

[AS INTRODUCED IN THE SENATE]

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BILL

to amend the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981

Whereas a practical facilitative system for welfare of the disabled persons does not exist at District, Tehsil and Union Council level;

And whereas it is expedient to amend the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) to provide the same facilitative system for the disabled persons;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Disabled Persons (Employment and Rehabilitation) (Amendment) Act, 2011.

(2) It shall extend to the whole of Pakistan.

(3) It shall come into force at once.

2. Amendment of section 2, Ordinance XL of 1981.- In the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981), hereinafter referred to as the said Ordinance, in section 2,-

(i) for sub-section (a), the following shall be substituted, namely:-

“(a) “Chairman” means the Chairman of the National Council, Provincial Council, District Council, Tehsil Council and Local Council, or as the case may be;”;

(ii) after sub-section (d), the following new sub-section shall be inserted, namely:-

“(dd) “District Council” means the district council established under section 6A;”;

(iii) in sub-section (f), for the words “one hundred”, the word “fifty” shall be substituted;

(iv) after sub-section (g), the following new sub-section shall be inserted, namely:-

“(gg) “Government” means Federal Government, a Provincial Government, District, Tehsil and Union Council, or as the case may be;”;

(v) for sub-section (h), the following shall be substituted, namely:-

“(h) “Government establishment” includes any autonomous or semi-autonomous body, university, college, professional school and any organization controlled or managed by the Federal Government, a Provincial Government, District, Tehsil and Union Council;”;

(vi) after sub-section (h), amended as aforesaid, the following new sub-section shall be inserted, namely:-

“(hh) “Local Council” means the Local Council established under section 6E;”;

(vii) in sub-section (k), the word “and” occurring at the end, shall be omitted;

(viii) for sub-section (l), the following shall be substituted, namely:-

“(l) “Secretary” means the Secretary of the National Council, Provincial Council, District Council, Tehsil Council or Local Council, as the case may be; and”;

(ix) after sub-section (l), amended as aforesaid, the following new sub-section shall be added, namely:-

“(m) “Tehsil Council” means a Tehsil Council established under section 6C.”;

3. Insertion of new section 2A, Ordinance XL of 1981.- In the said Ordinance, after section 2, amended as aforesaid, the following new section, shall be added, namely:-

“2A. Facilities.- Facilities to be provided for the Welfare of disabled persons at all levels. The following necessary facilities will be provided on top priority basis by the Federal Government, a Provincial Government, District, Tehsil and Union Council:-

(a) Government will make sure quota of two percent (2%) for disabled persons for employment in the federal, provincial and districts departments and if any institution or department ignores the quota of two percent (2%) for disabled persons while giving advertisement for employment then a serious action be taken against them;

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- (b) Government will give full concession in admission fee and relief of seventy-five percent (75%) in tuition fee in government educational institutions and fifty percent (50%) in private educational institutions and other financial assistance required by needy disabled persons and seats will be reserved in every stage of education;
- (c) It would be duty of the Federal Government to provide the special Computerized National Identity Card (CNIC) at home to disabled persons;
- (d) Government will ensure to provide fifty percent (50%) concession to the disabled persons in PIA, Railway, public and private transport companies;
- (e) Government will provide free treatment to the disabled persons in federal, provincial, district headquarter, social security hospitals, dispensaries and in private hospitals on sixty percent (60%) charges be taken;
- (f) Federal government will provide special discount of thirty percent (30%) to the disabled persons in utility stores;
- (g) Government will ensure provision of wheel chairs on demand from disabled persons at airports, parks, railway stations and other public places;
- (h) Pakistan Bait-ul-Maal and Zakat and Ushr departments will provide help on monthly basis to the needy disabled persons and a sum of rupees one hundred thousand will be given on the marriage of their children. Pakistan Bait-ul-Maal will give interest free loans up to rupees fifty thousand for setting up small businesses;
- (i) Government will reserve special quota for the disabled persons in Federal and Provincial Public Service Commissions;
- (j) The Federal Government will, in order to enable disabled persons to easily use public facilities constructed by the government, buildings, traffic and other public facilities, give appropriate consideration to the structure of the said facilities and the improvement of equipment therein;

- (k) Government will ensure full access to knowledge through information technology with the help of adoptive software's and hardware's those have become a common facility for visually impaired, deaf and physically handicapped;
- (l) Government will give full relief to disabled persons on import of vehicles and other items relating to disabilities;
- (m) Government will prefer the appointments of disabled persons while recruiting on posts such like tube-well operator etc, staff of complaint offices of utility departments i.e. Gas, Electricity and Water Authority at the Union Council level; and
- (n) All the disabled persons working on contractual basis in any institution of government or private shall be made permanent within a period of six months after the commencement of this Act.

