

**MINISTRY OF GENDER LABOUR AND SOCIAL DEVELOPMENT**

**PERSONS WITH DISABILITY BILL, 2016**

## THE LONG TITLE

*“An Act to operationalize Articles 32 and 35 of the Constitution; to provide for the respect and promotion of the fundamental and other human rights and freedom of Persons with Disabilities; to make provision for the equalization of opportunities and the elimination of all forms of discrimination against persons with disabilities*

## PART OF THE BILL

- a. PART I- PRELIMINARY.
- b. PART II- HUMAN RIGHTS OF PERSONS WITH DISABILITIES.
- c. PART III — THE RIGHT TO EDUCATION
- d. PART IV — HEALTH SERVICES
- e. PART V — EMPLOYMENT OF PERSONS WITH DISABILITIES
- f. PART VI — ACCESSIBILITY and
- g. PART VII — MISCELLANEOUS PROVISIONS

## PART I- PRELIMINARY

### Interpretation

A decision was taken that all the definitions in the PWD Act 2006 and the amendment be retained; BUT modifications be done in terms of **language** and a few **newdefinitions** adopted as proposed by the coalition. The definitions include:

**“accessibility”** mean the possibility for a person with a disability to reach a place and maneuver within it, use a service, receive information issued by a public place or service, and to participate in the activities provided by a public place or service, on an equal basis with others, with dignity, independence, and safety.

**“auxiliary aids and services”** include qualified readers, Interpreters and guides; taped texts, audio, visual and Pictorial recording; Braille equipment, large print and Brailled materials; tactile equipment, orthopedic appliance and other devises and services that support PWDs to participate effectively in all aspects of life;

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

**“communication”** includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio,

plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

**“council”** means the National Council for Disability established under section 3 of the National Council for Disability Act 2003.

**“discrimination on the basis of disability”** means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

**“habilitation”** means a process aimed at enabling a person with a disability attain, keep or improve skills and functioning for daily living; through physical, occupational, and speech-language therapy, various treatments related to pain management, and audiology and other services that are offered in both hospital and outpatient locations.

**“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 government or a local government, which is registered under the Medical and Dental Practitioners Act;

**“language”** includes spoken and signed languages and other forms of non-spoken languages;

**“minister”** means the minister responsible for disability affairs;

**“person with disabilities”** include persons who have long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;

**“reasonable accommodation”** means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to a person with a disability the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

**“rehabilitation”** means regaining skills, abilities, or knowledge that may have been lost or compromised as a result of acquiring a disability or due to a change in one’s disability or circumstances.

**“universal design”** means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. ‘Universal design’ shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

## ***Objects of the Act***

The objects of this Act are—

- (a) to operationalize Articles 32 and 35 of the 1995 Constitution;
- (b) to give effect to the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol;
- (c) to ensure that all organs and agencies of Government and all persons, natural and legal, respect, uphold, promote and protect the fundamental and other human rights and freedoms of persons with disabilities;
- (d) to eliminate all forms of discrimination against persons with disabilities;
- (e) to promote dignity and equal opportunities to persons with disabilities;
- (f) to ensure the participation of Persons with Disabilities in all aspects of life as equal citizens of Uganda.”

## ***Determination of disability***

- (1) Where it is necessary, for the purposes of this Act, to determine whether a person is in fact a person with a disability or where the Court so requires, this determination shall be based on the recognition that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.
- (2) The determination under subsection (1) may, where appropriate, be undertaken with the assistance of a team of experts, including but not limited to a medical doctor with relevant expertise, a care provider, and or any other professional related to the fact in issue; n equal basis with others.

## ***PART II- HUMAN RIGHTS OF PERSONS WITH DISABILITIES***

**Redraft sub- clause (4) of the Bill to read as follows-**

### **Fundamental and other Human Rights of Persons with Disabilities**

- (1) Persons with Disabilities 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.
- (3) Persons with disabilities shall not be discriminated against on grounds of their actual or perceived disability.
- (4) The rights of Persons with Disabilities specifically mentioned in this Act shall not be regarded as excluding others not specifically mentioned.
- (5) Subject to this Act, all the laws of Uganda shall apply to 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.
- (6) 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 12 months, or both.

