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GOVERNMENT OF KARNATAKA

No. WCD 233 SBB 2008

Karnataka Government Secretariat,  
M.S. Building,  
Bangalore, Dated:06.01.2010

**NOTIFICATION**

In exercise of the powers conferred by section 36 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), the Government of Karnataka hereby makes the following rules, namely:-

**1. Title and commencement.**- (1) These rules may be called the Karnataka State Commission for Protection of Child Rights Rules, 2010.

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

**2. Definitions.**- (1) In these rules, unless the context otherwise requires,-

- (a) 'Act' means the Commissions for Protection of Child Rights Act, 2005 (4 of 2006);
- (b) 'Child' means a person who has not completed eighteen years of age;
- (c) 'Commission' means the Karnataka State Commission for Protection of Child Rights as constituted under section 17(1) of the Act;
- (d) 'Member - Secretary' means the Member -Secretary of the Commission;
- (e) 'Section' means a section of the Act.

(2) All words and expressions used and not defined in these rules but defined in the Act shall have the same meaning as assigned to them in the Act.

**3. Eligibility for appointment as Chairperson and other Members.**- (1) No person having any past record of violation of human rights especially child rights or criminal conviction shall be eligible for appointment as Chairperson or other Members of the

Commission. The Chairperson or the Members of the Commission, the person shall fulfill the following criteria,-

- (a) the person shall have at least five years of work experience in the field of child rights, child protection and advocacy for upholding the rights of children;
- (b) the person shall not be an office bearer or member of any political party.

(2) The persons selected for the post of Chairperson /Members shall not hold any other post or be affiliated to any governmental, quasi-governmental, public sector, non-governmental, private organization or hold any other position whether for profit or not.

**4. Member-Secretary.-** The Member-Secretary shall be appointed by the State Government under sub-section (1) of section 21 of the Act.

**5. Powers and duties of the Member-Secretary.-** (1) The Member-Secretary shall execute all decisions taken by the Commission under sections 13, 14, 15, 16 and 21 (2) of the Act;

(2) directly take up matters (i.e. suo moto taking cognizance) in incidents and cases relating to children for appropriate action and follow up with the concerned departments;

(3) to exercise and discharge such powers and perform such other duties as are required for the proper administration of the affairs of the Commission and its day to day management;

(4) to convene the meetings of the Commission in consultation with its Chairperson and issue notices of the meetings to all concerned;

(5) to take steps to ensure that the quorum required for convening a meeting of the Commission.

(6) to prepare, in consultation with the Chairperson, the agenda for each meeting of the Commission and have notes prepared by the Secretary and such notes shall, as far as possible, be self-contained:

(7) to make available specific records covering the agenda items to the Commission for reference;

(8) to ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting except in cases when urgent attention is required;

(9) to prepare the minutes of the meetings of the Commission and execute the decisions of the Commission taken in the meeting and shall also ensure placing of the action taken note in its subsequent meetings;

(10) to ensure that the procedure of the Commission is followed in transaction of its business;

(11) to take up all such matters with the Secretary, Department of Women and Child Development for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit reports in the State Assembly, re-appropriation of funds, residential accommodation, permitting any officer of the Commission for deputation outside the state or country, as the case may be, and any other matter requiring the approval of the State Government;

(12) to exercise such financial powers as are delegated to him by the Chairperson.

Provided that no expenditure on an item exceeding fifty thousand rupees shall be incurred without the sanction of the Chairperson.

**6. Term of office of Chairperson and other Members.-** (1)

The Chairperson shall, unless removed from office under section 7 read with section 24 of the Act, hold office for a period of three years, or till the age of sixty-five years, whichever is earlier.

(2) Every Member shall, unless removed from office under section 7 read with section 24 of the Act, hold office for a period of three years, or till the age of sixty years, whichever is earlier.

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2),-

- (a) a person who has held the office of chairperson shall be eligible for re-nomination; and
- (b) a person who has held the office of a Member shall be eligible for re-nomination as a member or nomination as a Chairperson;

Provided that a person who has held an office of Chairperson or Member for two terms, in any capacity, shall not be eligible for re-nomination as Chairperson or, as Member.

(4) If the Chairperson is unable to discharge his functions owing to illness or other incapacity, the State Government shall nominate any other member to act as Chairperson and the Member so nominated shall hold office of Chairperson until the Chairperson resumes office or for the remainder of his term.

(5) The Chairperson or a Member may, by writing under his hand addressed to the State Government, resign his office at any time.

(6) Any vacancy caused by death, resignation or any other reason shall be filled-up in accordance with the provisions of sub-section (2) of section 8 of the Act.

