

[AS INTRODUCED IN THE SENATE]

A

BILL

to provide for the employment, rehabilitation and welfare of the disabled persons

WHEREAS it is expedient to provide for the employment, rehabilitation and welfare of the disabled persons so that they may live a respectful life with self confidence and honor and prove beneficial elements of the society and for the matters connected therewith and ancillary thereto;

It is hereby enacted as follows:-

1. Short title, extent, and commencement.-(1) This Act may be called the Disabled Persons (Employment and Rehabilitation) Act, 2018.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context,—

(a) "Chairman" means the Chairman of the Council;

(b) "commercial establishment" means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract which the owner of any commercial establishment or industrial establishment employs workmen, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker's office or stock exchange, a club, a hotel, a restaurant or an eating house, a cinema or theatre, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purpose of this Act;

2

- (c) "Council" means the Islamabad Council for Disabled Persons established under section 3 of this Act;
- (d) "disabled person" means a person who, on account of injury, disease or congenital deformity, is handicapped for undertaking gainful profession or employment in order to earn his livelihood, and includes a person who is blind, deaf, low vision, physically handicapped or mentally retarded;
- (e) "District Committee" means the Committee established under section 9;
- (f) "disease" includes the physical or mental condition arising from the imperfect development of any organ;
- (g) "employee" means a regular or whole time employee whether employed on daily, weekly or monthly basis, and includes an apprentice;
- (h) "establishment" means a Government establishment, a commercial or an industrial establishment, in which at any time during a year is not less than one hundred employees;
- (i) "Fund" means the Disabled Persons Rehabilitation Fund established under section 20;
- (j) "Government" means the Federal Government.
- (k) "Government establishment" includes any autonomous or semi-autonomous body, University, college, professional school and any organization controlled or managed by the Government;
- (l) "industrial establishment" shall have the same meaning as in the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (W.P. Ordinance No. VI of 1968);
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "rules" means rules made under this Act; and
- (o) "Secretary" means the Secretary of the Council.

3. Establishment of the Islamabad Council for Disabled Persons.- (1)

The Federal Government shall, by notification in the official Gazette, establish a Council to be called the Islamabad Council for the Disabled Persons.

- (2) The Council shall consist of the following members, namely:-
 - (a) Minister for Capital Administration and Development who shall be its Chairman;
 - (b) Secretary of the Capital Administration and Development Division who shall be its Vice Chairman;
 - (c) One representative each of the Ministries of,-
 - (i) National Health Services, Regulations and Coordination,
 - (ii) Industries and Production,
 - (iii) Defence Production,
 - (iv) Human Rights,
 - (v) Interior and Narcotics Control,
 - (vi) Federal Education and Professional Training,
 - (vii) Communications,
 - (d) Chief Commissioner Islamabad Capital Territory;
 - (e) One representative of the Local Government Islamabad Capital Territory;
 - (f) four persons to be nominated by the Federal Government from amongst the persons engaged in the welfare of disabled persons;
 - (g) one representative of the National Council of Social Welfare;
 - (h) one representative of the registered trade unions, to be nominated by the Government; and
 - (i) the Deputy Secretary, Capital Administration and Development Division dealing with social welfare, who shall be the Secretary of the Council.

4. Functions of the Council.- (1) The Council shall make every effort and shall ensure the employment, rehabilitation and welfare of the disabled persons and for this purpose, the Council shall,-

- (a) formulate policy for the employment, rehabilitation and welfare of the disabled persons;
- (b) evaluate, assess and coordinate the execution of its policy by the respective authorities and establishments ; and
- (c) have overall responsibility for the achievement of the purposes of this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Council shall take measures for,-

- (a) medical examination and treatment of the disabled persons;
- (b) providing of training to the disabled persons;
- (c) undertaking appropriate projects for these purposes and issue directions to the Islamabad Capital Territory Administration and other bodies for the implementation of the projects;
- (d) taking stock of the extent of functional disabilities of disabled persons from time to time; and
- (e) taking of such other measures as may be necessary for carrying out the purposes of this Act.

(3) In addition to the above, the Council shall,

- (a) monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
- (b) advise the government on the formulation of policies, programmes, legislation and projects with respect to disability;
- (c) review and coordinate the activities of all the departments of government, other governmental and non-governmental organisations which are dealing with matters relating to persons with disabilities;

5

- (d) identify posts, in the establishments, which can be reserved for the persons with disability;
- (e) take certain steps for early detection and the prevention of occurrence of disabilities and promote various methods of preventing disabilities;
- (f) create awareness amongst the masses through print, electronic and social media on the causes of disabilities and the preventive measures to be adopted; and
- (g) take steps to ensure barrier free environment in public places, work places, public utilities, schools and other institutions.

5. Meetings of the Council.-(1) The meeting of the Council shall be held at such times and at such places as the Chairman may direct and shall be presided over by the Chairman.

(2) The meetings of the Council shall be conducted in accordance with such procedure as may be prescribed, and until such procedure is prescribed, in such manner as the Chairman may direct.

