GOVERNMENT OF SIKKIM
SOCIAL JUSTICE, EMPOWERMENT AND WELFARE DEPARTMENT
GANGTOK

No.  \[\text{Handwritten Number}\]  

Dated: 2/8/2011

NOTIFICATION

In exercise of the powers conferred by sub section (1) of Section 73 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), the State Government hereby makes the following rules to amend the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 2001, namely:-

1. (1) These rules may be called the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Amendment Rules, 2011.

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

2. In the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 2001, thereafter referred to as the said rules,

for rule 2, the following rule shall be substituted, namely:-

“2. Definitions:-
(1) In these rules unless the context otherwise requires:-

(a) “Act” means the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 (1 of 1996);

(b) “certificate” or “disability certificate” means a certificate issued in pursuance of clause (t) of section 2 of the Act;

(c) “multiple disabilities” means a combination of two or more disabilities as defined in clause (l) of section 2 of the Act;

(d) “Form” means a form appended to these rules.

(2) Words and expressions defined in the Act but not defined in these rules shall have the meanings respectively assigned to them in the Act.”
3. In the said rules, for the existing CHAPTER II, and the entries relating thereto, the following Chapter shall be substituted, namely:

"CHAPTER II"
DISABILITY CERTIFICATE

3. Application for issue of disability certificate –

(1) Any Persons with disability desirous of getting a certificate in his favour shall submit an application in Form I, and the application shall be accompanied by;
(i) proof of residence, and
(ii) two recent passport size photographs.

(2) The application shall be submitted to –

(i) a medical authority competent to issue such certificate in the district of the applicants residence as mentioned in the proof of residence submitted by him with the application, or
(ii) the concerned medical authority in a Government hospital where he may be undergoing or may have undergone treatment in connection with his disability:

Provided that where a person with disability is a minor or suffering from mental retardation or any other disability which renders him unfit or unable to make such an application on his behalf may be made by his legal guardian.

4. Issue of disability certificate –

(1) On receipt of an application under rule 3, the medical authority shall, after satisfying himself that the applicant is a person with disability as defined in sub-clause (i) of section 2 of the Act, issue a disability certificate in his favour in Form II, Form III or Form IV as applicable.

(2) The certificate shall be issued as far as possible, within a week from the date of receipt of the application by the medical authority, but in any case, not later than one month from such date.

(3) The medical authority shall, after due examination:

(i) give a permanent disability certificate in cases where there are no chances of variation, over time, in the degree of disability and
(ii) shall indicate the period validity in the certificate, 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 disability certificate, the medical authority shall explain to him the reasons for rejection of his application and shall also convey the reasons for rejection to him in writing.

(5) A copy of every disability certificate issued under these rules by a medical authority other than the Chief Medical Officer shall be simultaneously sent by such medical authority to the Chief Medical Officer of the District.

5. Review of a decision regarding issue of, or refusal to issue, a disability certificate:
(1) Any applicant for a disability certificate, who is aggrieved by the nature of a certificate issued to him, or by refusal to issue such certificate in his favour, as the case may be, may represent against such a decision to the medical authority as specified for the purpose by the appropriate Government;

Provided that where a person with disability is a minor or suffering from mental retardation 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.

(2) The application for review shall be accompanied by a copy of the certificate or letter of rejection being appealed against.

(3) On receipt of an application for review, the medical authority shall, after giving the appellant an opportunity of being heard, pass such orders on it as it may deem appropriate.

(4) An application for review shall, as far as possible, be disposed of within a fortnight from the date of its receipt, but in any case, not later than one month from such date.

6. Certificate issued under rule 4 to be generally valid for all purposes:-

A certificate issued under rule 4 shall render a person eligible to apply for facilities, concessions and benefits admissible under schemes of the Government, and of Non-Government Organizations funded by the Government, subject to such conditions as may be specified in relevant schemes or instructions of Government, etc. as the case may be.