**7. Salaries and allowances.**- (1) Save as otherwise provided in section 20 of the Act, the Chairperson shall be entitled to a monthly remuneration of rupees 3,500/- per month.

(2) The salary and allowances payable to, and other terms and conditions of service of the Member-Secretary, officers and other employees appointed for the purpose of the Commission shall be such as may be determined by the State Government from time to time.

(3) The members shall be entitled for a sitting fee of rupees 500/- per day and shall be entitled for a travelling allowance on par with Group 'C' Government officials.

**8. Telephone.**- The Chairperson shall be entitled for a telephone at the residence or for rental and call charges for his own phone subject to the certificate to the effect that all calls for which the charges are paid are made for official purpose.

**9. Travelling Allowance.**- (1) The Chairperson and every other Member shall be entitled to draw travelling allowance and daily allowance at the rates specified in the Payment of travelling allowance (to Non-official members of committees, commissions or other bodies) Rules, 2001, as Notification No. FD 2 SRA 2000, dated:3.2.2001 not exceeding ten days in a month.

(2) The Chairperson and every other Member shall be the countersigning officer in respect of their bills relating to travelling allowance and daily allowance.

**10. Residential accommodation.**- The Chairperson shall be entitled to house rent allowance of Rs.4,500/- per month if Chairperson resides in own house. If Chairperson does not own a house, a house may be taken on rent which shall not exceed rupees 15,000/- per month at Bangalore or rupees 10,000/- in other places.

**11. Facility for conveyance.**- The Chairperson shall be entitled to the facilities of staff car with driver for journeys and for conveyance allowance equal to the cost of 300 litres of petrol per month.

**12. Procedure for transaction of business.**- (1) The Commission shall meet regularly at its office in Bangalore at such time as the Chairperson thinks fit, but three months shall not intervene between its last meeting and the next meeting.

(2) The Commission shall ordinarily hold its meetings in its office located in Bangalore but may, in its discretion, hold its meetings at any other place in Karnataka if it considers it necessary or expedient to do so.

(3) The Member-Secretary along with such officers as the Chairperson may direct shall attend the meetings of the Commission.

(4) The quorum for the meeting of the commission shall be Four including chairperson.

(5) All decisions of the Commission at its meetings shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding shall exercise a second or a casting vote.

(6) If, for any reason, the Chairperson is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves shall preside over the meeting.

(7) The Member Secretary shall, in consultation with the Chairperson, prepare the agenda for each meeting of the commission and shall have notes prepared by the Secretary and such notes shall, as far as possible, be self-contained.

(8) The records covering the agenda items shall be made available to the Commission for its reference.

(9) The agenda papers shall ordinarily be circulated to members at least two working days in advance of the meeting, except in cases when urgent attention is required.

(10) The Commission shall attempt to arrive at effective division of work among its members, so as to enable access, accountability and timely action.

(11) The principles of independence, accessibility, co-operation, operational efficiency, and accountability shall guide the functioning of the Commission.

**13. Minutes of the meeting.**- (1) The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Member-Secretary or by any other officer of the Commission as directed.

(2) The minutes of the meeting of the Commission shall be submitted to the Chairperson for approval and upon approval, be circulated to all members of the Commission at the earliest and in any case sufficiently before the commencement of the next meeting.

(3) The conclusions of the Commission in every matter undertaken by it shall be recorded in the form of an opinion and dissenting opinions, if given shall also form part of and be kept on record. Action shall be taken on the basis of majority opinion where there is any difference of opinion.

(4) All orders and decisions orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorized by the Member-Secretary with the prior approval of the Chairperson in this behalf.

(5) Unless specifically authorized, no action shall be taken by the Secretary of the Commission on the minutes of the meetings until the Chairperson confirms the same.

(6) A master copy of the record of all meetings and opinions of the Commission shall be maintained duly authenticated by the Member Secretary.

(7) A copy of the minutes pertaining to each item shall be kept in the respective files for appropriate action. Opinions shall be kept in respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

**14. Report of action taken.**- Report of the follow up action shall be submitted by the Member Secretary to the Commission at every subsequent meeting indicating therein the present stage of action taken on each item on which the Commission had taken any decision in any of its earlier meetings excepting the items on which no further action is called for.

**15. Transaction of business outside headquarters.**- The Commission or some members may transact business at places outside its headquarters as and when previously approved by the Chairperson, provided that if parties are to be heard in connection with any inquiry under the Act, at least two members shall constitute the bench of the Commission for such purpose.