Introduce “**4 new clauses**” immediately after “**clause 4**”to read as follows-  
**“5. Affirmative action in favour of persons with disabilities.**

- (i) Persons with disabilities shall be accorded affirmative action for the purpose of redressing imbalances, which exist against them.
- (ii) Without prejudicing the generality of Sub-clause (1) above, affirmative action measures for persons with disabilities shall be undertaken in any and all state programmes that are designed and implemented whether for the general population or a part thereof.

### **Prohibition of cruel, inhuman or degrading treatment**

- (1) No person with disabilities shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

- (2) Every person with disabilities has the right to be protected against all forms of abuse, exploitation and violence, whether physical, mental, sexual, or emotional, on the person of such person with disabilities in all settings at all places.
- (3) Without prejudice to the generality of sub-clauses (1) and (2) above, the acts prohibited under this Section include, but are not limited to; subjecting a person with disabilities without his or her free and informed consent, to:
- (i) medical or scientific experimentation;
  - (ii) harmful cultural or traditional practices; and
  - (iii) forced sterilization.

### **Right to privacy**

Persons with disabilities shall not be subjected to arbitrary or unlawful interference with their privacy and dignity.

### **Rights of the family**

- (1) A person with disability has the right to a home and a family and shall be entitled –
- (a) to experience his or her sexuality and to have sexual and other intimate relationship;
  - (b) at the age of eighteen years and above, to marry a spouse of his or her own choice and to found a family;
  - (c) to equal rights at and in marriage, during marriage and at its dissolution;
  - (d) to decide the number and spacing of his or her children; and
  - (e) to guardianship, trusteeship and adoption of children under the relevant laws.
  - (f) to care for and bring up his or her children and shall not be separated from his or her children except in accordance with the law and in accordance with the best interests of the children.
- (2) A child with disability shall not be separated from his or her family or a person entitled to bring up that child except in accordance with the law and in accordance with the best interests of that child.
- (3) 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.
- (4) Children with disabilities shall enjoy all rights enshrined in the Children Act; on an equal basis with all other children and have the right to know and be

cared for by their parents or those entitled by law to bring them up; and to develop to their full potential in all spheres;

- (5) Parents of children with disabilities shall have the duty to take care of them and to ensure their proper up bringing and development.

### **Participation in Public Life**

- (1) Persons with disabilities shall have the right to fully participate in political and public life and to vote and be voted in any political office.
- (2) Persons with disabilities shall have the right to participate in public administration, civil society, political parties and other associations or organizations.
- (3) No person with a disability shall be barred from offering themselves for, or having been elected or appointed lose, any political office or other public position solely on ground of their disability.
- (4) Persons with disabilities shall have the right to fully participate and take part in decision-making process.

### **Protection and safety of persons with disabilities in situations of risk and humanitarian emergencies**

- 1) Every person with disabilities has a right to suitable and specialized protection and safety in situations of risk, including situation of armed conflict, humanitarian emergencies, and the occurrence of natural disasters.

### **Rights related to Equitable Access to Justice**

- (1) Persons with disabilities shall have the right to an equitable and effective access to justice on an equal basis with others.
- (2) Persons with disabilities shall be recognized as persons before the law and shall be entitled, on an equal basis with others to the protection of the law.
- (3) In all matters pertaining to access to justice, persons with disabilities shall not, by reason only of their disability, be taken to be unfit persons, including but not limited to serving as judicial officers, sureties, assessors or witnesses.
- (4) Without prejudice to the foregoing subsections, a complainant or a witness who is a person with visual impairment may identify a suspect or accused person by touching or by any other manner in which the complainant or witness is able to make the identification intelligible.

