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RT. HON. SEN
AMASON J. KINGI



REPUBLIC OF KENYA

Rt. Hon. Speaker
You may approve for tabling
J. M. Nyegenye, C.B.S.,
Clerk of the senate/secretary, PSC
Date: 01/04/25

THE SENATE

THIRTEENTH PARLIAMENT | FOURTH SESSION

PARLIAMENT
OF KENYA
LIBRARY

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO
THE PERSONS WITH DISABILITIES BILL, 2023 (SENATE BILLS NO.7 OF
2023)

PAPERS LAID	
DATE	1/4/2025
TABLED BY	Chair, Labour & Social Welfare
COMMITTEE	
CLERK AT THE TABLE	Cherop

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

April, 2025

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PRELIMINARIES

Establishment and Mandate of the Committee

The Senate Standing Committee on Labour & Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. The Committee is mandated to consider all matters related to - Manpower and human resources planning, pension, gender, culture, and social welfare; youth, National Youth Service, children's welfare; national heritage, betting, lotteries, sports, public entertainment, public amenities, and recreation.

The Committee oversights four ministries as follows –

- a) The Ministry of Labour and Social Protection;
 - i. State Department for Labour and Skills Development; and
 - ii. State Department for Social Protection and Senior Citizens Affairs.
- b) The Ministry of Public Service, Performance and Delivery Management;
 - i. State Department for Public Service; and
 - ii. State Performance and Delivery Management.
- c) The Ministry of Youth Affairs, Creative Economy and Sports;
 - i. State Department for Youth Affairs and Creative Economy; and
 - ii. State Department for Sports.
- d) The Ministry of Gender, Culture, the Arts and Heritage;
 - i. State Department for Gender and Affirmative Action; and
 - ii. State Department for Culture, the Arts and Heritage.

The Committee also oversights the Pensions Department in the National Treasury & Economic Planning which includes the following institutions –

- i. The Retirement Benefits Authority;
- ii. The Local Authorities Provident Fund;
- iii. Public Service Superannuation Scheme; and
- iv. The Civil Servants Accident Claim Fund.

The Committee also oversights the following Commissions and State Corporations –

- i. The Public Service Commission;
- ii. The Salaries and Remuneration Commission;
- iii. National Gender & Equality Commission;
- iv. The Commissioner of Sports & Sports Registrar; and
- v. Permanent Presidential Music Commission.

Membership of the Committee

The Committee membership is as follows –

- | | | |
|-----|--|--------------------|
| (1) | Sen. Julius Murgor Recha, MP | - Chairperson |
| (2) | Sen. Crystal Kegehi Asige, MP | - Vice Chairperson |
| (3) | Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| (4) | Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| (5) | Sen. Alexander Munyi Mundigi, MP | - Member |
| (6) | Sen. Lenku Seki Ole Kanar, MP | - Member |
| (7) | Sen. Miraj Abdullahi Abdulrahman, MP | - Member |
| (8) | Sen. Gloria Orwoba, MP | - Member |
| (9) | Sen. Beth Syengo, MP | - Member |

CHAIRPERSON'S FOREWORD

Hon. Speaker,

The Persons with Disability Bill (Senate Bill No.7 of 2023) was introduced in the Senate by way of First Reading on Wednesday, 22nd of March, 2023 and thereafter stood committed to the Committee for consideration.

The Bill concerns County governments and provides for, inter alia, the institutional framework for protecting and promoting rights of persons with disabilities.

Pursuant to standing order 145 of the Senate Standing Orders, the Committee conducted public participation and considered the views and recommendations of the public and thereafter Laid its Report in the House on Wednesday, 31st of May, 2023. The Bill was Passed in the Senate on Thursday, 21st of February, 2024 and referred to the National Assembly where it was considered and passed with amendments on Thursday, 16th of January, 2025.

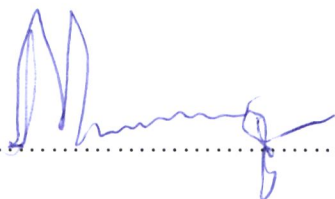
Procedurally, at a Sitting of the Senate held on Tuesday, 4th March, 2025, a message from the National Assembly on the above amendments was communicated and pursuant to Standing Order 46 (6) (c), the Speaker referred the message to the Standing Committee on Labour and Social Welfare for consideration and reporting back to the House.

Consequently Mr. Speaker Sir, at its Sitting held on Tuesday, 18th March, 2025, the Committee considered the amendments from the National Assembly and noted that most of them were minor improvements to the text and contents of the Bill. The Committee acceded to all the amendments and resolved that the National Assembly amendments be adopted and the Bill be approved with the amendments from the National Assembly.

Hon. Speaker, I wish to take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the amendments successful. I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this assignment.

Hon. Speaker, it is now my pleasant duty, pursuant to standing order 148(1) of the Senate Standing Orders, to present the Report of the Standing Committee on Labour and Social Welfare on the consideration of the National Assembly amendments to the Persons with Disabilities Bill, (Senate Bills No.7 of 2023).

Signed



Date Thursday, 20th March, 2025

SEN. JULIUS MURGOR RECHA, MP
CHAIRPERSON, STANDING COMMITTEE ON
LABOUR AND SOCIAL WELFARE

CHAPTER ONE: INTRODUCTION

1.0 Background

The principal object of the Persons with Disabilities Bill, 2023 (Senate Bills No.7 of 2023) is to actualize Article 54 of the Constitution, by establishing the institutional framework for protecting and promoting rights of persons with disabilities.

The Bill is a comprehensive legislative proposal aimed at repealing the existing Persons with Disabilities Act, No.14 of 2003 and replacing it with a more robust and constitutionally aligned framework. The Bill emphasizes a human rights-based approach to the protection, promotion, and realization of the rights of persons with disabilities in Kenya. It also outlines the responsibilities of both the national and county governments in ensuring the inclusion and welfare of persons with disabilities.

The National Council for Persons with Disabilities together with other state entities responsible for persons with disabilities shall be responsible for the administration of the Act. The Bill also concerns County governments and provides for, inter alia, the institutional framework for protecting and promoting rights of persons with disabilities.