**16. Annual report.**- (1) The Commission shall prepare and publish an annual report before 31<sup>st</sup> December every year for submission to the State Government.

(2) The Commission shall also prepare special reports on specific issues as and when necessary under the direction of the Chairperson.

(3) The State Government shall cause the annual report and the special reports of the Commission to be laid before each Assembly Session along with the action taken or proposed to be taken.

(4) The annual report shall include information on administrative and financial matters, complaints investigated/inquired into, action taken on cases, details of research, reviews, education and promotion efforts, consultations, details and specific recommendations of the Commission on any matter, besides any other matter that the Commission may consider warranting inclusion in the report.

(5) In case the Commission considers that there could be time lag for the preparation of the annual report, it may prepare and submit a special report to the State Government.

(6) The forms in which the budget may be prepared and provided and forwarded to the State Government shall be as provided in forms I, II, III and IV of Schedule I.

(7) The estimated receipts and expenditure shall be accompanied by the revised budget estimate for the relevant financial year.

(8) The budget shall, as far as may be, based on the account heads specified in Schedule II.

(9) The Commission shall not be compelled to testify or release records. All reports that the Commission decides to publish shall be made public and accessible through all appropriate means, including the translation in to official languages. The annual report and all publishable reports shall also be summarized and disseminated in a language that children understand.

**17. Financial Powers.-** (1) The Commission shall spend the sums of money received by it for the purposes of the Act.

(2) The Chairperson shall have all powers relating to financial transaction of the Commission, except in cases, which require prior approval of the State Government.

(3) The Chairperson shall obtain prior approval of the State Government in matters of creation of posts, revision of pay scales, procurement of vehicles, re-appropriation of funds from one head to another, permitting any officer of the Commission to participate in seminars, conferences or training programmes outside the country and such other matters determined by the State Government, by order.

(4) The Chairperson shall, subject to such conditions and limitations and control and supervision, have powers to delegate his financial powers or any financial powers to any Member or the Member-Secretary:

Provided that no such powers shall be delegated in respect of incurring an expenditure on an item exceeding one lakh rupees without prior approval of the Chairperson.

(5) The Chairperson shall subject to Karnataka Transparency in Public Procurement Act, 1999 and with the prior approval of the State Government shall have powers to engage any person or persons as consultant or consultants for a specific purpose and for a specific period on the terms and conditions agreed to in advance.

(6) The Member-Secretary shall have powers to execute all decisions taken by the Chairperson or any other member on his behalf relating to financial matters.





**FORM IV**  
**(Abstract of Nominal Rolls)**  
**(See rule 16(6))**

Actual sanctioned strength as on 1 <sup>st</sup> March 200....	Particulars of Posts	Sanctioned budget grant 20... 20....		Revised budget grant 20... 20...		Budget Estimates 20... 20....		Explanation for the difference between sanctioned budget revised estimates and budget estimates
		No. of posts included	Pay and allowances	No. of posts included	Pay and allowances	No. of posts included	Pay and allowances	
1	2	3	4	5	6	7	8	9
	I. Officer (a) Posts filled (b) Post vacant Total I Officers							
	II. Establishment (a) Posts filled (b) Post vacant Total II Establishment							
	III. Class IV (a) Posts filled (b) Post vacant Total III-Class IV.							
	Grand Total I, II and III							

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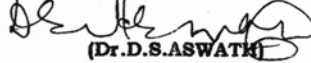
SCHEDULE II  
BUDGET AND ACCOUNT HEADS  
(See rule 16(8))  
- ADMINISTRATION  
Heads of Accounts (Expenditure)

1. Salaries
2. Wages
3. Travel Expenses
4. Office Expenses
  - (a) Furniture
  - (b) Postage
  - (c) Office machines/equipment
  - (d) Liveries
  - (e) Hot and cold weather charges
  - (f) Telephones
  - (g) Electricity and water charges
  - (h) Stationery
  - (i) Printing
  - (j) Staff car and other vehicles
  - (k) Other items
5. Fee and honoraria
6. Payment for professional and special services
7. Rents, rates and taxes/royalty
8. Publications
9. Advertising sales and publicity expenses
10. Grant in aid/contributions/subsidies
11. Hospitality expenses sumptuary allowances etc
12. Pensions/gratuities
13. Write off/losses
14. Suspenses
15. Other charges (a residuary head, this will also include rewards and prizes)

Heads of Account (Receipts)

1. Payments by Central Government
2. Other receipts

By Order and in the name of the  
Governor of Karnataka

  
(Dr. D.S. ASWATHI)

Secretary to Government

Women & Child Development Department

6/01/2010

**To:** The Compiler, Karnataka State Gazette, Bangalore - with a request to

publish in the next issue of the Gazette and supply 1000 copies to the Department.

