous places in their premises.

### CHAPTER VI

#### CERTIFICATE OF REGISTRATION OF INSTITUTIONS

11. **Competent Authority.-** The District Disabilities Welfare Officer shall be the competent authority for the purpose of Chapter IX of the Act.

12. **Application and grant of certificate of registration.-** (1) A person desirous of establishing or maintaining an institution for persons with disabilities may make an application in Form-III to the District Disabled Welfare Officer referred to in section 51 of the Act.

Every application made under sub-rule (1) shall be accompanied with,-

- Documentary evidence of work in the area of disability;
- The Constitution or bye laws or regulations governing the institution;
- Audited statement and details of grants received in the last three years, preceding the date of application (if available);
- A statement regarding total number of persons employed in the institution along with their respective duties;
- The number of professionals employed in the institution;
- A statement regarding qualifications of the professionals employed by the institution; and
- The proof of residence of the applicant.

(2) Every application made under sub rule (1) shall comply with the following requirements in respect of the concerned institution, namely:-

- That the institution had been working in the field of rehabilitation of persons with disabilities for not less than three years immediately before the date on which the application is made;

- (b) That the institution is registered under the Karnataka Societies Registration Act, 1960 or Karnataka Cooperative societies Act 1959 or under any other law for the time being in force in the State and a copy of such registration certificate along with the byelaws and memorandum of association of the society shall accompany the application;
- (c) That the institution has not been running to profit any individual or a body of individuals.
- (d) That the institution has employed professional registered with the Rehabilitation Council of India to cater to the special needs of children with disabilities
- (e) That the institution has adequate teaching and learning material for the persons with disabilities; and
- (f) That the institution has submitted its audited accounts and annual reports of last three years with the competent authority.

(3) The certificate of registration under this rule, unless revoked under section 52 of the Act, shall remain in force for a period of five years on and from the date on which it is granted or renewed.

(4) An application for the renewal of certificate of registration shall be made in the same manner as the application for grant of certificate under sub-rule (1) accompanied with the previous certificate of registration and a statement that the applicant is applying for renewal of the certificate so accompanied:

Provided that such application shall be made before sixty days of the expiry of the validity of such certificate;

Provided further that the competent authority may consider application for renewal of the certificate of registration after sixty days but not later than one twenty days, if he is satisfied that sufficient reasons has been provided for such delay.

(5) If the application for renewal of certificate of registration is made before its expiry as specified in the proviso to sub-rule (4), the certificate of registration shall continue to be in force until orders are passed on the application and the certificate of registration shall be deemed to have expired if application for its renewal is not made within sixty days as specified in the said provision.

(6) Every application made under sub-rule (1) or sub rule (5), in which the competent authority referred to in sub-section (1) of Section 51 of the Act, is satisfied that the requirements for grant of certificate of registration under the Act and these rules have been complied with, shall be disposed of by it within a period of ninety days thereafter.

**13. Appeal against the order of competent authority.-** Any person aggrieved by the order of the Registering (competent) authority referred to in sub - section (1) of Section 51 of the Act, refusing to grant a certificate of registration or revoking a certificate of registration may, within three months from the date of the order, prefer an appeal against that order to the Deputy Director, Directorate for the Empowerment of Differently Abled and Senior Citizens. The appellate authority may, after such an enquiry into the matter as it considers necessary and after giving the appellant an opportunity of hearing, make such order as it thinks fit. The Order of Appellate authority shall be final.

## CHAPTER VII

### CERTIFICATION OF SPECIFIED DISABILITIES

**14. Application for certificate of disability.-** (1) Any person with specified disability may apply in Form-IV for a certificate of disability and submit the application to the certifying authority designated by the State Government under section 57 of the Act.

Provided that where a person with disability is a minor or suffering from intellectual disability or any other disability which renders him unfit or unable to make such an application himself, the application on his behalf may be made by his legal guardian or by any organization registered under the Act having the minor under its care.

(2) The application shall be accompanied by,-

- (a) proof of residence;
- (b) two recent passport size photographs; and
- (c) adhaar number or adhaar enrolment number, if any.