The Bill addresses the needs of persons with disabilities across various sectors, including education, health, employment and public participation. The Bill also emphasizes the importance of accessibility and non-discrimination, aiming to create a more inclusive society for all.

1.1 Key Highlights of the Bill

- i. The Bill aligns with the Constitution of Kenya, emphasizing the rights and dignity of persons with disabilities.
- ii. It promotes the inclusion of persons with disabilities in all aspects of society, including education, employment and public life.
- iii. The Bill establishes a robust institutional framework through the National Council for Persons with Disabilities to oversee the implementation of its provisions.
- iv. It provides tax reliefs and incentives to encourage the employment and support of persons with disabilities.
- v. The Bill criminalizes abuse, exploitation and harmful practices against persons with disabilities, with severe penalties for offenders.

1.2 Overview of the Bill

The Persons with Disability Bill, 2023 (Senate Bills No.7 of 2023) was published on 20th of February, 2023 and originated in the Senate. The Bill was introduced in the Senate by way of First Reading on Wednesday, 22nd of March, 2023 and thereafter stood committed to the Committee for consideration.

Pursuant to standing order 145 of the Senate Standing Orders, the Committee conducted public participation and considered the views and recommendations of the public and thereafter tabled its Report in the House on Wednesday, 31st May, 2023.

The Bill was Passed in the Senate on Thursday, 21st of February, 2024 and referred to the National Assembly. The Vellum to the Persons with Disabilities Bill, 2023 (Senate Bills No.7 of 2023) as passed by the Senate is Annexed as Appendix 2 to this report. The National Assembly considered the Bill and passed it with amendments on Thursday, 16th January, 2025.

At a Sitting of the Senate held on Tuesday, 4th of March, 2025, a message from the National Assembly was communicated and pursuant to Standing Order 46 (6) (c), the Speaker referred the message to the Standing Committee on Labour and Social Welfare for consideration and reporting back to the House.

The Message from the National Assembly on the amendments is Annexed as Appendix 4 to this report.

CHAPTER TWO: CONSIDERATION OF AMENDMENTS BY THE NATIONAL ASSEMBLY

2.1 The National Assembly proposed amendments to the Bill

1) CLAUSE 4

THAT clause 4 of the Bill be amended-

- (a) in paragraph (a), by deleting the word "welfare" and substituting therefor the word "rights";
- (b) in paragraph (e), by inserting the words "inclusion and" and immediately after the words "promote the";
- (c) in paragraph (i), by inserting the words "and compulsory" immediately after the word "free";
- (d) by inserting the following new paragraph immediately after paragraph (p)-
"(q) ensure inclusion of persons with disabilities in all mainstream programs and interventions".

2) CLAUSE 5

THAT clause 5 of the Bill be amended-

- (a) in sub-clause (1)-
 - (i) in paragraph (a), by deleting the word "welfare" and substituting therefor the word "rights";
 - (ii) in paragraph (c), by inserting the words "and compulsory" immediately after the word "free";
 - (iii) by inserting the following new paragraph immediately after paragraph (f)-
"(g) ensure inclusion of persons with disabilities in all mainstream programs and interventions".
- (b) in sub-clause (2), by inserting the words "responsible for matters relating to persons with disabilities" immediately after the words "committee member" appearing in the opening statement; and
- (c) in sub-clause (4), by deleting paragraph (a) and substituting therefor the following new

paragraph-

(a) a person with disabilities, who reside within the respective county;

3) CLAUSE 6

THAT clause 6(1) of the Bill be amended by deleting the words "protection, benefit" appearing in paragraph (a) and substitute therefor the words "equal protection, equal benefit".

4) CLAUSE 8

THAT clause 8 of the Bill be amended –

(a) in sub-clause (1), by deleting the words "on free consent" and substituting therefor the words "on free and full consent"; and

(b) in sub-clause (2), by deleting the word "sexuality" and substituting therefor the word "sexual".

5) CLAUSE 11

THAT clause 11(l) (f) of the Bill be amended by inserting the word "and inclusive" immediately after the word "quality".

6) CLAUSE 20

THAT clause 20(8) of the Bill be amended by deleting the word "adoptive" appearing in paragraph (b) and substituting therefor the word "adaptive".

7) CLAUSE 21

THAT clause 21 of the Bill be amended-

(a) in sub-clause (2), by inserting the words "where an employer has at least twenty employees," immediately before the word "reserve" in paragraph (a); and

(b) in sub-clause (5) (e), by deleting the word "solely".

8) CLAUSE 25

THAT clause 25(e) of the Bill be amended by inserting the words "putting in place mechanisms for" immediately before the words "prompt attendance".

9) CLAUSE 26

THAT clause 26 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) Every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, and the right to access information, on an equal basis with others, in a timely manner and without additional cost";

(b) in sub-clause (2), by inserting the words "forms of" immediately after the words "and other";

(c) in sub-clause (7), by deleting the words "Media Council of Kenya" and substituting therefor the words "Communication Authority of Kenya in consultation with the Council";

(d) in sub-clause (8), by deleting the words "sub-titles" and substituting therefor the words "closed captioning"; and

(e) in sub-clause (10), by inserting the words "and private" immediately after the word "public".

10) CLAUSE 28

THAT clause 28(2) of the Bill be amended by deleting the word "Kenya" appearing in paragraph (b) and substituting therefor the word "Kenyan".

11) CLAUSE 29

THAT clause 29(4) of the Bill be amended by deleting the word "Kenya" and substituting therefor the word "Kenyan".

12) CLAUSE 45

THAT clause 45(4) of the Bill be amended by deleting the word "five" and substituting therefor the word "three".

13) CLAUSE 50

THAT clause 50 of the Bill be amended-

(a) in sub-clause (1), by inserting the words "upon request by a member of the public or" immediately before the words "where it considers" appearing in paragraph (a);

(b) in sub-clause (3), by inserting the words "or a member of the public" immediately after the words "regulatory body".

14) CLAUSE 56

THAT clause 56 of the Bill be amended-

(a) in sub-clause (1), by deleting the expression "Kshs. 150,000/=" and substituting therefor the words "of such amount as may be prescribed by the Cabinet Secretary"; and

(b) in sub-clause (2), by deleting the expression "Kshs. 10,000/=" and substituting therefor the words "such amount as may be prescribed by the Cabinet Secretary"

15) CLAUSE 62

THAT clause 62 of the Bill be amended by deleting the words "one million" and substituting therefor the words "two million".

