

BILLS SUPPLEMENT

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Bill No. 5

Persons with Disabilities Bill

2014

THE PERSONS WITH DISABILITIES BILL, 2014.

MEMORANDUM.

1. The object of the Bill is to replace and reform the law relating to persons with disabilities and to operationalise Article 35 of the Constitution by providing for the respect and promotion of the fundamental and other human rights and freedoms of the persons with disabilities and for the non discrimination of persons with disabilities in education, health and employment amongs other aspects.
2. The operationalisation of the Persons with Disabilities Act 2006 was hindered by several factors including the inclusion of policy issues in the Act, provisions of the Act that are ambiguous or which are not legally tenable and the use of policy language in the Act. The Bill therefore seeks to correct the anomalies in the Act.
3. The Bill is the key legislation for matters relating to persons with disabilities in Uganda based on the fundamental and human rights and freedoms enshrined in the Constitution of the Republic of Uganda and the requirement for the non discrimination of persons with disabilities.
4. The Bill comprises 16 clauses and 4 Schedules.
5. **Clauses 1 and 2 of the Bill** deal with preliminary matters such as commencement and definitions of certain key words and expressions used in the Bill such as “building to which the public is allowed access”, “disability”, “health unit” and “Minister”.

6. **Clause 3 of the Bill** makes provision for a medical doctor to determine whether a person who claims or alleges that he or she is a person with a disability, within the meaning of the Act or where a court so requires, is actually a person with a disability.
7. **Clause 4 of the Bill** recognises and upholds the Constitutional provisions on the respect and promotion of the rights and freedoms of persons with disabilities and states that the fundamental and other human rights and freedoms enshrined in the Constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons, with respect to persons with disabilities.
8. **Clause 5 of the Bill** provides that a mother with a disability, who gives birth outside of wedlock, has the right to care for and bring up her child and that no person is to remove a child born by a mother with a disability, who gives birth outside of wedlock, from the custody of the mother, without the express permission of the mother, except where court makes an order for custody.
9. **Clause 6 of the Bill** deals with discrimination in the provision of education services provides that a school or an institution of higher learning shall not discriminate against a learner with a disability, on the basis of the disability and specifies what amounts to discrimination in the provision of education services.
10. **Clause 7 of the Bill** provides for non discrimination in the provision of health services. The clause provides that a health unit shall not discriminate against a patient with a disability, on the basis of the disability and specifies what amounts to discrimination by a health facility.
11. **Clause 8 of the Bill** provides that an employer shall not discriminate against a person with a disability, on the basis of the disability of that person and provides what amounts to discrimination in employment.

12. **Clause 9 of the Bill** is on accessibility to buildings and provides that an owner or a person in charge of a building to which the public is allowed access shall, subject to the requirements of the laws on building standards and other relevant laws, provide appropriate accessibility for persons with disabilities, to the building and shall provide parking space for the vehicles driven by persons with disabilities or by drivers of persons with disabilities.
13. **Clause 10 of the Bill** covers non discrimination in the provision of transport services by providing that an owner, a driver or a person in charge of a vehicle that is used by the public and for which a fare is charged, shall not deliberately or unreasonably refuse to transport a person with a disability or require a passenger with a disability who uses assistive devices, to pay a charge for the carriage of the assistive devices.
14. **Clause 11 of the Bill** covers non discrimination in the provision of services on a commercial basis. A person who provides services to the public on a commercial basis has to make the services available and accessible to persons with disabilities and shall not refuse to provide the services to a person with a disability or deliberately make it impossible or unreasonably difficult for a person with a disability to use the services. An owner or a person in charge of a television station is required to provide or cause to be provided sign language insets in at least one newscast everyday.
15. **Clause 12 of the Bill** provides that where the person to be charged with an offence under this Act is a body corporate, every person who at the time the offence is committed, was the owner, director, manager or employee of the body corporate, shall be charged with the offence and shall be liable to the penalty prescribed for the offence. However, that an owner, a director, manager or employee of the body corporate is not liable under the subsection, where he or she proves to the satisfaction of the Court that the act in question was committed without his or her

knowledge, consent or connivance or that he or she took all necessary steps to prevent the commission of that act, having regard to all the circumstances.

16. **Clause 13 of the Bill** provides that a complainant or a witness who is a person with total blindness or low vision may identify a suspect or an accused person by the voice of the suspect or accused person or by touching or by any other manner in which the complainant or witness is able to make the identification intelligible.
17. **Clause 14 of the Bill** gives the Minister powers to amend the Schedules to the Act.
18. **Clause 15 of the Bill** amends the National Council for Disability Act, the Trial on Indictment Act and the Magistrates Court Act to include matters related to persons with disabilities in those Acts.
19. **Clause 16 of the Bill** repeals The Persons with Disabilities Act, 2006.
20. **The Schedules to the Bill**
 - Schedule 1 - Provides for buildings to which the public is allowed access.
 - Schedule 2 - Provides the value of a currency point.
 - Schedule 3 - Provides the categories of disabilities to which the Act applies.
 - Schedule 4 - Provides for services provided to the public on a commercial basis.