### ***PART III — THE RIGHT TO EDUCATION***

#### **Right to education**

- (1) Every person with a disability has the right to education on an equal basis with others provided in an accessible environment that promotes the principle of inclusive education.
- (2) Persons with disabilities shall be accorded free and compulsory primary and secondary education in a manner that is accessible and offers appropriate support to persons with disabilities and parents of learners with disabilities to enable such learners to effectively participate in such education.
- (3) The principle of inclusive education shall be the basis for the enjoyment of the right to education for all persons with disabilities.
- (4) For purposes of this section, the principle of inclusive education requires that all learners, including those with disabilities learn together, regardless of any difficulties or differences they may have and that education institutions and schools recognize and respond to the diverse needs of their learners, accommodating both different styles and rates of learning and ensuring quality education to all through appropriate curricula, organizational arrangements, teaching strategies, resource use and partnerships with their communities and ensuring that children with special educational needs receive whatever extra support they may require to ensure their effective education.
- (5) Assignment of learners to special classes or sections within a school on a permanent basis shall be done only as an exception in those infrequent cases where it is clearly demonstrated that education in regular classrooms, even after obtaining the support as described in sections 18 and 19, is incapable of meeting a child's educational or social needs and that such special education is required for the welfare of the child to be subject to special education.
- (6) Lack of funding or other resources in itself shall not be a ground to exclude a child from inclusive education. It must be demonstrated that every effort has been made to access funding and other resources, including accessing support in accordance with sections 18 and 19 below, without much success.
- (7) The Government shall within two years after the coming into force of this amendment adapt all education curricular, teacher training, and education infrastructure and facilities for the purposes of promoting inclusive education.

- (8) Learners in special classes shall be entitled to support as described in section 16 below and shall be educated under a programme that aims at ensuring that such learners are eventually incorporated into inclusive school programmes where this is reasonably possible and appropriate.
- (9) Parents or guardians of children with disabilities have a duty to take reasonable steps to ensure that such learners are enrolled and get access to free and compulsory primary and secondary education.
- (10) Any parent or guardian of a child with a disability, who willfully prevents such child from attending school, whether primary or secondary, commits an offence and shall on conviction be liable to a fine not exceeding 50 currency points or imprisonment for a term of not less than six months or to both such imprisonment and fine. The court shall in trying cases under this provision require an investigation by a probation and social welfare officer as constituted under the Children Act on the circumstances of the parent or guardian or the family of the child and whether support as described in sections 18 and 19 has been sought or provided and the court shall where appropriate as an alternative to any penalty order counseling for the parent or guardian and the child with a disability and may order that support be provided in accordance with sections 18 and 19.

### **Educational support for Persons with Disabilities**

- (1) Every person with a disability enrolled at an educational institution is entitled to receive from the state all support that is appropriate and reasonably necessary for the completion by the person with a disability of his or her education, based on an assessment of that particular individual's needs.
- (2) Support for persons with disabilities in the education setting shall include, but is not limited to facilitating: the learning of braille, alternative script, augmentative and alternative modes of communication; the learning of sign language and tactile; individual support to persons with disabilities whenever this is deemed reasonably necessary in an environment; providing assistive devices and other available technologies designed for the purposes of facilitating their education; designing and implementing assessment and examination procedures that meet their needs; employing teachers qualified to teach learners with disabilities; providing accessibility to the built structures;
- (3) Government shall within two years after the coming into force of this Amendment, through the Ministry responsible for education, and in consultation with organizations of persons with disabilities adopt a Plan to be known as the Education Plan for Persons with Disabilities describing the steps government shall take to ensure that the right to education for

persons with disabilities as guaranteed under the provisions of this Act and as protected by international human rights law is realized.

- (4) Government shall through the Ministry responsible for education, on a continuous basis and as part of the Education Plan for Persons with Disabilities ensure that curricula at all levels are inclusive and accommodative of the needs of persons with disabilities and is among others intended for the full development of their human potential and sense of dignity.
- (5) The provisions of this Act relating to physical accessibility and access to information shall apply to providers of education services both in the public and private sector and includes entities offering training and education services (including tests and examinations) even when these cannot in formal terms fit in the description of a school.

### **Prohibition of discrimination in the provision of educational services**

- (1) A person shall not discriminate against a person with disability with respect to the provision of that person of educational services.
- (2) A person shall discriminate a person under sub section (1)—
  - (a) if he or she refuses or fails to accept an application for admission in an educational institute by a qualified person because of that person's disability.
  - (b) if the terms or conditions of admission to his or her educational institution excludes persons with disabilities;
  - (c) by denying or limiting access to any benefit or service provided by the educational institution to a student with a disability;
  - (d) by expelling a student because of his or her disability;
  - (e) by subjecting a student with disability to any other unfair treatment, relating to his or her disability;
  - (f) by failing to take reasonable steps to ensure that the school or institutional environment is accessible for persons with disabilities in accordance with the provisions of Part VI of this Act.
- (3) The provisions of this section shall not apply to a person denied admission to an educational unit established primarily for students who have a particular disability where that person does not have that particular disability.