16) CLAUSE 63

THAT clause 63 of the Bill be amended-

(a) by renumbering the existing clause as sub-clause (1);

(b) by inserting the following new sub-clause immediately after sub-clause (1)-

" (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both".

17) CLAUSE 65

THAT clause 65 of the Bill be amended by deleting the words "two hundred thousand shillings" and substituting therefore the words "two million shillings".

18) CLAUSE 66

THAT clause 66 of the Bill be amended by deleting the words "two hundred thousand shillings" and substituting therefore the words "one million shillings".

19) CLAUSE 72

THAT clause 72 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)-

"(c) ensuring that bus-stops are barrier-free".

20) CLAUSE 74

THAT clause 74 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "alone" appearing in the opening statement; and

(b) in sub-clause (2) by deleting the word "alone".

21) NEW CLAUSE 36A

THAT the Bill be amended by inserting the following new clause immediately after clause 36-

Headquarters and other 36A. (1) The headquarters of the Council shall be in Nairobi. offices of the Council.

(2) The Council shall establish other offices and decentralize its services to such other parts of the country as it considers necessary in accordance with Article 6(3) of the Constitution.

22) NEW CLAUSE 66A

THAT the Bill be amended by inserting the following new clause immediately after clause 66-

66A. A person who causes, procures, encourages or solicits a child receiving alms. or an adult with disabilities to engage in begging or receiving alms commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years, or to both.

23) NEW CLAUSE 73A

THAT the Bill be amended by inserting the following new clause immediately after clause 73~

73A. Every Government agency putting up residential and commercial buildings shall reserve at least five percent of the said residential and commercial buildings for acquisition by persons with disabilities and the terms and conditions of such acquisition to persons with disabilities shall include interest free and longer periods of repayment.

2.2 Committee Deliberations

At its meeting held on Tuesday, 18th March, 2025, the Committee reviewed the proposed amendments and noted that majority of the amendments were to correct minor errors and to strengthen the Bill in terms of penalties and fines.

The Minutes of the Committee pertaining to the Committee's deliberations on the proposed amendments are annexed as Appendix 1 to this Report.

The Resolutions of the Committee on the proposed amendments to the Bill by the National Assembly are outlined in the Matrix which is annexed as Appendix 3 to this Report.

Following deliberations, the Committee resolved to adopt all the amendments proposed by the National Assembly.

CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1 Committee Observations

The Committee notes that –

1. The amendments strengthen the Bill;
2. The amendments reorganise various provisions of the Bill to ensure that the rights of persons with disabilities are more elucidate;
3. The amendments also introduce new protections, such as criminalizing the exploitation of persons with disabilities through begging as well as ensuring access to housing.
4. The Bill, once passed with amendments, will provide a stronger legal framework for protecting and promoting the rights of persons with disabilities, aligning with the Constitution of Kenya and international human rights standards.

3.2 Committee Recommendations

The Committee recommends –

1. That the National Assembly amendments be adopted; and
2. That the Bill be approved with the amendments.

LIST OF APPENDICES

Appendix 1	Minutes of the deliberations of the Committee on Labour on the amendments from the National Assembly on the PWD Bill, 2023 (Senate Bills No. 7 of 2023)
Appendix 2	The Vellum to the Persons with Disability Bill (Senate Bills No.7 of 2023) as passed by the Senate
Appendix 3	Committee Matrix outlining Committee Resolutions and justifications on the amendments from National Assembly.
Appendix 4	Message from the National Assembly on the Amendments to the PWD Bill, 2023 (Senate Bills No. 7 of 2023)

APPENDIX 1:
MINUTES OF THE
COMMITTEE'S
DELIBERATIONS ON THE
NATIONAL ASSEMBLY
AMMENDMENTS TO THE
PWD BILL (SENATE BILLS
NO. 7 OF 2023)



MINUTES OF THE THIRTEENTH (13TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ONLINE ON THURSDAY, 20TH MARCH, 2025 AT NOON.

MEMBERS PRESENT

- | | |
|--|--------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. Crystal Asige, MP | - Vice-Chairperson |
| 3. Sen. Alexander Munyi Mundigi, MP | - Member |
| 4. Sen. Lenku Seki Ole Kanar, MP | - Member- |
| 5. Sen. Miraj Abdilahi Abdulrahman, MP | - Member |

APOLOGIES

- | | |
|--|----------|
| 1. Sen. (Rtd.) Justice Stewart Madzayo, CBS, EGH, MP | - Member |
| 2. Sen. Erick Okong'o Mogeni, SC, MP | -Member |
| 3. Sen. Gloria Orwoba, MP | - Member |
| 4. Sen. Beth Syengo, MP | - Member |

SECRETARIAT

- | | |
|------------------------|--------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Ms. Florence Waweru | - Clerk Assistant |
| 3. Ms. Nigma Duale | - Research Officer |
| 4. Mr. Jackson Wekesa | - Legal Counsel |

MIN/SEN/SCLSW/72/2025: PRAYERS

The meeting was called to order by the Chairperson at 12.20 p.m. followed by a word of prayer by Sen. Miraj Abdilahi Abdulrahman, MP.

MIN/SEN/SCLSW/73/2025: ADOPTION OF AGENDA

The Agenda was adopted after being proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the 12th Committee Meeting;
4. Matters arising from the Minutes of previous Committee Meeting;
5. Consideration and adoption of the report on the National Assembly amendments to the Persons with Disabilities Bill, (Senate Bills No.7 of 2023) (*Committee Paper No.11*);
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCLSW/74/2025: **CONFIRMATION OF THE MINUTES OF THE TWELFTH MEETING**

The Minutes of the 12th Sitting held on Tuesday, 18th February, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Miraj Abdulrahman, MP

MIN/SEN/SCLSW/75/2025: **MATTERS ARISING FROM THE MINUTES OF PREVIOUS COMMITTEE MEETINGS**

There were no matters arising.