4. In the said rules for the existing CHAPTER VII, and the entries relating thereto, the following Chapter shall be substituted, namely:-

"CHAPTER VIII"
STATE COMMISSIONER FOR PERSONS WITH DISABILITIES

46. Qualification for appointment of State Commissioner-

In order to be eligible for the appointment as State Commissioner, a person must satisfy the following conditions, namely:-

(i) he should have special knowledge or practical experience in respect of matters relating to rehabilitation of persons with disabilities;

(ii) he should not have attained the age of sixty years on the 1st January of the year in which the last date for receipt of applications, as specified in the advertisement issued under sub-rule (1) of rule 46 A, falls;

(iii) if he is in service under the Central Government or State Government, he shall seek retirement from such service before his appointment to the post; and

(iv) he must possess the following educational qualification and experience, namely

(A) Educational Qualifications:-

(i) Essential: Graduate from a recognized university.

(B) Experience:

Should have at least twenty-five experience in one or more of the following types of organizations at specified levels:

a) In a Group 'A' level post in Central/State Government/Public sector Undertaking/Semi-Government or Autonomous Bodies dealing with disability related matters and/or Social Sector (health/education/poverty alleviation/women and child development); or

b) A Senior level functionary in a registered national or international level voluntary organization working in the field of disability/social development; or

c) Senior Executive position in a leading private sector organization, involved in social work and in charge of handling social development activities of the organization:

Provided that out of the total twenty-five years experience mentioned above, at least three years of experience in the recent past should have been in the field of empowerment of persons with disabilities.

46A. Mode of appointment of the State Commissioner:

1. About six months before the post of the State Commissioner is due to fall Vacant, an advertisement shall be published in at least two local dailies each in English and Nepali inviting applications for the post from eligible candidates fulfilling the criteria mentioned in rule 46.

2. A search-cum-Selection Committee shall be constituted to recommend a panel of three suitable candidates for the post of the State Commissioner.

3. Composition of the Committee will be governed by relevant instructions issued by the Department of Personnel and Training from the time to time.

4. The panel recommended by the committee may consist of persons from amongst those who have applied in response to the advertisement mentioned in sub-rule (1) above, as well as other eligible persons whom the committee may consider suitable.

5. The State Government shall appoint one of the candidates recommended by the Search-cum-Selection Committee as the State Commissioner.

46B. Term of the State Commissioner:

1. The State Commissioner shall be appointed on full time basis for a period of three years from the date on which he assumes office, or till he attains the age of sixty five, whichever is earlier.

2. A person may serve as State Commissioner for a maximum of two terms, subject to the upper age limit of sixty-five years.

46C. Salary and allowances of the State Commissioner:

1. The Salary and allowances of the State Commissioner shall be the salary and allowances as may be specified by the State Government.

2. Where a State Commissioner, being a retired Government Servant or a retired employee of any institution or autonomous body funded by the Government, is in receipt of pension in respect of such previous service, the salary admissible to him under these rules shall be reduced by the amount of the pension, and if he had
received in lieu of portion of the pension, the commuted value thereof, by the amount of such commuted portion of the pension.

46D. Resignation and removal:-

(1) The State Commissioner may, by notice in writing, under his hand, addressed to the State Government, resign his post.

(2) The State Government shall remove a person from the office of the State Commissioner, if he,-

a) becomes an undischarged insolvent;

b) engages during his term of office in any paid employment or activity outside the duties of his office;

c) gets convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude;

d) is in the opinion of the State Government, unfit to continue in office by reasons of infirmity of mind or body or serious default in the performance of his functions as laid down in the Act;

e) has, in the opinion of the State Government, so abused the position of the State Commissioner as to render his continuance in office detrimental to the interest of persons with disabilities:

Provided that no person shall be removed under this rule except after following the procedure, mutatis, prescribed for removal.

(3) The State Government may suspend a State Commissioner, in respect of whom proceedings for removal have been commenced in accordance with sub-rule (2) pending conclusion of such proceedings.