## **PART IV — THE RIGHT TO HEALTH**

### **Right to health**

- (1) Persons with disabilities have a right to health without discrimination on the basis of disability.
- (2) The Minister responsible for health shall take all appropriate measures to ensure access for all persons with disabilities to health services that are gender-sensitive, including health related rehabilitation. The Minister shall take all necessary measures to:-provide the same range, quality and standard of free or affordable health care and programmes, as close as possible to their communities; provide services needed because of their disabilities; provide assisted living and home-based care for persons with mental disabilities;
- (3) The purchase, importation, transfer or gift of health materials or equipment related to disabilities shall be exempted from tax, duties, surcharges or levies.
- (4) The Minister responsible for health shall ensure that -
  - (i) sign language and tactile is included into the curriculum for medical personnel;
  - (ii) interpreters are included in hospital organization structure;
  - (iii) labels on drugs are pre-brailled.
  - (iv) information, including drug labels, is provided in an easy to read format.
- (5) The Minister responsible for health shall take all applicable measures to provide persons with disabilities with subsidized medical and health services including general medical needs.
- (6) The provisions of this Act relating to physical accessibility and access to information shall apply to providers of health services both in the public and private sector and includes entities offering health services even when these are informal.

### **Prohibition of discrimination in the provision of health services**

- (1) A person including an insurance service provider shall not discriminate a person with disability in the provision of health services.
- (2) A person shall discriminate a person under this Section —
  - (a) if he or she refuses or fails to admit or treat such a person because of that person's disability.
  - (b) if the terms or conditions of admission to the health facility excludes persons with disabilities;
  - (c) by denying or limiting access to any benefit or service provided by the health facility to a person with a disability;
  - (d) by discharging a person because of his or her disability;
  - (e) by subjecting a person with disability to any other unfair treatment, relating to his or her disability;
  - (f) by failing to take reasonable steps to ensure that the health facility is accessible for persons with disabilities in accordance with the provisions of Section 26 and Part VI of this Act.

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

### **Measures of Habilitation and Rehabilitation**

- (1) Service providers shall take all effective and appropriate measures, to ensure that persons with disabilities attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life.
- (2) The Minister responsible for health, in consultation with the Ministers responsible for Employment, Education and Social Services, shall organize, strengthen and extend habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services.
- (3) The Ministers responsible for Health, and for Education, shall ensure that medical institutions and other relevant educational institutes offer curricula and specialties on habilitation and rehabilitation.

## **PART V — EMPLOYMENT OF PERSONS WITH DISABILITIES**

### **Prohibition of Discrimination in Employment**

- (1) An employer shall not discriminate against a qualified person on ground of that person's actual or perceived disability in regard to any job application procedures, hiring, promotion, employee compensation, job training and other terms, conditions, and privileges of employment.
- (2) For the purposes of subsection (1) the acts of discrimination include, but shall not be limited to, the following –
  - (i) limiting, segregating or classifying a job applicant with disabilities in such a manner that adversely affects his or her work opportunities;
  - (ii) devising or using qualification standards, employment tests or other selection criteria that screen out or tend to screen out persons with disabilities;
  - (iii) utilizing standards, criteria or methods of administration showing the effect of discrimination on the basis of disability or perpetuating the discrimination of others who are subject to common administrative control;

- (iv) providing less payment, remuneration or fringe benefits, to a qualified employee with disabilities, than the amount to a non-disabled person performing the same work;
  - (v) favouring a non-disabled employee over a qualified employee with disabilities with respect to promotion, training opportunities, study or scholarship grants or any other benefits, solely on account of the latter's disability;
  - (vi) re-assigning or transferring a qualified employee with disabilities from a job or position he or she can perform to one which he or she cannot perform because of his or her disability;
  - (vii) not making reasonable accommodations to a qualified individual with a disability who is an applicant or employee, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business;
  - (viii) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, including where such denial is based on the employer's need to make reasonable accommodation for the employee or applicant;
  - (ix) terminating the employment of a person with disability on the basis of the disability;
  - (x) failing to select or administer in the most effective manner, employment or on-job assessment tests which accurately reflect the skills, and attitude of an applicant or employee with disabilities;
  - (xi) conducting any medical or other test or examination to establish whether an applicant is a person with a disability or as to the nature or severity of the person's disability as a basis for employing that person or retaining them in employment; and
  - (xii) excluding persons with disabilities from membership in labour unions or similar organizations.
- (3) In the context of this Section, "reasonable accommodation" includes but is not limited to:-
- (i) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