HON. MARY KARORO OKURUT,
Minister of Gender, Labour and Social Development.

THE PERSONS WITH DISABILITIES BILL, 2014.

ARRANGEMENT OF CLAUSES.

Clause

1. Commencement.
2. Interpretation.
3. Determination of a person with a disability.
4. Respect and promotion of rights and freedoms of persons with disabilities.
5. The right to enjoy family life.
6. Non discrimination in the provision of education services.
7. Non discrimination in the provision of health services.
8. Non discrimination in employment.
9. Accessibility to buildings.
10. Non discrimination in the provision of transport services.
11. Non discrimination in the provision of services on a commercial basis.
12. Offences by owners, directors, managers and employees.
13. Identification of suspects and accused persons by visually impaired complainants and witnesses.
14. Amendment of Schedules.
15. Amendment of the National Council for Disability Act, the Trial on Indictment Act and the Magistrates Court Act.
16. Repeal of Persons with Disabilities Act, 2006.

SCHEDULES

- Schedule 1 - Buildings to which the public is allowed access
Schedule 2 - Currency point
Schedule 3 - Categories of disabilities
Schedule 4 - Services provided to the public on a commercial basis

A Bill for an Act

ENTITLED

THE PERSONS WITH DISABILITIES ACT, 2014.

An Act to operationalise Article 35 of the Constitution; to provide for the respect and promotion of the fundamental and other human rights and freedoms of the persons with disabilities and for the non discrimination of persons with disabilities; to provide right to enjoy family life; to provide for the special requirements of persons with disabilities in education, health and employment; to regulate the accessibility of public buildings and the provision of transport and other services on a commercial basis; to provide for the identification of suspects and accused persons by visually impaired complainants and witnesses; to repeal the Persons with Disabilities Act, 2006 and to provide for related matters in relation to persons with disabilities.

BE IT ENACTED by Parliament as follows—

1. Commencement.

(1) This Act shall come into force on a date appointed by the Minister by statutory instrument.

(2) The Minister may appoint different dates for the commencement of different provisions of the Act.

2. Interpretation.

(1) In this Act, unless the context otherwise requires—

“building to which the public is allowed access” means a building in Schedule 1 to this Act;

“currency point” has the meaning assigned to it in Schedule 2 to this Act;

“disability” means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environment barrier, resulting in limited participation and includes an impairment specified in Schedule 3 to this Act;

“health unit” means a hospital, clinic, dental surgery, nursing home and maternity centre, established by the Government or a local government and a hospital, clinic, dental surgery, nursing home and maternity centre, which is not established by the Government or a local government, which is registered under the Medical and Dental Practitioners Act;

“Minister” means the Minister responsible for disability affairs.

(2) This Act is, with regard to mental illness, subject to the Mental Treatment Act.

3. Determination of a person with a disability.

Where it is necessary, for purposes of this Act to determine whether a person who claims or alleges that he or she is a person with a disability, within the definition in section 2 or where the court so requires, a medical doctor with the relevant expertise, shall carry out an examination to confirm this.

4. Respect and promotion of rights and freedoms of persons with disabilities.

(1) A person with a disability shall enjoy the fundamental and other human rights and freedoms enshrined in the Constitution.

(2) The fundamental and other human rights and freedoms enshrined in the Constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons, with respect to persons with disabilities.

(3) Subject to this Act, all the laws of Uganda shall apply to the persons with disabilities and all the organs and agencies of Government and all persons in Uganda shall enforce and implement the laws of Uganda without discrimination on the basis of disability.

(4) A person who contravenes subsection (2) or (3) commits an offence and is on conviction liable to a fine not exceeding twenty four currency points or to a term of imprisonment not exceeding twelve months, or both.

5. The right to enjoy family life.

(1) A mother with a disability, who gives birth outside of wedlock, has the right to care for and bring up her child.

(2) A person shall not remove a child born by a mother with a disability, who gives birth outside of wedlock, from the custody of the mother, without the express permission of the mother, except where court makes an order for custody.

(3) The father of a child born by a woman with a disability, outside of wedlock, shall provide support for the child without removing the child from the custody of the mother.

(4) A person who contravenes this section commits an offence is on conviction liable to a fine not exceeding twenty four currency points or to a term of imprisonment not exceeding twelve months, or both.