4. Insertion of new sections, Ordinance XL of 1981.- In the said Ordinance, after section 6, the following new sections, shall be inserted, namely:-

"6A. District Council.- A provincial government shall establish a Council to be called as the District Council for providing facilities and full cooperation to the disabled persons at District level, consisting of the following chairman and members, namely:-

- (a) The District Nazim/DCO (District Coordination Officer), who shall also be its Chairman;
- (b) One representative of the Education Department;
- (c) One representative of the Health Department;
- (d) One representative of the Zakat and Ushr Department;
- (e) One representative of the Labour Department;
- (f) One representative of the persons with disabilities;
- (g) Chairmen of the Tehsil Councils; and
- (h) Secretary of the District Council appointed by the Chairman.

6B. Functions of the District Council.- Subject to the directions given by the Federal Government and a Provincial Government, District Council shall,-

- (a) Formulate policy for providing facilities of employment, rehabilitation and welfare to the disabled persons at district level;

- (b) Evaluate, assess and co-ordinate the execution of federal and provincial policy at district level and have overall responsibility for the achievement of the purposes of this Act;
- (c) Coordinate the survey of the disabled persons in the whole district through the Tehsil and Local Councils;
- (d) Arrange and coordinate the medical examination and treatment of the disabled persons at district level and health counters shall be established in the hospitals and shall provide useful appliances and other devices needed by persons with to help with their disabilities;
- (e) Control and supervise the establishment of training centers for disabled persons;
- (f) A facilitation counter shall be established in every department at district level;
- (g) Build coordination among the institutions established for the welfare of disabled persons;
- (h) The Council shall arrange awareness campaign on electronic and print media about the problems faced by disabled persons and solutions and facilities provided by the government at district level;
- (i) Ensure the employment quota of two percent (2%) for disabled persons at District, Tehsil and Union Council level;
- (j) Ensure the concession in admission and relief of seventy-five (75%) in tuition fee in government institutions and fifty percent (50%) in private institutions and other financial assistance provided to needy disabled persons at district level;
- (k) Promoting research and development in the protection, medical treatment, living guidance, rehabilitation training according to the age, type and severity of disability. It would be duty of the district council of the taking of such other measures as are necessary for carrying out purposes of this Act; and
- (l) To implement in the letter and spirit of those facilities ensured under section 2A.

6C. Tehsil Council.- The District Government shall establish a Council to be called the Tehsil Council for providing facilities and full cooperation to the disabled persons consisting of the following members, namely:

- (a) The Tehsil Nazim/TMO, who shall also be its Chairman;
- (b) One representative of the Education Department;
- (c) One representative of the Health Department;
- (d) One representative of the Zakat and Ushr Department;
- (e) One representative of the Labour Department;
- (f) One representative of the disabled persons;
- (g) Chairmen of the Local Councils; and
- (h) Secretary of the Tehsil Council appointed by the Chairman.

6D. Functions of the Tehsil Council.- Subject to the directions given by District Council, the Tehsil Council shall:

- (a) Follow the policy given by the district council for providing facilities of employment, rehabilitation and welfare of the disabled persons at Tehsil level;
- (b) Co-ordinate the execution of Federal, Provincial and District policy at Tehsil level and have overall responsibility for the achievement of purposes of this Act;
- (c) Coordinate the survey of the disabled persons in the whole Tehsil through local councils;
- (d) Arrange and coordinate the medical examination and treatment of the disabled persons at Tehsil level and health counters shall be established in the hospitals and shall provide prosthetic appliances and other devices needed by the disabled persons to help with their disabilities;
- (e) Control and supervise the establishment of training centers for the disabled persons;
- (f) A facilitation counter shall be established in every department at Tehsil level and make arrangements for the establishing counters at union council level;
- (g) Build coordination among the institutions established for the welfare of disabled persons;