- (ii) job restructuring, part-time or modified work schedules, reassignment to an alternative position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for persons with disabilities as per the individual's need.
- (4) In the context of this Section, "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:-
- (i) the nature and cost of the accommodation needed;
  - (ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;
  - (iii) the level of the position within the structure of the organization, and the envisaged duration of the contract;
  - (iv) the overall financial resources of the employer; the overall size of the business entity with respect to the number of its employees; the number, type, and location of its facilities; and
  - (v) the type of operation or operations of the entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the entity.

### **Employment of Persons with Disabilities**

- (1) Persons with disabilities have the right to practice their professions and to carry on any lawful occupation, trade or business of their choice.
- (2) The State and all persons shall promote and support the empowerment of persons with disabilities, including those who acquire disability during the course of their employment, to work on an equal basis with others and to earn a living by work through a quota system of employment.
- (3) The Minister responsible for labour shall, in consultation with the employers' organizations, determine the quota of persons with disabilities workforce for employers, and shall by statutory instrument publish the agreed quota.

- (4) Notwithstanding the foregoing subsection, the quota of persons with disabilities workforce for employers shall at all times not be less than 5% for private employers and 10% for the public service.
- (5) In addition to the foregoing, the State shall take further affirmative action measures to enhance the employment of persons with disabilities, including but not limited to, additional programmes of skills enhancement; preference for persons with disabilities with respect to employment, training opportunities and promotion within the public service.
- (6) The Minister responsible for labour shall ensure that affirmative action with regard to employment
- (7) Each employer shall –
- (i) where appropriate in any job advertisement, indicate that persons with disabilities would be considered;
  - (ii) be required to carry out any appropriate modification in their work premises to facilitate the employment of persons with disabilities;
  - (iii) claim tax exemption on any costs incurred as a result of the modifications carried out under paragraph (b); and
  - (iv) each year by the end of the month of June, submit to the Minister, returns of employment of persons with disabilities.
- (8) The Minister responsible for labour shall, at the end of each financial year, report to Parliament the status of employment of persons with disabilities in the country.

### **Non- retribution against employees**

- (1) An employer shall not discriminate against or in any other way penalize any employee on ground that the employee—
- (a) Opposes acts or practices discriminating against persons with disabilities; or
  - (b) Testified, assisted or participated in an investigation, proceedings or hearing of a case against discrimination of a person with a disability.

### **Access to work premises and information**

It shall be the duty of the employer to ensure that the physical and other features of the premises occupied by an employee do not place an employee with a disability at a disadvantage; and that they can easily access the needed

information.

### **Tax reduction**

Notwithstanding provisions of the Income Tax Act, private employers who employ ten or more persons with disabilities either as regular employees, apprentices on full time basis shall be entitled to tax deduction of fifteen percent of all payable tax upon proof to the Uganda Revenue Authority.

### **Void contracts**

Any contract of employment or other agreement is void if the contract:

- (a) requires a person to do anything prohibited under this Act;
- (b) Excludes or limits the operation of any provision of this Act; or
- (c) Prevents any person from lodging a complaint under this Act.

## **PART VI — ACCESSIBILITY**

### **Definition of Public Buildings, Public Services and Public Facilities**

For the purposes of this Act –

(a) ‘public services’ or ‘services offered on a commercial basis’ include, but are not limited to: information and communication services; boarding and lodging services; banking and related financial services including insurance services; sports, entertainment, recreation and leisure services; as well as professional services and trade;

(b) ‘public buildings’ include but are not limited to: health care facilities; government offices; mosques, churches and other places of worship; recreational and sports facilities; judicial and law enforcement facilities including police stations and courts of law; public transport facilities; schools and institutions of learning; airport buildings; shopping malls; public roads and pedestrian pathways and walkways; as well as any building wherein public services are provided.

(c) ‘services in public facilities’ include but are not limited to services such as: shopping, health, leisure and culture, education, welfare, sports, tourism, accommodation, commerce, religion, communications, finance and banking, and other professional services.