MIN/SEN/SCLSW/76/2025: **CONSIDERATION AND ADOPTION OF THE REPORT ON THE NATIONAL ASSEMBLY AMENDMENTS TO THE PERSONS WITH DISABILITIES BILL, (SENATE BILLS NO.7 OF 2023)**

A. Committee Briefing

1. The Committee was taken through Committee paper No. 11 that gave an overview of the Report under consideration;
2. Members were thereafter taken through the Report that highlighted the following parts-
 - a)Chapter 1- on the overview of the Bill;
 - b)Chapter 2- on the National Assembly Amendments; and
 - c)Chapter 3- on Committee observations and recommendations

B. Committee observations

1. Members concurred with the matrix detailing the clauses and Committee resolution under each;
2. That the National amendments strengthen the Bill;
3. That the amendments reorganise various provisions of the Bill to ensure that the rights of persons with disabilities are more explicit and elucidated;

4. That the amendments also introduce new protections, such as criminalizing the exploitation of persons with disabilities through begging as well as ensuring access to housing; and
5. That the Bill, once passed with amendments, will provide a stronger legal framework for protecting and promoting the rights of persons with disabilities, aligning with the Kenyan Constitution and international human rights standards.

C. Committee resolution.

That the Committee Report on the National Assembly Amendments to the Persons With Disabilities Bill, (Senate Bills No.7 Of 2023) be unanimously adopted, as proposed by Sen. Miraj Abdilahi Abdulrahman, MP and seconded by Sen. Lenku Seki Ole Kanar, MP.

MIN/SEN/SCLSW/77/2025: ANY OTHER BUSINESS

1. Members sought to know the Committee Domestic Budget Balance to which they were informed stood at approximately Ksh. 3 million;
2. With regards to the resolved Committee work retreat, *to consider pending legislative business and further apprise new Members on the Committee workings between 3rd - 5th April, 2025, within Nairobi Metropolitan area* members proposed a venue change to Mombasa County;
3. The Chair was also advised to seek for more funds for the Committee engagements as per the adopted work schedule.

MIN/SEN/SCLSW/78/2025 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.30 p.m. with the next meeting being on notice.

SIGNATURE.....

(CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP)

DATE.....



MINUTES OF THE TWELFTH (12TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM 7, FIRST FLOOR, BUNGE TOWER ON TUESDAY, 18TH MARCH, 2025 AT 11.00 AM.

MEMBERS PRESENT

- | | |
|--|-----------------------------|
| 1. Sen. Julius Murgor Recha, CBS, MP | - Chairperson |
| 2. Sen. Crystal Asige, MP | - Vice-Chairperson |
| 3. Sen. (Rtd.) Justice Stewart Madzayo, CBS, EGH, MP | - Member |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member - <i>Virtually</i> |
| 5. Sen. Lenku Seki Ole Kanar, MP | - Member- |
| 6. Sen. Miraj Abdilahi Abdulrahman, MP | - Member |
| 7. Sen. Beth Syengo, MP | - Member- <i>Virtually</i> |

APOLOGIES

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Gloria Orwoba, MP | - Member |

SECRETARIAT

- | | |
|------------------------|---------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Ms. Florence Waweru | - Clerk Assistant |
| 3. Mr. Frank Mutulu | - Media Relations Officer |
| 4. Ms. Ndindi Kibathi | - Research Officer |
| 5. Ms. Nigma Duale | - Research Officer |
| 6. Mr. Nicholas Arusei | - Audio Officer |
| 7. Mr. Jackson Wekesa | - Legal Counsel |
| 8. Mr. Abdalla Bore | - Sergeant-at-Arms |

MIN/SEN/SCLSW/64/2025: PRAYERS

The meeting was called to order by the Chairperson at 11.20 a.m. followed by a word of prayer by Sen. Miraj Abdilahi Abdulrahman, MP.

MIN/SEN/SCLSW/65/2025:

ADOPTION OF AGENDA

The Agenda was adopted after being proposed by Sen. Miraj Abdilahi Abdulrahman, MP and seconded by Sen. (Rtd.) Justice Stewart Madzayo, CBS, EGH, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the 1st, 10th and 11th Committee Meetings;
4. Matters arising from the Minutes of previous Committee Meetings;
5. Consideration of Correspondence before the Committee;
6. Consideration of the National Assembly amendments to the Persons with Disabilities Bill, (Senate Bills No.7 of 2023) (Committee Paper No.10);
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/SCLSW/66/2025:

**CONFIRMATION OF THE MINUTES OF THE
FIRST, TENTH, AND ELEVENTH MEETINGS**

1. The Minutes of the 1st Sitting held on Tuesday, 11th February, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Miraj Abdulrahman, MP and seconded by Sen. Crystal Asige, MP;
2. The Minutes of the 10th Sitting held on Tuesday, 11th March, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Crystal Asige, MP; and seconded by Sen. Lenku Seki Ole Kanar, MP; and
3. The Minutes of the 11th Sitting held on Thursday, 13th March, 2025 at 11.00 a.m. were confirmed to be a true record of the deliberations having been proposed by Sen. Lenku Seki Ole Kanar, MP and seconded by Sen. Crystal Asige, MP.

MIN/SEN/SCLSW/67/2025:

**MATTERS ARISING FROM THE MINUTES OF
PREVIOUS COMMITTEE MEETINGS**

**Under Ex. MIN/SEN/SCLSW/54/2025: CONSIDERATION OF THE PETITION
REGARDING THE FAILURE BY KENYA
BREWERIES LIMITED, KAPLAN &
STRATTON ADVOCATES AND
HARRISON KINYANJUI
ADVOCATES TO PAY COMPENSATION
AWARDED TO PETITIONERS'**

Members sought clarification on the Committee's resolution on the way it will consider the Petition, to which they were reminded of their resolution to firstly engage the Advocate Complaints Commission so as to garner a better understanding of the manner they handled the complaint lodged by the Petitioners.