**Note.-** No other proof of residence shall be demanded from the applicant who has adhaar or adhaar enrolment number.

**15. Issue of certificate of disability.-** (1) On receipt of an application under this rule, the certifying authority designated under section 57 of the Act shall, verify the information as provided by the applicant and shall assess the disability in terms of the relevant guidelines issued by the Central Government and after satisfying himself that the applicant is a person with disability, issue a certificate of disability in his favour in Form-V, VI and VII as the case may be.

(2) The certifying authority shall issue the certificate of disability within a month from the date of receipt of the application.

(3) The certifying authority shall, after due examination,-

- (i) Issue a permanent certificate of disability in cases where there are no chances of variation of disability over time in the degree of disability; or
- (ii) Issue a permanent certificate of disability indicating the period of validity, in cases where there is any chance of variation over time in the degree of disability.

(4) If an applicant is found ineligible for issue of certificate of disability, the certifying authority shall convey the reasons to him in writing under Form VIII within a period of one month from the date of receipt of the application.

(5) The State Government shall ensure that the certificate of disability is granted on online platform from such date as may be notified by the Central Government.

**16. Certificate issued under this rule to be generally valid for all Purposes.-** A person to whom the certificate issued under this rule shall be entitled to apply for facilities, concessions and benefits admissible for persons with disabilities under schemes of the Government and of non Governmental organizations funded by the Government.

**17. Validity of certificate of disability issued under the repealed Act.-** The certificate of disability issued under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) shall continue to be valid after commencement of the Act for the period specified therein.

**18. Appeal regarding Certificate of Disability.-** (1) Any person aggrieved with the decision of the authority issuing the certificate of disability may within ninety days from the date of the decision, prefer an appeal to the District level Committee in the following manner,-

- (a) The appeal shall contain brief background and the grounds for making the appeal.
- (b) The appeal shall be accompanied by a copy of the certificate of disability or letter of rejection issued by the certifying authority.

Provided that where a person with disability is a minor or suffering from any disability which renders him unfit to make such an appeal himself, the appeal on his behalf may be made by his legal or limited guardian as the case may be.

(2) On receipt of such appeal, the District Level Committee shall provide the appellant an opportunity to present his case and thereafter pass such reasoned and detailed order as it may deem appropriate.

(3) Every appeal preferred under sub-rule (1) shall be decided as expeditiously as possible and not later than a period of sixty days from the date of receipt of the appeal.

#### CHAPTER VIII

#### STATE ADVISORY BOARD

**19. Allowances for the Members of the State Advisory Board.-** (1) The non official member of the state advisory board on disability not residing in the State Capital region, shall be paid an allowance of rupees two thousand per day for each day of the actual meetings of the said Board.

(2) The non-official members of the State Advisory Board on Disability, residing outside the state capital region, shall be paid daily and travelling allowances for each day of the actual meeting of the said Board at the rate admissible to a Group "A" or equivalent Officer of the State Government.

**20. Notice of the Meeting.-** The meetings of the State Advisory Board on disability constituted under sub - section (1) of Section 66 of the Act shall ordinarily meet in the Capital of the State on such dates as may be fixed by its Chairperson:

Provided that it shall meet at least once in every six months.

(2) The Chairperson of the State Advisory Board shall, upon the written request of not less than ten members of the State Advisory Board, call a special meeting of the Board.

(3) Fifteen clear days 'notice of an ordinary meeting and five clear days' notice of a special meeting specifying the time and the place at which such meeting to be held and the business to be transacted thereat, shall be given by Member Secretary of the State Advisory Board to the members of the Board.

(4) Notice of a meeting shall be given to the members of the State Advisory Board by delivering the same to them by messenger or sending it by registered post to their respective last known places of residence or business or by email or in such other manner as the chairperson of the Board may, in the circumstances of the case, think fit.

(5) No member shall be entitled to bring forward for the consideration of the meeting, any matter of which he has not given ten clear days notice to the Member Secretary, unless the Chairperson may permit him to do so.

(6) The State Advisory Board shall adjourn its meeting from day to day or to any particular days as under:-

- (a) Where a meeting of the State Advisory Board is adjourned from day to day, notice of such adjourned meeting shall be given, to the members available at the place of the meeting where the meeting which was adjourned, was to be held and it shall not be necessary to give notice of the adjourned meeting to the rest of the members.
- (b) Where a meeting of the State Advisory Board is adjourned not from day to day but from the day on which the meeting is to be held to another date, notice of such meeting shall be given to all the members of the Board as specified in sub-rule(4).