(3) The powers and functions of the Chairman shall, in his absence, be exercised and performed by the Vice Chairman and in his absence, by such member of the Council as the Chairman may appoint.

(4) The quorum to constitute a meeting of the Council shall be four.

(5) The decisions of the Council shall be based on the majority votes of the members present and voting.

(6) All orders and decisions of the Council shall be authenticated by the signature of the Chairman or the persons authorized by him.

6. Powers and Functions of the Chairman.- The Chairman shall preside the meetings of the Council and shall perform such other functions as may be prescribed.

7. Duties of the Secretary .- The Secretary shall exercise such powers and perform such functions as may be assigned to him by the Chairman.

8. Principal Implementation Officer.- (1) The Chief Commissioner Islamabad Capital Territory shall be the Principal Implementation Officer of the Council.

(2) The Principal Implementation Officer shall execute all the orders, decisions, policies and recommendations of the Council.

9. District Committee.- (1) The Council shall constitute a District Committee for the Islamabad Capital Territory to aid and assist the Principal Implementation Officer in executing the orders, decisions, policies and recommendations of the Council and shall perform such other functions as may be prescribed.

(2) The District Committee shall consist of the following members namely:-

- (a) the Chief Commissioner Islamabad Capital Territory who shall be the Chairman of the Committee;
- (b) the Deputy Commissioner Islamabad Capital Territory;
- (c) the Inspector General of Police, Islamabad Capital Territory;
- (d) representative of the Ministry of.-
 - (i) Interior,
 - (ii) National Health Services, Regulations and Coordination, and
- (e) representative of the Local Government, to be nominated by the Mayor, Islamabad Capital Territory.

(3) The District Committee shall meet at least once in three months and may be called earlier by the Principal Implementation Officer when need.

(4) The quorum to constitute a meeting of the District Committee shall be four.

10. Other Committees.- The Council may constitute such other Committees consisting of such of its member as it thinks fit, and may refer to them any matter for consideration and report.

11. Establishments to employ disabled persons.- (1) Not less than one percent of the total number of persons employed by an establishment at any time shall be disabled persons whose names have been registered with the Islamabad Capital Territory Administration and against whose names in the register maintained under section 14 an endorsement exists to the effect that they are fit to work.

(2) The disabled persons employed against any post pursuant of sub-section (1) shall be entitled to the terms and conditions which are not less favorable than those of the other persons employed by the establishment against similar posts.

(3) When calculating the percentage of the posts in an establishment for the purposes of employment of disabled persons, the fraction of 0.5 and above shall count as a whole number .

12. Reasonable Accommodation and allied facilities.- (1) Every establishment shall provide reasonable accommodation to its employee with a disability for the purpose of performing his duties in a comfortable manner.

(2) Every establishment shall ensure curb cuts, slopes and ramps to be made in pavements as well as adaptation of toilets for wheel chair users.

13. Establishment to pay to the Fund.- An establishment which does not employ a disabled person as required by section 11 shall pay in to the Fund each month the sum of money it would have paid as salary or wages to a disabled person if he has been employed by that establishment.

14. Registration of disabled persons.-(1) Any disabled person desirous of being employed or otherwise rehabilitated may have his name registered in the register maintained by the Islamabad Capital Territory Administration in such form and in such manner as may be prescribed by the Federal Government and the Islamabad Capital Territory Administration shall refer all names so registered to the Council.

(2) The Council shall, if it thinks necessary , cause each disabled person registered under sub-section (1) to be assessed as to the nature of his functional disability and also as to his aptitude and the nature of work he is fit to do by a medical officer authorized by it in this behalf or by such assessing board consisting of not less than one medical officer as it may appoint, and the medical officer or , as the case may be, the assessing board shall submit its report to the Council in such form as may be prescribed by the Government.

(3) If the disabled person is considered by the Council fit to work, it shall so inform the Islamabad Capital Territory Administration, indicating the nature of work for which he may be employed or the trade or vocation in which he may be trained, and an endorsement to that effect shall be made against his name in the register .

(4) If the disabled person is not considered by the Council fit to work, the Council shall inform the Islamabad Capital Territory Administration accordingly for an endorsement to that effect being made against his name in the register , and the Council shall take such measures for his rehabilitation as it thinks fit.

(5) If a person is declared by the Council not to be a disabled person, his name shall be struck off from the register.

15. Disabled persons involved in beggary etc. Without prejudice to any other law or penal action prescribed by any other law, the Islamabad Capital Territory Administration shall take into custody every disabled person who is involved in beggary within the Islamabad Capital Territory and shall enter the name of such person in the register and refer him to the Council and the Council shall act in accordance with the provisions of section 14.

16. Establishment of training centers.- The Council shall arrange for the training of disabled persons in such trades or vocations as it thinks fit, and shall establish training centres in such trades or vocations and in such manner as may be prescribed by the Government.

17. Establishments to furnish information .- Every Establishment shall furnish to such person or authority such information required for the implementation of the provisions of this Act in such form and in such manner as the Council may , by notification in the official Gazette, specify .