The Committee was briefed on correspondence the Committee had received as at Tuesday, 18th March, 2025 and gave a resolution under each –

	Date	Author	Description	Committee resolution
1	11.03.2025	Carole Kariuki, EBS CEO, KEPSA	Inviting Committees on Health, Budget & Finance, ICT, JLAHR, Labour & Social Welfare, Agriculture, Devolution & Energy to a half day retreat on either 26 th or 27 th March, 2024	<i>The Committee resolved to reschedule the engagement to April, 2025.</i>
2.	10.03.2025	Njenga Ruge, Director, DLPS	Communicating Speaker's direction to the Committee on the Formulation of a legal framework to facilitate the payment of honorarium and monthly pension to former councilors and report to the House within 60 days Committee is expected to report by Thursday, 30 th May.	<i>The Committee noted that it is an ongoing matter in the Committee and resolved to prioritize the meetings</i>
3.	19.02.2025	Clerk of the Senate	Petition to the Senate by the Kenya National Union and Midwives concerning the Universal Health Coverage Nurses(UHC)	<i>The Committee resolved to follow up on the implementation of the petition report..</i>
4.	15.10.2024	Betting Control & Licensing Staff of Mombasa	Withdrawal of the Mombasa Betting Control and Licensing staff (gaming inspectors) from Casinos making casinos remain open and unsupervised by government inspectors. Workers welfare issues	<i>The Committee resolved to consider the matter during their county visit subject to availability of funds.</i>
5.	04.12.2024	Sen. David Wakoli Wafula	Request to visit Rai Paper Mills, Webuye, Bungoma County to investigate allegations of Workers' mistreatment and poor working conditions. This arose from the response that the Senator received on his Statement on Safety guidelines at Rai Paper Mills formerly the Pan African Paper Mills in Webuye, Bungoma county on 20 th March,	<i>The Committee resolved to taking up the matter and undertaking s site visit subject to availability of funds.</i>

			2024.	
6.	18.12.2024	Ezekiel Onyango, FRSA Chairperson, Kenya Film and Television Professional Association (KFTPA)	Requesting a courtesy call to the Committee	<i>The request was granted. A meeting is to be scheduled as soon as possible.</i>

MIN/SEN/SCLSW/69/2025:

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE PERSONS WITH DISABILITIES BILL, (SENATE BILLS NO.7 OF 2023)

A. Committee Briefing

1. The Committee was taken through Committee Paper No.10 that gave an overview of the Bill under consideration;
2. Members were informed as follows –
 - a) That the Persons with Disability Bill, 2023 (Senate Bills No.7 of 2023) was introduced in the Senate by way of First Reading on Wednesday, 22nd March, 2023;
 - b) That its principal object was to actualize Article 54 of the Constitution, by establishing the institutional framework for protecting and promoting rights of persons with disabilities;
 - c) That Pursuant to standing order 145 of the Senate Standing Orders, the Committee conducted public participation and considered the views and recommendations of the public and thereafter tabled its Report in the House on Wednesday, 31st May, 2023;
 - d) That the Bill was thereafter approved by the Senate on Thursday, 21st February, 2024 and referred to the National Assembly where it was considered and passed with amendments on Thursday, 16th January, 2025; and
 - e) That Pursuant to Article 110(4) of the Constitution and standing order 165 of the Senate Standing Orders, the Bill was referred to the Senate for consideration.

B. Committee observations and recommendations

The legal counsel took members through the proposed amendments. The observations and recommendations are as tabulated in the matrix attached to this Minutes.

C. Committee resolutions

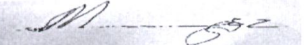
1. That the Committee concurs with the proposed amendments from the National Assembly and that the Bill be approved;
2. That the Committee's report on the Bill be presented to the Committee for consideration and approval; and
3. That the Committee holds a working-retreat to consider pending legislative business and further apprise new Members on the Committee workings between 3rd -5th April, 2025, within Nairobi Metropolitan area.

MIN/SEN/SCLSW/70/2025: **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCLSW/71/2025 **ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting was adjourned at 12.30 p.m. with the next meeting being on notice.

SIGNATURE.....  **.....**

(CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP)

DATE.....Thursday 20th March, 2025.....

No.	Clause No.	Senate Clause	National Assembly Clause proposal/ observation	Committee recommendation
1.	Clause 4 Obligations of the National government.	4. The national government shall—)develop policies on the protection and promotion of the welfare of persons with disability;)undertake investigations, surveys and research into the causes and nature of disabilities and development of new assistive devices;)put in place measures for the prevention of disabilities and rehabilitation of persons with disability;)provide facilities and infrastructure for the training of professionals in the rehabilitation and habilitation of persons with disability;)promote the integration of persons with disability in schools;)promote the inclusion of persons with disability in the public service and put in place measures to ensure that at least five per centum of the employment positions are filled by persons with disability;	THAT clause 4 of the Bill be amended- (a)in paragraph (a), by deleting the word "welfare" and substituting therefor the word "rights"; (b)in paragraph (e), by inserting the words "inclusion and" and immediately after the words "promote the"; (c) in paragraph (i), by inserting the words "and compulsory" immediately after the word "free";	<i>The proposals were accepted as they were cleanup provisions.</i>

		)prescribe minimum standards and guidelines to be adhered to by public transport vehicles, communication service companies and infrastructure developers to facilitate reasonable access by persons with disability;)adopt affirmative action measures in procurement of national government goods and services by implementing preferential procurement for persons or entities managed by persons with disability;)ensure access to free basic education and other social amenities to every child with a disability;)allocate adequate resources to programmes specifically targeting persons with disabilities;)allocate adequate resources for training on persons with disabilities;)ensure equity in the distribution of resources to all categories of disabilities;) promote affirmative action to ensure that learners with disabilities are enrolled in all levels of learning institutions;)provide capacity building, funding and technical assistance to the county	(d) by inserting the following new paragraph immediately after paragraph (p)- <i>"(q)ensure inclusion of persons with disabilities in all mainstream programs and interventions".</i>	
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		governments on all matters relating to persons with disabilities;)consult county governments on any matter relating to persons with disabilities that affect the functions and powers of county governments; and)develop programmes for care givers of persons with disabilities on specialised training, counselling and economic development.		
2.	Clause 5 Obligations of county governments	5. (1) Every county government shall— (a) implement national policies for the protection and promotion of the welfare of persons with disability; (b) allocate adequate resources to programmes specifically targeting persons with disability; (c) ensure access to free pre-primary education and other social amenities to every child with disability; (d) coordinate and disseminate information on government sponsored and non-government sponsored programmes targeting persons with disability within the respective counties;	THAT clause 5 of the Bill be amended— (a) in sub-clause (1)- (i) in paragraph (a), by deleting the word "welfare" and substituting therefor the word "rights"; (ii) in paragraph (c), by inserting the words "and compulsory"	<i>The amendments were accepted as they were clean-up provisions.</i>