46E. Residuary provision;-

Condition of service of a State Commissioner in respect of which no express provision has been made in these rules shall be determined by the rule and orders for the time being applicable to a Secretary to the Government of Sikkim."

47. Procedure to be followed by State Commissioner.

(1) A complaint containing the following particulars shall be presented by the complainant in person of or by his agent to the State Commissioner of Persons with Disabilities or sent by registered post addressed to the State Commissioner namely.

(a) the name description and the address of the complainant;

(b) the name, description and the address of the opposite party or parties, as the case may be so far as they can be ascertained;

(c) the facts relating to complaint and when and where it arose;

(d) documents in support of the allegations contained in the complaint and

(e) the relief which the complainant claims.

(2) The State Commissioner on receipt of a complaint shall refer a copy of the complaint to the opposite party/parties mentioned in the complaint directing him to give his version of the case within a period of 30 workings days or such extended reasonable period as may be granted by the State Commissioner.
(3) On the date of hearing or any other date to which hearing could be adjourned, it shall be obligatory on the parties or their agents to appear before the State Commissioner on such days, the State Commissioner may in his discretion either dismiss the complaint on default or decide on merits where the opposite party or his agent fails to appear on the date of hearing, the State Commissioner may take such necessary action under Section 63 of the Act as he deems fit for summoning and enforcing the attendance of the opposite party. He may however, decide to dispose of the complaint exparte also.

(4) The State Commissioner may on such terms as he deems fit and at any stage of the proceedings, adjourn the hearing of the complaint. But the complaint shall be decided, as far as possible, within a period of three months from the date received by the opposite party.

48. Submission of the report to the State Government: The State Commissioner shall submit report to the State Government on the implementation of the Act under clause (d) of section 61 of the Act at the interval of six months in such a manner that at least two reports are sent in one financial year.

49. Submission of annual report:-
(1) The State Commissioner shall as soon as possible after the end of the financial year but not later than the 30th day of September in the next year ensuing, prepare and submit to the State Government an annual report giving a complete account of his activities during the said financial year.
(2) In particular, the annual report referred to in sub-rule (1) shall contain information in respect of each of the following matters, namely:-
   a) Names of officers, staff of the Board and a chart showing the organizational set-up;
   b) The functions which the State Commissioner has been empowered under section 61 and 62 of the Act and the highlights of the performance in this regard;
   c) The main recommendations made by the State Commissioner;
   d) Progress made in the implementations of the Act;
   e) Any other matter deemed appropriate for inclusion by the State Commissioner or specified by the State Government from time to time.

5. In the said rules, after rule 49 and before FORM ER-1, the following Forms shall be inserted, namely:-
APPLICATION FOR OBTAINING DISABILITY CERTIFICATE BY PERSONS WITH DISABILITIES
(See rule 3)

1. Name…………
   (Surname) 
   (First name) 
   (Middle name)
2. Father's name
3. Date of Birth:__________/______/______
4. Age at the time of application:__________ year
5. Sex: Male/female
6. Address:
   (a) Permanent address
   (b) Current Address (i.e. for communication)
   (c) Period since when residing at current Address

7. Educational Status (PL. tick as applicable)
   (I) Post Graduate
   (II) Graduate
   (III) Diploma
   (IV) Higher Secondary
   (V) High School
   (VI) Middle
   (VII) Primary
   (VIII) Illiterate

8. Occupation

9. Identification marks (i) ________________________ (ii) ________________________

10. Nature of disability: locomotor/hearing/visual/mental/others

11. Period since when disabled: From Birth/since year

12. (i) Did you ever apply for issue of disability certificate in the past
    YES/NO
    (ii) If yes, details:
         (a) Authority to whom and district in which applied
         (b) Result of application

13. Have you ever been issued a disability certificate in the past? If yes, please enclose a true copy.
Declaration: I hereby declare that all particulars stated above are true to the best of my knowledge and belief and no material information has been concealed or misstated. I further, state that if any inaccuracy is detected in the application, I shall be liable to forfeiture of any benefits derived and other action as per law.