### **Right to accessible Public Buildings, Public Services and Facilities**

- (1) Persons with disabilities have a right to access public services, facilities, and public buildings and not to be discriminated against in exercising this right.
- (2) Any person who constructs a building or facility to which the public is invited shall ensure that persons with disabilities have access to the building or facility through provision of services in accordance with regulations as adopted under this Act by the Minister responsible for works and transport.
- (3) The regulations described in subsection (2) above shall in addition to the standards the Minister sets require the person who constructs a public building ensure that the building or facility complies with the following standards -
  - (i) has accessible and easy-to-find building entrances and exits, connected by accessible pathways to accessible indoor or outdoor parking areas, local public transit stops and accessible elevators;
  - (ii) has safe, accessible and user-friendly urinals, bathrooms and toilets for persons with disabilities;
  - (iii) has safe and well-dimensioned staircases for comfort of persons with disabilities particularly those with reduced or limited mobility;
  - (iv) has ramps wherever stairs obstruct the free passage of pedestrians, mainly wheelchair users and people with reduced or limited mobility;
  - (v) has adequate railing around hazardous areas, stairs, ramps, accessible roofs, mezzanines, galleries, balconies and raised platform;
  - (vi) has elevators which are accessible and designed for the comfort of persons with disabilities.
  - (vii) is well-dimensioned elevators (in case of multi storied buildings with more than two stories) that persons with disabilities can use conveniently;
- (4) It shall be the duty of every physical planning committee as established by Part III of the Physical Planning Act, No. 8 of 2010, to ensure that architectural and structural designs and drawings submitted together with an application for development permission are in compliance with the provisions of sub-sections (2) and (3) above. The physical planning committee shall not approve any architectural or structural designs and drawings that do not make provision for the facilities stipulated in the foregoing provisions.

- (5) Where an existing building or public facility is not in compliance with subsections (2) and (3) and the regulations made by the Minister in accordance with the provisions of Section 52 of this Act, it shall be the duty of the owner of the building, person in charge of the building or provider of the facility, within such time as defined in the regulations to make adjustments to ensure that the building or facility is accessible for persons with disability in a manner does not undermine their independence and dignity.
- (6) The Minister may by regulations referred to in Section 52, and after consultation with stakeholders representing the diverse needs of persons with disabilities, define circumstances under which a building or facility may be exempted from the provisions of this section.

### **Provision of parking spaces for Persons with Disabilities**

- (1) In addition to the duties stipulated under Section 39 above, an owner or a person in charge of a building to which the public is allowed access shall provide parking space for vehicles driven by persons with disabilities or by drivers of persons with disabilities.
- (2) The parking space referred to in subsection (1) shall be marked with conspicuous sign with the acronym 'PWD'.
- (3) A driver who is not a person with disability or who is not a driver of person with disability shall not park a vehicle in the parking space referred to in this Section.
- (4) A person who contravenes subsection (3) commits an offence is on conviction liable to a fine not exceeding twenty five currency points or to a term of imprisonment not exceeding five months or both.
- (5) 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.

### **Duties of Service Providers**

- (1) Any person operating or providing a service which is open to the public, including but not limited to health care, education, information and communication, transport, banking and financial services, sports, recreation or leisure, shall make the service and the facilities by which the service is provided accessible for persons with disabilities and shall take measures to provide auxiliary services where it is necessary to enable or facilitate persons with disabilities reasonably make use of the service or accompanying facilities.
- (2) The provisions of subsection (1) shall not require the provider of the service to take any action that would change the nature of the service or

fundamentally alter the nature of the facility by which the service is provided or impose on the service provider a disproportionate or undue burden.

### **Advertisements implying discrimination**

(1) No person shall, publish, display, circulate cause or permit to be published, circulated or displayed, an advertisement or notice that indicates, or could reasonably be understood to indicate, an intention to do an act that is unlawful under the provisions of this Act.

(2) For the purposes of subsection (1), "advertisement "includes all forms of publicity-

- (a) In newspapers, television or radio;
- (b) By display of notices, signs, labels, show cards or goods;
- (c) By circulation of samples, catalogues pricelists, leaflets, handbills or any other form of circular;
- (d) By exhibition of pictures, models, photographs, films or any other form of exhibition.