		(e) promote the inclusion of persons with disability in the county public service by putting in place measures to ensure that at least five per centum of the employment positions are filled by persons with disability; and (f) adopt affirmative action in procurement of county government goods and services by implementing preferential procurement for individuals or entities established or managed by persons with disability.	immediately after the word "<i>free</i>";	
		(2) In ensuring that a county government meet its obligations under subsection (1), the county executive committee member in each county shall— (a) advise the respective county governor on the appropriate measures and interventions to be put in place for the protection of persons with disability in the county; (b) develop mechanisms for the identification of persons with disability residing in the county; (c) liaise with the Council to maintain a database of persons with disability residing within the respective county containing the	(iii) by inserting the following new paragraph immediately after paragraph (f)- <i>"(g)ensure inclusion of persons with disabilities in all mainstream programs and interventions".</i> (b) in sub-clause (2), by inserting the words "<i>responsible for matters relating to persons with disabilities</i>" immediately after the words "<i>committee member</i>" appearing in the opening statement; and	

		following information regarding the persons with disability—)the name, age and place of residence of the person;)the type of disability of the person;) the education level of the person;)the health needs of the person;)the employment status of the person;)any interventions made in relation to the person; and)any other information that the county executive committee member may consider necessary; (d) monitor and evaluate the progress by the county in ensuring the realisation of the rights of persons with disabilities under Article 54 (1) of the Constitution; (e) formulate and implement programmes aimed at promoting the socio-economic development, including participation in cultural life, recreation and sports, by persons with disability in the county;	(c) in sub-clause (4), by deleting paragraph (a) and substituting therefor the following new paragraph- <i>(a) a person with disabilities, who reside within the respective county;</i>	
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		(f) coordinate the implementation of programmes developed by the Council and the Authority relating to persons with disability in the county; and (g) prepare and publish reports containing statistical or other information relating to programmes and effect of the programmes carried out by the county in relation to persons with disability. (3) The county executive committee member may, for the effective performance of the functions under subsection (2), designate a public officer within the county public service or constitute a committee to perform such functions as the county executive member may determine. (4) Where the county executive member constitutes a committee under subsection (3), the committee shall consist of— a) a person who represents persons with disability in the county; b) two public officers serving in the respective county public service;		
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		c) two members of the public with knowledge or experience on matters relating to the welfare, rehabilitation and the management persons with disability and belong to a related group or organization; and d) such other persons, not exceeding two, as the county executive committee member shall consider necessary for the performance of the functions of the committee. (5) In constituting a committee under subsection (4), the county executive committee member shall ensure that not more than two thirds of its members shall be of the same gender. (6) The respective county government shall enact county specific legislation to provide for—)procedure for nomination and appointment of the members of the committee;		
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		)such further qualifications for appointment to the committee as may be considered appropriate;)the term of appointment;)the criteria and procedure for removal of a member from the committee; and		
		such other matters as the county government shall consider necessary.		
3.	Clause 6 Right to Equality and Non- Discrimination.	6. (1) Every person with disability is— (a) equal before the law in the social, cultural, economic, political, or any other field of life and is guaranteed to protection, benefit of the law and to effective legal protection against discrimination on all grounds; (b) entitled to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others.	THAT clause 6(1) of the Bill be amended by deleting the words "<i>protection, benefit</i>" appearing in paragraph (a) and substitute therefor the words "<i>equal protection, equal benefit</i>".	<i>The proposals were accepted as they were cleanup provisions.</i>

		(2) Pursuant to subsection (1), specific measures, including support services which are necessary to accelerate or achieve equality and eliminate discrimination against persons with disabilities shall not be considered discrimination.		
4.	Clause 8 Right to marry and form a family.	(1) Every adult person with disability has the right to marry a person of the opposite sex and form a family based on free consent. (2) Every person with disability has the right to control his or her sexuality and reproductive health. (3) No person with disability shall be separated from his or her child on the ground of disability. (4) Every person with disability shall at marriage, during marriage and at the dissolution of marriage be entitled to protection of his or her property acquired at marriage, during marriage and dissolution of marriage.	THAT clause 8 of the Bill be amended - (a) in sub-clause (1), by deleting the words "<i>on free consent</i>" and substituting therefor the words "<i>on free and full consent</i>"; and (b) in sub-clause (2), by deleting the word "<i>sexuality</i>" and substituting therefor the word "<i>sexual</i>".	<i>The amendments were accepted as they were cleanup provisions.</i>

5.	Clause 11 Children with Disabilities.	(1) Every child with disability has the right and freedom on an equal basis with other children in respect to— (a) a name and registration immediately after birth; (b) evolving capacities, identities and to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance, and independence; (c) freedom to express his or her views on all matters affecting him or her; (d) age and gender appropriate assistance to realize his or her rights; (e) living with his or her family for as long as is necessary; (f) accessing quality education; (g) accessing appropriate health care services; and (h) protection from abuse, exploitation and harmful practices.	THAT clause 11(1)(f) of the Bill be amended by inserting the word "and inclusive" immediately after the word "quality".	<i>The amendments were accepted as they were enhancive to the spirit of the Bill.</i>
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		(2) In all actions concerning children with disabilities, the best interest of the child shall be the primary consideration and shall be of paramount importance.		
6.	Clause 20 Right to Education.	20. (1) Every person with disability has a right to admission to any institution of learning and access to an inclusive, quality education on an equal basis with others. (2) No person shall be excluded from the education system on the basis of disability. (3) The National government shall facilitate participation of persons with disabilities in accessible and adaptable continuing adult education programmes on an equal basis. (4) The National and County Governments shall ensure that persons with disabilities have access to inclusive education, without discrimination and on an equal basis at all levels. (5) Every child with disability has the right to free and compulsory basic education. (6) Children with disabilities shall not be excluded from free and compulsory early	THAT clause 20(8) of the Bill be amended by deleting the word "adoptive" appearing in paragraph (b) and substituting therefor the word "adaptive".	<i>The proposal be acceptable as a grammatical cleanup provision.</i>