(Signature or left thumb impression of person with disability or of his/her legal guardian in case of persons with mental retardation, autism, cerebral palsy and multiple disabilities.)

Date: 
Place: 
Encl:

1. Proof of residence (Please tick as applicable)
   a) ration card,
   b) voter identity card,
   c) driving license,
   d) Bank pass book,
   e) Pan Card,
   f) Passport,
   g) Telephone, electricity, water and any other utility bill indicating the address of the applicant,
   h) A certificate of residence issued by a Panchayat, municipality, cantonment board, any gazetted officer, or the concerned Patwari of Head Master of Govt. School,
   i) In case of an inmate of a residential institution for persons with disabilities, destitute, mentally ill, etc., a certificate of residence from the head of such institution.

2. Two recent passport size photographs
   (For office use only)

Date: 
Place: 

Signature of issuing authority
Stamp
Certificate No.

This is to certify that I have carefully examined Shri/Smt./Kum/

Son/daughter of
Shri

Date of Birth Age Years,
Male/female (DD/MM/YY) Registration
No. permanent resident of House
No. Ward/Village/Street Post
Office District State

Whose photographs is affixed above, and am satisfied that:

(A) he/she is a case of:
   • Locomotor disability
   • Blindness

(B) the diagnosis in his/her case is:

(A) He/She has % (in figure) Percent (in words) Permanent Physical impairment blindness in relation to his/her

2. The applicant has submitted the following document as proof of residence:-
<table>
<thead>
<tr>
<th>Nature of Document</th>
<th>Date of issue</th>
<th>Details of authority issuing certificate</th>
</tr>
</thead>
</table>

(Signature and Seal of Authorized
Signatory of Notified Medical Authority)

Signature/Thump impression of the persons in whose favour disability certificate is issued
Form - III

Disability Certificate
(In case of multiple disabilities)
(NAME AND ADDRESS OF THE MEDICAL AUTHORITY ISSUING THE CERTIFICATE)
(See rule 4)

Certificate No.

This is to certify that we have carefully examined Shri/Smt./Kum/

__________________________

Son/wife/daughter of
Shri _________________________

Date of Birth ___________ ___________ Age ___________ Years,

Male/female ______________________ (DD/MM/YY) Registration

No. ___________________________ permanent resident of House

No. ___________________________ Ward/Village/Street ___________________________ Post

Office __________________ District __________________ State __________________

Whose photographs is affixed above, and am satisfied that:

(A) He/she is a Case of Multiple Disability. His/her extent of permanent Physical impairment/disability has been evaluated as per guidelines (to be specified) for the disabilities ticked below, and shown against the relevant disability in the table below:

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Disability</th>
<th>Affected Part of</th>
<th>Diagnosis</th>
<th>Permanent Physical impairment /mental disability (in%)</th>
</tr>
</thead>
</table>


<table>
<thead>
<tr>
<th>#</th>
<th>Condition</th>
<th>Symbol</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Locomotor disability</td>
<td>@</td>
</tr>
<tr>
<td>2</td>
<td>Low Vision</td>
<td>#</td>
</tr>
<tr>
<td>3</td>
<td>Blindness</td>
<td>Both eyes</td>
</tr>
<tr>
<td>4</td>
<td>Hearing impairment</td>
<td>£</td>
</tr>
<tr>
<td>5</td>
<td>Mental retardation</td>
<td>X</td>
</tr>
<tr>
<td>6</td>
<td>Mental-illness</td>
<td>X</td>
</tr>
</tbody>
</table>

(B) In the light of the above, his/her over all permanent physical impairment as per guidelines (to be specified), is as follows:--

In figures:-- __________________________ percent
In words:-- __________________________ percent
2. The condition is progressive/non-progressive/likely to improve.
3. Reassessment of disability is:
   (i) not necessary,
   Or
   (ii) is recommended/after ________ years ________ months, and therefore this certificate shall be valid till ________ ________ ________ (DD) (MM) (YY)