- (h) The Council shall arrange programs for awareness about the problems faced by the disabled persons and solutions and facilities provided by the Government at District, Tehsil and Union Council level;
- (i) Ensure the employment quota of two percent (2%) for the disabled person at Tehsil and Union Council level;
- (j) Ensure the concession in admission and relief of seventy-five percent (75%) in tuition fee in government institutions and fifty percent (50%) in private institutions and other financial assistance provided to needy disabled persons at Tehsil level;
- (k) Promoting research and development in the protection, medical treatment, living guidance, rehabilitation training according to the age, type and severity of disability; and it would be the duty of the Tehsil Council of taking of such other measures as are necessary for carrying out purposes of this Act.
- (l) To implement in letter and spirit of those facilities ensured under section 2A.

6E. Local Council.- The Tehsil Council shall establish a Council to be called the Local Council at Union Council for providing facilities and full cooperation to the disabled persons consisting of the following members, namely:-

- (a) The Union Council Nazim, who shall be its Chairman;
- (b) One representative of the Education Department;
- (c) One representative of the Health Department;
- (d) One representative of the Zakat and Ushr Department;
- (e) One representative of the Labour Department;
- (f) One representative of the disabled persons;
- (g) Secretary of the Union Council will be Secretary of the Local Council.

6F. Functions of the Local Council.- Subject to the directions given by District Council, Tehsil Council, the Local Council shall:

- (a) Follow the policy given by the District and Tehsil Council for providing needed facilities for the rehabilitation and welfare of the disabled persons at union council level by providing means for facilitating daily life, by making visits to the homes of the disabled persons or other measures;

- (b) Implement the Federal, Provincial, District and Tehsil policy matters and has full responsibility for the achievement of the purposes of this Act.;
- (c) Complete the survey of the disabled persons in the union council;
- (d) Register the cases for the medical examination and treatment of the disabled persons from the union council;
- (e) Establish and supervise the training centers with the help of District and Tehsil Councils, for the disabled persons;
- (f) A facilitation counter shall be established at union council level and that counter would be responsible for Computerized National Identity Card (CNIC);
- (g) Build coordination among the institutions established for the welfare of disabled persons;
- (h) The Local Council shall arrange programs, special facilities of sports, recreation, transport and give full cooperation and provide facilities as disabled persons need or require and it would be the duty of Local Council to have coordination with the Tehsil, District and Province for all the matters related to the disabled persons;
- (i) Ensure the employment quota of two percent (2%) for the disabled persons in the institutions fall in the area of union council;
- (j) Ensure the concession in admission and relief of seventy-five (75%) in tuition fee in government institutions and fifty percent (50%) in private institutions and other financial assistance provided to the disabled persons at union council level;
- (k) Promoting research and development in the protection, medical treatment, living guidance, rehabilitation training according to the age, type and severity of disability; and
- (l) To implement in letter and spirit of those facilities ensured under section 2A.”.

5. Amendment of section 7, Ordinance XL of 1981.- In the said Ordinance, in section 7,-

- “(i) in sub-section (1), after the words “Provincial Council”, the words and commas “, District, Tehsil and Local Councils” shall be inserted;
- (ii) in sub-section (2), after the words “Provincial Council”, the words and commas “, District, Tehsil and Local Councils” shall be inserted;
- (iii) in sub-section (3), after the words “Provincial Council”, the words and commas “, District, Tehsil and Local Councils” shall be inserted;
- (iv) in sub-section (4), after the words “Provincial Council”, the words and commas “, District, Tehsil and Local Councils” shall be inserted; and
- (v) in sub-section (5), after the words “Provincial Council”, the words and commas “, District, Tehsil and Local Councils” shall be inserted.”

6. Amendment of section 9, Ordinance XL of 1981.- In the said Ordinance, in section 9, after the words “Provincial Council”, the words and commas “, District, Tehsil and Local Councils” shall be inserted.