		childhood, primary or secondary education, on the basis of disability. (7) Every child with disabilities has a right to equal access to play, recreation and leisure and sporting activities, including those activities in the school system. (8) The Council in consultation with relevant Government establishments shall ensure that— (a) learning institutions take into account the needs of persons with disabilities with respect to the set entry requirements, pass marks, curriculum, examinations, auxiliary services, use of school facilities, class schedules, physical education requirements and other similar considerations; (b) learning institutions provide individualized support measures, appropriate equipment, assistive devices, adoptive technologies and other supportive services in environments that maximize academic and social development, consistent with the goal of full inclusion of students with disabilities.		
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		(c) the Ministry responsible for education formulates strategies to implement inclusive education through— (i) enforcement of recruitment and retention of special education teachers in all schools and institutions; (ii) adaptation and structural adjustments of all educational institutions to the needs of persons with disabilities (iii) establishment of specialized institutions that undertake research and development in education for learners with disabilities; (iv) establishment of at least one assessment center in each county to support educational institutions within the county, by way of teacher trainers, educational aids, equipment and materials; (v) promotion of the use of appropriate augmentative and alternative modes, means and formats of communication, adaptive technologies, including Braille and Kenya Sign Language; and (vi) introduction of Kenyan Sign language courses in all learning and training institutions.		
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		(9) The Cabinet Secretary in charge of education shall develop an adaptable examination framework and award a certificate to children with intellectual disabilities after completion of their education. (10) Each learner with disability including an intellectual disability has a right to be assessed and be placed in an appropriate learning institution in accordance with the outcome of the assessment". (11) Any person who denies a person with disability admission on the basis of disability commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or both. (12) In addition to subsection (11) the court may order unconditional admission of the person with disability. (13) The Cabinet Secretary responsible for education shall— (a) facilitate through policies and legislation, the development of persons with disabilities through their personality, talents		
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		and creativity, as well as their mental and physical abilities, to their fullest potential; (b) in collaboration with the relevant line ministries shall provide training facilities for speech therapy, occupational therapy, physiotherapy, guidance and counselling, audio-logical assessments, habilitation, and aural and oral rehabilitation for children with disabilities; and (c) together with the County Education Committees in charge of education make policy, legislation and sustainable financial frameworks in each financial year to achieve full realization of the right to education for persons with disabilities. (14) Every Person with Disabilities is entitled to receive the support services required, within the general education system, to facilitate his or her effective inclusive education. (15) The Council shall work in consultation with relevant agencies of National and County Governments to make provisions for an integrated system of special and non-formal schools and institutions, especially for the deaf, the blind, the deaf blind and		
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		those with developmental disabilities to cater for skills development and self-reliance, and establishment of braille and recorded libraries for persons with visual disabilities.		
7.	Clause 21 Right to work and employment for Persons with Disabilities.	21. (1) No employer shall discriminate against a person with disability in job application procedures, hiring, advancement and other terms, conditions, and privileges of employment. (2) Every employer shall— (a) reserve at least five per cent direct employment opportunities for persons with disabilities to secure employment; (b) formulate policies and programmes to promote basic human rights, improve working conditions, and enhance employment opportunities for persons with disabilities; (c) when recruiting, not discriminate on account of disability; (d) not conduct any 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; and	THAT clause 21 of the Bill be amended- (a) in sub-clause (2), by inserting the words "<i>where an employer has at least twenty employees,</i>" immediately before the word "<i>reserve</i>" in paragraph (a); and (b) in sub-clause (5)(e), by deleting the word "<i>solely</i>".	<i>The Committee accepted these amendments as it gives a quota for employees subject to a threshold.</i> <i>(b) further, that the word "solely" be removed because no meaning will be lost.</i>

		(e) be required to carry out appropriate modifications in their work premises to accommodate the employment of persons with disabilities; (3) Every employer shall submit an annual report on the status of employment of persons with disabilities within their establishments to the Council in a format as may be prescribed by the Council. (4) Every employer shall apply specific measures to employees with disabilities in promotions, training and other related matters arising in the course of, or through the length of employment. (5) Without limiting the generality of subsection (2) (c), the following may constitute acts of discrimination— (a) limiting, segregating or classifying a job applicant with disabilities in a manner which adversely affects his or her work opportunities; (b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out or prohibit career progression of persons with disabilities;		
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		(c) 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; (d) providing less payment, remuneration or fringe benefits, to an employee with disability, than the amount paid to others performing the same work; (e) favoring an employee without disability over an employee with disability with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability; (f) re-assigning or transferring an employee with disability from a task or position the employee is able to perform to one which he or she cannot perform because of his or her disability; (g) failing to select or administer in the most effective manner, employment tests which accurately reflect the skills, and aptitude of an applicant or employee with disability, rather than the impaired sensory,		
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		manual or speaking skills of such applicant or employee: if any; and (h) excluding persons with disabilities from membership in trade and labour unions or similar organizations. (6) For the purposes of subsection (5), the age of retirement for persons with disabilities shall be five (5) years above the mandatory age of retirement set by the Government. (7) For purpose of this section “reasonable accommodation” for purposes of employment includes— (a) (i) making existing facilities used by employees readily accessible to and usable by persons with disabilities;)job restructuring, part time or modified work schedules, reassignment to a vacant or suitable position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or policies, the provisions of qualified readers or interpreters, and other similar accommodations for persons with disabilities;		
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		)payment of assistive allowances to employees with disabilities (b) “employer” means an employer in the public and private sector; (c) “discrimination” includes—)limiting or classifying a job applicant or employee in an adverse way;)denying employment opportunities to qualified persons;)not making reasonable accommodation;)not advancing employees with disabilities in employment; and not providing necessary accommodations in training materials or policies; and the provision of qualified readers or interpreters.		
8.	Clause 25 Council to participate in Health Programmes.	25. The Council shall be represented in the implementation of the National and County Health Programs under the Cabinet Secretary and County executive committee responsible for health for the purpose of— (a) early identification of disability; (b) early rehabilitation of persons with disabilities; (c) enabling persons with disabilities to receive free habilitation and rehabilitation	THAT clause 25(e) of the Bill be amended by inserting the words "<i>putting in place mechanisms for</i>" immediately before the words "<i>prompt attendance</i>".	<i>That the amendment may be accepted since its a general sentence structure cleanup.</i>