### **Universal design of goods and products**

(1) The Uganda National Bureau of Standards shall ensure that all goods and products manufactured or imported into the country are to the extent reasonably possible of a universal design and are designed in such manner that they can reasonably and easily be modified for the use by persons with disabilities. This provisions shall not exclude the manufacture or importation of assistive devices and technologies specifically designed for use by persons with disabilities.

(2) The Uganda National Bureau of Standards shall develop standards setting out the standards that define the universal design of various goods or categories of goods to which every importer or manufacturer shall comply.

(3) For purpose of sub-section (1), universal design means that goods and products are designed to be useable by all people, to the greatest extent possible, without the need for adaptation or specialised design.

### **Right to supportive services**

Government shall provide supportive social services to persons with disabilities through-

- (a) Acquisition of assistance devices, medical specialty and assistance personal services;
- (b) Specialized training activities to improve functional limitations;
- (c) Counseling, rehabilitation and orientation to improve their self-

- image;
- (d) Child care services for the children of persons with disabilities.

## **Access to Information**

- (1) Persons with disabilities have the right of access to information, a right which Government shall respect, protect, promote and fulfill through-
- (i) the development and use of Ugandan sign language, tactile, Ugandan sign language interpretators, in all public institutions and at public functions;
  - (ii) the promotion of use of language and information assistive devices and technology;
  - (iii) the promotion of research in assistive technology compatible with and affordable within the local context;
  - (iv) braille of public information, such as Government documents, Government newspapers and other publication; and
  - (v) the promotion of training of braille, tactile, Ugandan sign language interpreters and experts at all levels of society.
- (2) Any person who owns a –
- (i) television station, whether publicly or privately owned shall provide a Ugandan sign language insert and sub-titles, on the basis of real time captioning, in all the major newscast programmes and in all special programs of national significance; and
  - (ii) owns a telephone company, shall provide special telephone devices for the hearing impaired
  - (iii) **who** hosts a website, shall ensure that the website is accessible to persons with disabilities, particularly those with sight impairments
- (3) It shall be the duty of the Uganda Broadcasting Council to enforce the provisions of subsection (2)(i) above.
- (4) It shall be the duty of the Uganda Communication Commission to ensure that as part of their licensing regulations providers of telecommunication comply with the provisions of subsection (2)(ii) above.
- (5) The Minister responsible for communication shall after consultation with various stakeholders including those who represent the diverse needs of

persons with disabilities adopt regulations defining the standards for the access to information by persons with disabilities in accordance with this section. The regulations shall also define the timelines for full compliance with this section.

### **Public roads, highways and pedestrian walkways and pathways**

- (1) It shall be the duty of Government to make public roads, highways, walkways and pathways accessible to persons with disabilities. The Minister responsible for works and transport shall ensure that the design and construction of public roads, highways, walkways and pathways takes into account the needs of persons with disabilities.
- (2) All pedestrian crossings shall have facilities necessary to ensure the safety of persons with disabilities, including the visually impaired, when crossing public roads and highways. These facilities shall include, but shall not be limited to –
  - (a) Equipping pedestrian crossings with traffic control signals controlled by a pedestrian push-button system;
  - (b) Providing pedestrian traffic lights with clearly audible signals;
  - (c) Use of alarms or bells to signal approaching traffic, among others.

### **Access to Public Transport Facilities**

- (1) Any person providing public transport services shall provide access to transport-disadvantaged persons.
- (2) For purposes of sub-section (1) 'transport disadvantaged persons' include persons—
  - (a) using mobility devices such as crutches or calipers, or wheelchairs;
  - (b) using sensory devices such as white canes, low vision devices or hearing aids;
  - (c) who need assistance such as those using sign language or other support in communication;
  - (d) having difficulty in negotiating steps, climbing stairs or walking long distances including persons having health problems, or those carrying heavy loads.
- (3) Without prejudice to subsection (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.
- (4) 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 assistive devices.

(5) In this section 'assistive devices' includes, but is not restricted to, wheel chairs and crutches.

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

### **Denial of driving permit**

No person with disabilities shall be denied a driving permit by reason only of his or her disability.

### **Non- discrimination in the provision of goods, facilities and Services**

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

(2) A person who provides any goods, services or facilities to the public on a commercial basis shall not –

(a) refuse to provide such goods, services or facilities services to a person with disability or

(b) deliberately make it impossible or unreasonably difficult for a person with disability to access or use the good, service or facility.