7. Amendment of section 12, Ordinance XL of 1981.- In the said Ordinance, in section 12,-

- “(i) in sub-section (1), after the word “Council”, occurring at the end the words and commas “, District Council, Tehsil Council or Local Council level” shall be inserted;
- (ii) in sub-section (3), after the word “register”, occurring at the end the words “and each Council must bear all the data of persons with disabilities in its respective area” shall be inserted; and
- (iii) in sub-section (5), for the full stop occurring at the end a colon shall be substituted, and thereafter the following proviso shall be added, namely:-

Provided that the Provincial Council shall give concrete reason by doing such action against the disabled person.”.

8. Substitution of section 13, Ordinance XL of 1981.- In the said Ordinance, for section 13, the following shall be substituted, namely:-

"13. Establishment of training centers.- The National Council shall arrange for the training of the disabled persons in such trades or vocations as it thinks fit, and shall establish training centers in every union council under the supervision of Local council in such trades or vocations and in such manner as may be approved by the federal government and proposed by the relevant Provincial, District, Tehsil and Local Council."

9. Amendment of section 15, Ordinance XL of 1981.- In the said Ordinance, in section 15,-

- "(i) in sub-section (1), for the word "National", the word "Provincial" shall be substituted.
- (ii) in sub-section (2), for the full stop occurring at the end a colon shall be substituted, and thereafter the following proviso shall be added, namely:-

Provided that the National Council shall give reasons to debar any disabled person from training, employment or any other relief."

10. Amendment of section 16, Ordinance XL of 1981.- In the said Ordinance, in section 16,-

- "(i) for sub-section (1), the following shall be substituted, namely:-

(1) Any person aggrieved by an order under section 15 may prefer an appeal in the court of law within sixty days of the date of the order.

- (ii) in sub-section (2), for the words "National Council", the words "The court of law" shall be substituted."

11. Substitution of section 17, Ordinance XL of 1981.- In the said Ordinance, for section 17, the following shall be substituted, namely:-

"17. Fund.- There shall be established by the Federal Government a Fund to be known as the disabled Persons Facilitation, Employment, Rehabilitation and Welfare Fund which shall comprise-

- (a) all sums paid by the establishment under section 11;
- (b) all grants, if any, made by the Federal Government, Provincial Governments or District, Tehsil and Union Council; and
- (c) donations, if any, made by private individuals.”.

12. Amendment of section 21, Ordinance XL of 1981.- In the said Ordinance, in section 21, for sub-section (2), the following shall be substituted, namely:-

“(2) The Magistrate of first class shall take cognizance of an offence punishable under this Act upon a complaint in writing made by the disabled person himself, or under the authority of, the National Council or the Provincial Council, District Council, Tehsil Council or Local council.”.

STATEMENT OF OBJECTS AND REASONS

In 1981, a law was passed for the welfare, employment and rehabilitation of disabled persons, which has no comprehensive legislation to cover the problems and hardships faced by the disabled persons. Keeping this very objective in mind, a dire need is felt at large for such legislation to formulate, assess, manage and address the problems and grievances faced by the disabled persons from the gross-root level to top level and *vice-versa*.

2. In 2002, the Federal Government introduced the “National policy for the disabled persons” and funds were allocated for ten years from 2001-2011 for education, training and rehabilitation of the handicapped. Main responsibility was of the Ministry of Woman Development, Social Welfare and Special Education. But all the steps remained in the papers, the work done was only in the main cities and that also did not meet the requirements of the disabled persons because there was no comprehensive legislative cover upon the policies and planning.

3. It is unfortunate to say that during the last thirty years (after the law was passed), governments have not introduced any improved and comprehensive legislation in both the Houses: National Assembly and the Senate.

4. The object of amendments is to introduce practical approach through proposed system at District, Tehsil and Union Council level, for the welfare of the disabled persons in every sphere of life.

5. According to the announced policy of Federal Government in 2002, quota was increased to two percent (2%) by a special directive of the Prime Minister for the public and private sector to employ the disabled persons but unfortunately, reports show that special persons were deprived of their right of two percent (2%) seats in Federal Departments. There were almost daily reports telecasted on TV channels and published in print media regarding the grievances of the disabled persons.