**Copy to:**

- 1) Additional Chief Secretary to Government, Finance Department, Vidhana Soudha, Bangalore.
- 2) The Principal Secretaries to Government, Education Department/ Health Department/ Home Department, Bangalore
- 3) The Secretary to Government, Rural Development and Panchayath Raj Department / Parliamentary Affairs and Legislation / Law Department / Labour Department/ Social Welfare Department, Bangalore.
- 4) The Director, Women and Child Development Department, Bangalore.
- 5) The Chairman / Members, Karnataka State Commission for Protection of Child Rights, Bangalore.
- 6) Member Secretary, Karnataka State Commission for Protection of Child Rights, Bangalore.
- 7) The Deputy Commissioners of all Districts.
- 8) The Chief Executive Officers of all Zilla Panchayaths.
- 9) The Director, Disabled and Senior Citizens Welfare Department, Bangalore.
- 10) The Managing Director, Karnataka State Women Development Corporation, Bangalore
- 11) The Secretary, Karnataka State Women Commission, Bangalore.
- 12) The Secretary, Bal Bhavan, Bangalore.
- 13) The Secretary, State Social Welfare Board, Bangalore.
- 14) The Deputy Directors, Women & Child Development Department of all Districts..
- 15) Spare Copies / Section Guard File.

**For Information:**

- 1) The Secretary to Hon'ble Chief Minister, Vidhana Soudha, Bangalore
- 2) The Private Secretary to Hon'ble Minister for Women & Child Department
- 3) The Private Secretary to Chief Secretary to Government, Vidhana Soudha, Bangalore.

To  
The Hon Minister for Urban Development,  
Law and Parliamentary Affairs,  
Government of Karnataka  
Vidhana Soudha  
Bangalore

10<sup>th</sup> February 2010

Ref: Draft Notification WCD 223 SBB 2008, dated 6/1/2010

Hon. Minister, Sir,

We would like to bring to your kind consideration the fact that the draft Rules, as proposed to be notified are not in conformity with the enabling Act and the Constitution of India, as indicated below.

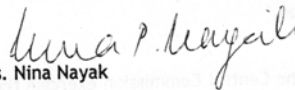
1. The Rules 4 and 5, contemplate a Member Secretary, which is *ultra vires* Sec 17 (2) and 21 (1) of the Act. There is provision only for a Secretary. This requires revision.
2. The 'Member Secretary' is supposed to exercise *suo motu* powers as contemplated by Rule 5. This is *ultra vires* Sec 17 and Sec 21, because she is not a member of the Commission and only the Commission has been vested with powers to be exercised *suo motu*. This being an essential policy matter and does not brook any delegation to anyone else.
3. In State Rule 5 (11), the following is to be added at the end - 'as authorized by the Commission.'
4. The State Commission and the Central Commission exercise the same powers and functions as are detailed in Sec 13 of the Act, with the difference being only in jurisdictions. The pay and allowances for the Chairperson and Members of the National Commission are as detailed in Rule 7 of the Central Rules, equivalent to that of a Cabinet Secretary and Secretary to the Government of India respectively. In

contrast, Rule 7 of the State Rules indicates the salary of the Chairperson as Rs. 3500/- per month, which is lower than the starting pay for a peon in any Government establishment now. As the Commissions are discharging identical functions, the State Commission Chairperson and Members would have to be placed on par with the State Cabinet Secretary and the Secretary to Government. This is the compulsion of Art 39 (d) of the Constitution, read with Article 37 and Article 14.

5. The salary and allowances proposed in the State Rule 7, offends the dignity and status of the Chairperson and members of the Commission and would require to be corrected immediately.
6. The disability imposed on the Chairperson and Members of the State Commission by Rule 3 (2) does not stand the test of Sec 17 of the Act, which does not place any such disability. Nor is there any such disability imposed by the Central Rules on the Chairperson and Members of the National Commission. Palpably, this provision is arbitrary and would require to be revised to bring them in conformity with the policy of the Act and the requirements of the Constitution.

It is requested that the Hon. Minister would not be permitting these Rules which are in violation of the Constitution and the Act to be published. Requesting the favour of immediate consideration and suitable action.

Yours faithfully

  
Ms. Nina Nayak  
Chairperson,  
Karnataka Commission for Protection of Child Rights (KCPCR)  
(per pro KCPCR)