18. Power to debar further employment.- (1) The Council may debar from further employment or training for such period as may be specified by it any disabled person who, without valid reason, refuses to accept or abandons his employment or training under this Act or otherwise acts in a manner detrimental to the interests of the trade or profession in which he is employed or undergoing training.

(2) No disabled person shall be debarred under sub-section (1) unless he has been given an opportunity of being heard.

19. Appeal.-(1) Any person aggrieved by an order under section 15 may prefer an appeal to the Council within 30 of the date of the order.

(2) The Council may call for the record of the case and may , after giving the parties an opportunity of being heard or after making such further enquiry as it thinks fit, stay or suspend the operation of the order or may pass such order as it thinks fit.

20. Fund.- (1) There shall be established by the Government a Fund to be known as the Disabled Persons Rehabilitation Fund which shall comprise,-

- (a) all sums paid by the establishment under section 13;
- (b) all grants if any made by the Government, or local bodies; and
- (c) donations, if any , made by private individuals.

(2) The Fund shall be administered by the Council which shall make such allocations for the rehabilitation, training and welfare of the disabled persons, as it thinks necessary.

(3) The Fund shall be utilized for,-

- (a) the establishment of training centres for disabled persons ;
- (b) financial assistance to disabled persons who are not fit to undertake any employment ;
- (c) disbursement of stipends or scholarships to disabled persons receiving training;
- (d) the welfare of disabled persons ; and
- (e) providing artificial limbs, surgical therapy, medical treatment or other necessary items to disabled person.

21. Power to exempt.- If a situation exists which renders this necessary, the Federal Government may , by notification in the official Gazette, after recording in writing the reasons for doing so, exempt any establishment or class of establishments from the operation of all or any of the provisions of this Act.

22. Delegation of power.- The Council may delegate all or any of its powers under this Act to any of its members or to the District Committee, subject to such conditions as it may specify.

23. Penalty.- Any establishment which fails to employ disabled persons with the given ratio of one percent of its total employees, or fails to pay into the Fund any sum it is required to pay under section 13 shall be punishable with fine which may extend to one million rupees but which shall not be less than five hundred thousand rupees, and in the case of non-payment of fine, with an additional fine which may extend one percent of the fine imposed for every day during which the payment of fine is not made.

24. Punishment for fraudulently availing any benefit meant for persons with disabilities.- Whoever, fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both.

25. Cognizance of offences, etc. - (1) No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by , or under the authority of, the Council.

26. Annual report to the Parliament.- The Council shall submit annual report of its performance to each House of Majlis-e-Shoora (Parliament) within the first two months of each calendar year.

27. Power to make rules.- The Federal Government may , by notification in the official Gazette, make rules for carrying out the purposes of this Act.

28. Repeal and savings.- (1) The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (No. XL of 1981) is hereby repealed.

(2) All assets, rights, powers, authorities and privileges, all property, movable and immovable, cash and bank balances, reserve funds, investments and all other interests and rights in, or arising out of, such property, of the National Council the Rehabilitation for Disabled Persons shall stand transferred to the Islamabad Council for Disabled Persons and shall be regulated under this Act.

(3) All debts and liabilities incurred, all obligations undertaken, all contracts entered into, and all agreements made by or with the National Council for the Rehabilitation of Disabled Persons, shall be regulated under this Act, and be deemed to have been incurred, undertaken, entered into or made, by or with, the Islamabad Council for Disabled Persons .

(4) The services of all the employees of National Council for the Rehabilitation Disabled Persons acquired under the repealed Ordinance shall stand transferred to the Islamabad Council for Disabled Persons be deemed to be the services acquired under this Act.

(5) All rules, regulations and orders made or issued under the repealed Ordinance, shall continue to hold ground, unless altered, amended, repealed or inconsistent to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Almighty Allah has created human being the best of His entire creature. He has created human being in a beautiful pattern. Disability of persons is something which makes the performance of human being defective. Sometimes this defective performance exposes the disabled persons to different problems including unemployment and disgraceful life. Most of the disabled persons are either dependent on their relatives, social welfare institutions or they are exposed to the irony of society in the form of beggary. It is one of the fundamental duties of the State and the society to provide employment and rehabilitation opportunity to those who are disabled in the surrounding. Rehabilitation and employment is the Fundamental right of the disabled persons. Through this Bill, a proper mechanism has been prescribed for the rehabilitation, employment and welfare of the disabled persons. There will be a Council known as the Islamabad Council for the Disabled Persons for the employment and rehabilitation of the disabled persons in the Islamabad Capital territory. The Council shall be responsible for policy formulation while the District Committee and Principal Implementation Officer will implement the policies of the Council. An annual report of the performance of the Council shall also be submitted to both the Houses of the Parliament. So through this mechanism, the rehabilitation, employment and welfare of the disabled persons will be secured.

2. The Bill has been designed to achieve the aforesaid objectives.

SENATOR MUHAMMAD AZAM KHAN SWATI

Member-in-Charge