6. According to the print media details, the total strength of staff in fifty-five (55) Ministries and Divisions is thirty thousand four hundred ninety-six (30,496) persons, but against six thousand one hundred and ten (6,110) quota posts for special persons, only two thousand and sixteen (2,016) of disabled persons have been adjusted. Whereas there is a staggering shortfall of four thousand and forty-nine (4,049) posts.

7. This Bill proposes that a new section 2A shall be inserted after section 2 of the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981), where fourteen facilities are to be provided on top priority basis by the government, according to which: The government must ensure quota of two percent (2%) for the disabled persons in the Federal, Provincial and Districts Departments.

8. In case of any institution or department ignores the quota of two percent (2%) for the disabled persons while giving advertisement for employment then a serious action is taken against them.

9. The government will also be bound to give full concession in admission fee and relief of seventy-five percent (75%) in tuition fee in government educational institutions and fifty percent (50%) in private educational institutions and other financial assistance required by needy disabled person and seats will be reserved in every stage of education.

10. It would be the duty of the Federal Government to provide the special Computerized National Identity Cards (CNIC) at home to the disabled persons and Provincial, District, Tehsil and Union Council will make it convenience. The government shall ensure to provide fifty percent (50%) concession to the disabled persons in PIA, Railway, public and private transport fares.

11. The government shall give full relief for the disabled persons on import of vehicles and other items relating to disabilities.
12. The Government shall provide free treatment to the disabled persons in Federal, Provincial, District Headquarter, Social Security Hospitals, Dispensaries and in Private Hospitals only sixty percent (60%) charges be taken.
13. The federal government shall provide special discount of 30% to the disabled persons in utility stores.
14. The government is also proposed to ensure provision of wheel chairs on demand from the disabled persons at airports, parks, railway stations and other public places. Pakistan Bait-ul-Maal and Zakat and Ushr departments will be bound to provide help on monthly basis to the needy disabled persons.
15. Furthermore, a sum of Rupees one hundred thousand is proposed to be given on the marriage of children of the disabled persons.
16. The Bill demands interest free loans up to Rupees fifty thousand (Rs. 50,000) to be provided by Pakistan Bait-ul-Maal for setting up small businesses to the disabled persons.
17. It is demanded that the Federal government shall also ensure provision of easy access to all public and private facilities for the disabled persons.
18. The Bill also seeks full access to knowledge through information technology with the help of adoptive software's and hardware's which have become common facilities for Visually impaired, deaf and physically handicapped persons.
19. While recruiting on posts such like tube well operator etc, complaint offices of utility departments: gas, electricity, and water authority at the union council level, it is proposed that the government shall prefer the appointments of the disabled persons according to their qualification and condition to handle the job.
20. All disabled persons working on contractual basis in any government, semi-government, in private institutions or company are proposed to make permanent within a period of six months after the enactment of this Act.
21. It is further proposed that the District, Tehsil and Local councils shall be established and proposed amendments gives details functions of the said councils. The reason of proposing such amendments was to make government responsible through councils at District, Tehsil and Union Council level. Functions of the councils are as follows;

- (i) Evaluate, assess and co-ordinate the execution of federal and provincial policy at District level and have responsibility for the achievement of the purposes of this Act. Coordinating the survey of the disabled persons. Arranging, coordinating the medical examination, treatment of the disabled persons;
- (ii) Health counters shall be established in the hospitals and shall provide useful appliances and other devices for the help of needed disabled persons. Establishment of training centers, facilities counters in every department;
- (iii) Arranging awareness campaign on Electronic and Print Media about the problems faced by the disabled persons; and
- (iv) It would be the duty of the council to implement section 2A in letter and spirit. It is proposed that if any disabled person is debarred from training, employment or any other relief, the authority of doing so, shall give reasons.

22. An addition is made in the proposed Bill that while taking cognizance of offence, a complaint in writing made by the disabled person himself, or under the authority of the National Council or the Provincial Council, District Council, Tehsil Council or Local Council shall be accepted by the competent court of law.

23. This Bill is designed to achieve the above-said objectives.

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