**21. Presiding officer.-** The Chairperson of the State Advisory Board shall preside at every meeting of the Board. When the Chairperson is absent from any meeting, the members present shall elect one of the members to preside in that meeting.

**22. Quorum.-** (1) One-third of the total members of the State Advisory Board shall form the quorum for any meeting.

(2) If at any time fixed for any meeting or during the course of any meeting less than one-third of the total members are present, the Chairperson thereof may adjourn the meeting to such hours on the following or on some other future date as he may fix.

(3) No quorum shall be necessary for the adjourned meeting of the Board.

(4) No matter, which had not been on the agenda of the ordinary or the special meeting of the Board, as the case may be, shall be discussed at adjourned meeting.

(5) (a) When a meeting of the Board is adjourned under sub-rule (2) for want of quorum in the following day, notice of such adjourned meeting shall be given to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to other members, and

(b) Where a meeting of the Board is adjourned under sub-rule (2) for want of quorum not to the following, but on a date with sufficient gap, notice of such adjourned meeting shall be given to all the members of the Board in the manner as specified in sub-rule (4) of rule 20.

**23. Minutes.-** (1) The Member Secretary shall keep the names of all the members of the Board who attended the meeting of the Board and of the proceedings of the meetings in a book to be maintained for that purpose.

(2) The minutes of the previous meeting of the Board shall be read at the beginning of every succeeding meeting, and shall be confirmed and signed by the presiding officer at such meeting.

(3) The proceedings shall be open to inspection by any member of the Board at the office of the Member-Secretary of the Board during office hours.

**24. Business to be transacted at meeting.-** Except with the permission of the presiding officer, no business which is not entered in the agenda or of which notice has not been given by a member under sub-rule (5) of rule 19 shall be transacted at any meeting of the Board.

**25. Agenda for the meeting of the State Advisory Board.-** (1) At any meeting of the Board business shall be transacted in the order in which it is entered in the agenda, unless otherwise resolved in the meeting with the permission of the presiding officer.

Provided that either at the beginning of the meeting of the Board or after the conclusion of the debate on a motion during the meeting, the presiding officer or a member may suggest a change in the order of business as entered in the agenda and if the Chairperson of the Board agrees, such a change shall take place.

**26. Decision by majority.-** All questions considered at a meeting of the Board shall be decided by a majority of votes of the members of the Board present and voting and in the event of equality of votes, the Chairperson, or in the absence of the Chairperson, the Vice-Chairperson of the Board or in the absence of both the Member presiding at the meeting, as the case may be, shall have a second or casting vote.

**27. No proceeding to be invalid due to vacancy or any defect.-** No proceeding of the Board shall be invalid by reasons of existence of any vacancy in or any defect in the constitution of the Board.

**28. District - Level Committee.-** The District-Level Committee on disability to be constituted by the State Government under Section 72 of the Act, shall consist of,-

(i)	The Deputy Commissioner of the district	Chairperson
(ii)	The Chief Executive Officer of zilla Panchayat	Co-Chairperson
(iii)	The Superintendent of Police	Ex-officio member
(iv)	The District Surgeon or Medical Superintendent	Ex officio member
(v)	The District Health and Family Welfare Officer	Ex-officio member
(vi)	The Psychiatrist of the District Hospital	Ex-officio member
(vii)	Public Prosecutor of the District	Ex-officio member
(viii)	The Secretary, District Legal Services Authority	Ex officio member
(ix)	Two Persons with disabilities representing non-governmental organizations of persons with disability nominated by the Deputy Commissioner	Member
(x)	Not more than 5 persons with disability as defined in Clause(s) of Section 2 of the Act, nominated by the Deputy Commissioner. Preferably One each from 5 disability groups.	Members
(xi)	Any other member as invited by the Chairperson	Member
(xii)	District Disabled Welfare Officer	Member Secretary
(xiii)	Representative of the Social Welfare Department not below the rank of Deputy Director	Member