(3) Subsection (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) The onus to establish that non-provision of a particular good, service or facility is necessary for safety purposes in terms of subsection (3) shall lie upon the person who seeks to rely upon that subsection.

### **Sports, recreation and cultural facilities**

(1) Persons with disabilities have the right to participate in recreational, leisure, cultural and sporting and to accesible and user-friendly facilities that are necessary for engaging in the above stated activities by persons with disabilities.

## **“PART VII — MISCELLANEOUS PROVISIONS**

### **Disability mainstreaming**

The Ministry of Gender shall mainstream disability issues across all government ministries, agencies and departments.

### **Burden of Proof in Discrimination Cases**

Where a Person with Disability establishes, before a court or other competent authority, facts from which it may be presumed that they have suffered direct or indirect discrimination, it shall be for the respondent to prove that such person has not in fact been discriminated against.

### **Offences and penalties**

- (1) Unless otherwise provided, a person who contravenes any provision of this Act, commits an offence, and shall be liable on conviction to a fine not exceeding One Hundred currency points or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment.
- (3) A person who knowingly aids another person to commit an offence under subsection (1) shall, on conviction, be deemed to have committed the offence and shall be liable upon conviction to the same penalties prescribed under that subsection.
- (4) Where the person liable for any offence under this Act is a body corporate, every person who at the time the offence is committed was an owner, director, manager or employee of the entity, shall be charged with the offence and shall, upon conviction, be subject to the penalty prescribed for the offence.
- (5) Notwithstanding subsection (4), 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 the necessary steps to prevent the commission of the act, having regard to all the circumstances.
- (6) An employer is answerable and liable for any acts or omission of the employees which constitute a contravention of the Act, so far as they concern the business of the employer.
- (7) For the avoidance of doubt any person who commits an offence under this Act, which offence is an offence and is punishable under any other law, that person may be punished under that other law.
- (8) A currency point represents the amount in Uganda Shillings prescribed in the Schedule to this Act.

### **Regulations**

- (1) The Minister shall, after consultation with the Council, by statutory instrument, make regulations prescribing matters giving effect to this Act.

- (2) The Minister may by statutory instrument amend the Schedule to this Act.

### **Amendment of National Council for Disability Act, the Trial and Indictment Act and the Magistrate Court Act.**

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

#### **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 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 provisions as (1);

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

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

(3) Section 26 of the Magistrate Court Act is amended –

(a) by renumbering the existing provisions 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.”

#### **Controlling law**

(1) Where the provisions of this Act are in conflict with those of any other law or regulation relating to Persons with Disabilities, the provisions of this Act will be taken to supersede such other law or regulation.

(2) Such other Acts may include but are not limited to:- the Evidence Act, chapter 6; the Magistrates Courts Act, chapter 16; the Trial on Indictment Act, chapter 23; the Bank of Uganda Act, chapter 51; the Children Act, chapter 59; the Immigration Act, chapter 63; the Uganda Citizenship Act, chapter 65; the Electronic Media Act, chapter 104; the Uganda Communications Act, chapter 106; the Physical Planning Act, No. 8 of 2010; the Penal Code Act, chapter 120; the Uganda National Institute of Special Education Act, chapter 138; the Electoral Commission Act, chapter 140; the Administration of Estates of Persons of Unsound Mind, chapter 155; the Succession Act, chapter 162; the National Social Security Fund, chapter 222; the Workers’ Compensation Act, chapter 225; the Land Act, chapter 227; the Local Government Act, chapter 243; the Mental Treatment Act, chapter 279; the Prisons Act, chapter 304; the National Housing and Corporation Act, chapter 313; the Universities and Tertiary Institutions, 7, 2001; the Parliamentary Elections Act, 8, 2001; the Uganda Broadcasting Corporation Act, 5, 2005; the Access to Information

Act, 6, 2005; the Employment Act, 6, 2006 and the Uganda National Bureau of Standards Act, Cap 327.

**Repeal of Persons with Disabilities Act, 2006**

The Persons with Disabilities Act, 2006 is repealed."

**SCHEDULE**

One Currency Point is Equivalent to Twenty Thousand Uganda Shillings