6. Non discrimination in the provision of education services.

(1) A school or an institution of higher learning shall not discriminate against a learner with a disability, on the basis of the disability.

(2) Subsection (1) does not apply where the school or institution of higher learning is established for learners of a specific disability, where the learner does not have that disability.

(3) A school or an institution of higher learning discriminates against a learner with a disability where—

- (a) on the basis of the disability, the school or institution of higher learning refuses to accept an application for admission, made by the learner with a disability who is otherwise qualified for admission;
- (b) the conditions for admission to the school or institution of higher learning exclude the admission of learners with disabilities;
- (c) the school or institution of higher learning denies or limits the access of the learner with a disability, to the available facilities;
- (d) the school or institution of higher learning expels a learner with a disability, on the basis of the disability; or
- (e) the school or institution of higher learning subjects the learner with a disability to any unfair treatment, on the basis of the disability.

(4) A school or an institution of higher learning that enrolls a learner with a disability shall—

- (a) provide an inclusive education system for that learner; and
- (b) make the necessary structural adjustments to the buildings and the compound of the school or institution of higher learning, to enable access by a learner with a disability.

(2) An employer shall—

- (a) in the advertisement for a job, where appropriate, encourage persons with disabilities to apply for the job; and
- (b) provide to an employee with a disability the facilities required in the performance of the job or task.

(3) An employer discriminates against a person with a disability where—

- (a) on the basis of the disability, the employer refuses to accept an application made by the person with a disability, who is otherwise qualified for the job;
- (b) the conditions for applying for the job or the selection criteria exclude applications by persons with disabilities;
- (c) the assessment of the performance of an employee with a disability is based on tests or conducted in a manner that does not correctly gauge the performance of that employee;
- (d) the remuneration or benefits given to an employee with a disability is less than that given to the other employees who perform the same tasks;
- (e) on the basis of the disability, an employee with a disability is not considered for promotion, on job training, scholarships or any other benefits that are accorded to the other employees;
- (f) on the basis of the disability, an employee with a disability is transferred from a job or task which he or she is capable of performing to another job or task which he or she is unable to perform due to his or her disability;

- (g) the employer does not provide the facilities required by the employee with a disability to perform his or her job or tasks;
- (h) the employer conducts a medical examination on an employee with a disability, where the examination is not performed on the other employees; or
- (i) the employer terminates the services of employment of an employee with a disability, on the basis of the disability.

(4) In this section “facilities” includes tools, equipment and where necessary, a modified work schedule.

(5) An employer with employees with disabilities shall be allowed deductions on the chargeable income, as may be provided for by the Income Tax Act.

(6) An employer who contravenes this section commits an offence and on conviction is liable to a fine not exceeding twenty four currency points or to a term of imprisonment not exceeding twelve months, or both.

(7) An employer who provides the required facilities but proves that the disability, affects or hinders the satisfactory performance of the employee with a disability shall not be liable for discrimination under subsection (3) (i).

9. Accessibility to buildings

(1) An owner or a person in charge of a building to which the public is allowed access shall, subject to the requirements of the laws on building standards and other relevant laws, provide appropriate accessibility for persons with disabilities, to the building.

(2) In subsection (1) “provide appropriate accessibility for persons with disabilities, to the building” means—

- (a) putting in place accessible and easy to find entrances which are connected to accessible pathways and accessible parking areas;
- (b) providing safe and accessible urinals and bathrooms;
- (c) providing safe and well dimensioned staircases with appropriate railing and well dimensioned and accessible elevators; and
- (d) where necessary, providing ramps.

(3) An owner or a person in charge of a building to which the public is allowed access shall provide parking space for the vehicles driven by persons with disabilities or by drivers of persons with disabilities.

(4) The parking space referred to in subsection (3) shall be marked with a conspicuous sign with the acronym, "PWD".

(5) A driver who is not a person with a disability or who is not a driver of a person with a disability shall not park a vehicle in the parking space referred to in subsection (3).

(6) A person who contravenes subsection (5) commits an offence is on conviction liable to a fine not exceeding ten currency points or to a term of imprisonment not exceeding five months, or both.

(7) An owner or a person in charge of a building to which the public is allowed access who contravenes this section commits an offence is on conviction liable to a fine not exceeding twenty four currency points or to a term of imprisonment not exceeding twelve months, or both.

10. Non discrimination in the provision of transport services.

(1) An owner, a driver or a person in charge of a vehicle that is used by the public and for which a fare is charged, shall not deliberately or unreasonably refuse to transport a person with a disability.

(2) An owner, a driver or a person in charge of a vehicle that is used by the public and for which a fare is charged, shall not require a passenger with a disability who uses assistive devices, to pay a charge for the carriage of the assistive devices.