@ e.g. Left/Right/both arms/Legs
# e.g. Single eye/both eyes
£ e.g. Left/Right/both ears

3. The applicant has submitted the following document as proof of residence:-

<table>
<thead>
<tr>
<th>Nature of Document</th>
<th>Date of issue</th>
<th>Details of authority issuing certificate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. Signature and seal of the Medical Authority.

| Name and seal of Chairperson | Name and seal of Member | Name and seal of Member |

Signature/Thumb Impression of the person in whose favour disability Certificate is issued
Form – IV
Disability Certificate
(In cases other than those mentioned in Forms II and III)
(NAME AND ADDRESS OF THE MEDICAL AUTHORITY ISSUING THE CERTIFICATE)
(See rule 4)

Certificate No.

This is to certify that I have carefully examined Shri/Smt./Kum/

________________________________________

Son/wife/daughter of
Shri ________________________________________

Date of Birth __________________________ Age ________ Years,

Male/female ___________________________ (DD/MM/YY) Registration

No. ____________________________________ permanent resident of House

No. ____________________________________ Ward/Village/Street ___________ Post

Office __________________________ District ___________ State ___________

Whose photograph is affixed above, and am satisfied that he/she is a case of ________ disability. His/her extent of percentage physical impairment/disability has been evaluated as per guidelines (to be specified and is shown against the relevant disability in the table below:-

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Disability</th>
<th>Affected Part of Body</th>
<th>Diagnosis</th>
<th>Permanent Physical impairment/mental disability (in%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. Locomotor disability @
2. Low Vision #
3. Blindness Both eyes
4. Hearing impairment £
5. Mental retardation X
6. Mental-illness X

(Please strike out the disabilities which are not applicable.)

2. The above condition is progressive/non-progressive/likely to improve/not likely to improve.
3. Reassessment of disability is:
   (i) not necessary,
   Or
   (ii) is recommended/after ________ years _________ months, and therefore this certificate shall be valid till ________ ________ ________
       (DD) (MM) (YY)

@ e.g. Left/Right/both arms/Legs
# e.g. Single eye/both eyes
£ e.g. Left/Right/both ears

4. The applicant has submitted the following document as proof of residence:-

<table>
<thead>
<tr>
<th>Nature of Document</th>
<th>Date of issue</th>
<th>Details of authority issuing certificate</th>
</tr>
</thead>
</table>
(Signature and Seal of Authorized
Signatory of Notified Medical Authority) Name and Seal

Countersigned

{Countersigned and seal of the
CMO/medical Superintendent/Head of
Government Hospital, case the certificate is
issued by a medical authority who is not
government servant (with seal)}

Signature/Thumb
Impression of the
person in whose
favour disability
Certificate is
issued

Note: In case this certificate is issued by a medical authority who is not a government servant, it
shall be valid only if countersigned by the Chief Medical Officer of the District."

Note: The Principal rules were published in the Gazette of India vide notification number S.O.908
(E), dated the 13th December, 1996.
Form –V
Intimation of rejection of Application for Disability Certificate
(See rule 4)

No.__________________________ Dated: ________________

To
(Name and address of applicant
for Disability Certificate)

Sub:- Rejection of Application for Disability Certificate

Sir/madam,

Please refer to your application dated______for issue of a Disability Certificate for the
following disability:

2. Pursuant to the above application, you have been examined by the undersigned/Medical
Board on ________, And I regret to inform that, for the reasons mentioned below, it is not possible
a disability certificate in your favour:

(i)  
(ii) 
(iii) 

5. In case you are aggrieved by the rejection of your application, you may represent to
___________________________________________, requesting for review of the decision.

Yours faithfully,

(Authorised Signatory of the notified
Medical Authority) (Name and Seal)

By Order and in the name of the Governor.

(R.Telang) IAS
Commissioner cum Secretary
Social Justice, Empowerment and Welfare Department