(3) In this section “assistive devices” means wheel chairs and crutches.

(4) A person who contravenes this section commits an offence and is on conviction liable to a fine not exceeding six currency points or to a term of imprisonment not exceeding three months, or both.

11. Non discrimination in the provision of services on a commercial basis.

(1) A person who provides services to the public on a commercial basis shall make the services available and accessible to persons with disabilities.

(2) A person who provides services to the public on a commercial basis shall not—

(a) refuse to provide the services to a person with a disability;
or

(b) deliberately make it impossible or unreasonably difficult for a person with a disability to use the services.

(3) Subsections (1) and (2) (a) shall not apply where it is necessary to protect the health or safety of the person with a disability or any other person.

(4) Where a person who provides services to the public on a commercial basis does not make the services available or accessible to a person with a disability, the person shall explain the reason for this to the concerned person with a disability.

(5) An owner or a person in charge of a television station shall, each day, provide or cause to be provided sign language insets in at least one newscast.

(6) In this section "services" means the services in Schedule 4 of this Act.

(7) A person who contravenes the provision of this section commits an offence and is on conviction liable to a fine not exceeding twenty four currency points or to a term of imprisonment not exceeding twelve months, or both.

12. Offences by owners, directors, managers and employees.

(1) Where the person to be charged with an offence under this Act is a body corporate, every person who at the time the offence is committed, was the owner, director, manager or employee of the body corporate, shall be charged with the offence and shall be liable to the penalty prescribed for the offence.

(2) Notwithstanding subsection (1), an owner, a director, manager or employee of the body corporate is not liable under the subsection, where he or she proves to the satisfaction of the Court that the act in question was committed without his or her knowledge, consent or connivance or that he or she took all necessary steps to prevent the commission of that act, having regard to all the circumstances.

(3) An employer is answerable and liable for any acts or omission of the employees which constitute a contravention of this Act, so far as they concern the business of the employer.

13. Identification of suspects and accused persons by visually impaired complainants and witnesses.

A complainant or a witness who is a person with a disability of total blindness or low vision, may identify a suspect or an accused person by the voice of the suspect or accused person or by touching or by any other manner in which the complainant or witness is able to make the identification intelligible.

14. Amendment of Schedules.

The Minister may, by statutory instrument, with the approval of Cabinet, amend the Schedules to this Act.

15. Amendment of the National Council for Disability Act, the Trial on Indictment Act and the Magistrates Court Act.

(1) Section 33 of the National Council for Disabilities Act is amended by substituting for the section the following—

“33. Report of the Council.

(1) The Council shall within three months after the end of each financial year, submit to the Minister, in respect of the financial year, a report on the functions of the Council and the implementation of the Persons with Disabilities Act.

(2) The Minister shall within one month of receipt of the report, submit the report to Parliament.”

(2) Section 17 of the Trial on Indictment Act amended—

(a) by renumbering the existing provision as (1);

(b) by inserting immediately after subsection (1) the following—

“(2) For the purpose of subsection (1), a person with a disability shall not on the basis of the disability, be taken to be an insufficient surety.”

(3) Section 26 of the Magistrates Court Act is amended—

(a) by renumbering the existing provision as (1);

(b) by inserting immediately after subsection (1) the following—

“(2) For the purpose of subsection (1), a person with a disability shall not on the basis of the disability, be taken to be an unfit person.”

16. Repeal of Persons with Disabilities Act, 2006.

The Persons with Disabilities Act, 2006 is repealed.

SCHEDULES

Section 2

Schedule 1

Buildings to which the public is allowed access

1. Government offices.
2. Health facilities.
3. Mosques, churches and other places of worship.
4. Recreation and sports facilities.
5. Court houses.
6. Police stations.
7. Schools and institutions of higher learning.
8. Airport buildings.
9. Shopping malls.
10. Building where the services in Schedule 4 are provided.

Schedule 2

Currency point

A currency point is equivalent to twenty thousand Uganda shillings.

Schedule 3

Categories of disabilities

1. Mobility impairment caused by cerebral palsy, amputation of a limb, paralysis or deformity.
2. Hearing disability including deafness and hard of hearing disability.
3. Visual disability including blindness and low vision disability.
4. Deaf and blind disability
5. Mental illness including psychiatric disabilities and learning disabilities.
6. Little persons.
7. Albinism.

Schedule 4

Services provided to the public on a commercial basis

1. Information and communication services.
2. Boarding and lodging services.
3. Banking and related financial services including insurance services.
4. Sports, entertainment, recreation and leisure services.
5. Professional services and trade except the education services and health services in sections 6 and 7 of this Act.