		and medical services in public health institutions; (d) availing health services and field medical personnel to persons with disabilities at an affordable cost; and (e) prompt attendance by medical personnel to persons with disabilities.		
9.	Clause 26	26. (1) Every person with disability has the right to access information, communication and other services including the freedom of expression and opinion, the freedom to seek, receive and impart information and ideas, electronic and emergency services open or provided to the public on an equal basis with others in a timely manner and without additional cost and through all forms of communication of his or her choice. (2) Every person with disability has a right to information, communications technologies and systems which includes talking software, Braille materials, hearing aids and other communication devices. (3) Public and private institutions shall provide information intended for the general public, including through the internet, to persons with disabilities in accessible	THAT clause 26 of the Bill be amended - (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause- <i>(1) Every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, and the right to access information, on an equal basis with others, in a timely manner and without additional cost";</i>	<i>That the amendments be accepted as they are cleanup provisions.</i>

	formats and technologies appropriate to different kinds of disabilities. (4) Public and private institutions shall accept and facilitate the use of Kenya sign language, Braille, augmentative and alternative communication, and all other accessible means and usable formats of communication to accommodate the needs of persons with disabilities; (5) All public and private media enterprises and telephone service providers shall provide information and services in accessible formats and technologies appropriate to different kinds of persons with disabilities. (6) All telecommunications entities in Kenya shall take steps to ensure functionally equivalent services for consumers with disabilities to effectively access services, products and programs offered by them. (7) The Media Council of Kenya shall develop regulations on maintenance of low levels of risk to persons who have photosensitive epilepsy by television broadcasters.	(b) in sub-clause (2), by inserting the words <i>"forms of"</i> immediately after the words <i>"and other"</i>; (c) in sub-clause (7), by deleting the words <i>"Media Council of Kenya"</i> and substituting therefor the words <i>"Communication Authority of Kenya in consultation with the Council"</i>; (d) in sub-clause (8), by deleting the words <i>"sub-titles"</i> and substituting therefor the words <i>"closed captioning"</i>; and (e) in sub-clause (10), by inserting the words <i>"and"</i>	
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		(8) All television stations shall provide a Kenya sign language inset, sub-titles in newscasts, and educational programs, and in all programs covering events of national and international significance. (9) All public and private institutions of higher learning shall have a common course in Kenyan Sign language. (10) Any public institution which fails to comply with the provisions of this section shall have its license suspended and shall not be reinstated until it complies.	<i>private</i>" immediately after the word "<i>public</i>".	
10.	Clause 28 Access to Justice.	28. (1) Every person with disability has a right to effective access to justice on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, at investigative and other preliminary stages. (2) The Attorney-General, in consultation with the Council and the Law Society of Kenya, shall make regulations providing for	THAT clause 28(2) of the Bill be amended by deleting the word "<i>Kenya</i>" appearing in paragraph (b) and substituting therefor the word "<i>Kenyan</i>".	<i>The amendment be accepted at paragraph 28(3), not 28(2). since "Kenya" is a noun while "Kenyan" is an adjective and in this context an adjective would be more appropriate.</i>

		free legal services for persons with disabilities with respect to the following— (a) matters affecting the violation of the rights of persons with disabilities or the deprivation of their property; (b) cases involving capital punishment of persons with disabilities; and (c) such matters and cases as maybe prescribed in the regulations made by the Attorney General. (3) The Chief Justice shall make rules providing for— (a) the exemption of persons with disabilities from the payment of court fees in relation to matters or cases described in subsection (2) ; and (b) the provision, to persons with disabilities who attend court, of free Kenya sign language interpreters, Braille services, other communication formats and technologies accessible to persons with disabilities, physical guide assistance and intermediaries. (3) Accused persons with disabilities who are denied bail shall be entitled to be held in custody in facilities modified in accordance		
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		with regulations made in accordance with standards prescribed under this Act. (4) The Chief Justice shall ensure that all suits involving persons with disabilities are disposed of expeditiously having due regard to the particular disability and the convenience of such persons. (5) Law enforcement agencies and institutions shall take into consideration the disability of a person on arrest, at detention, investigation, trial or confinement.		
11.	Clause 29	29. (1) Every person with disability has a right to take part on an equal basis with others in sports, recreation, leisure and cultural activities at the national, regional and international levels. (2) Every person with disability shall be entitled to the use of recreational or sports facilities owned or operated by the national and county governments during social, sporting or recreational activities, free of charge. (3) The Cabinet Secretaries responsible for sports, recreation, leisure and cultural activities, in consultation with the Council,	THAT clause 29(4) of the Bill be amended by deleting the word "Kenya" and substituting therefor the word "Kenyan".	<i>The amendment may be accepted since "Kenya" is a noun while "Kenyan" is an adjective and in this context an adjective would be more appropriate.</i>

		shall take appropriate measures to enable persons with disability to have the opportunity to develop and utilize their creative, artistic and intellectual potential. (4) A person with disability shall be entitled, on an equal basis with others, to recognition and support of his or her specific cultural and linguistic identity, including Kenya sign language and Deaf culture. (5) Every public and private institution with sporting, recreation, leisure and cultural activities for their employees shall ensure that such sporting, recreational, leisure and cultural activities are accessible and sensitive to the needs of persons with disabilities. (6) Government agencies and institutions responsible for curriculum development shall restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities. (7) Every person with disability shall be entitled to the use, without discrimination, and on the same basis with other persons, of recreational and tourism venues or sports		
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		facilities owned or operated by the Government during social, sporting or recreational activities. (8) The National and County governments shall provide persons with disabilities with the necessary suitable environment, including appropriate instruction, training, resources and medical personnel, architectural infrastructure, apparatus and equipment, transportation facilities for the participants.		
12.	Clause 45 Executive Director of the Council.	45. (1) The Council shall appoint an Executive Director through an open, transparent and competitive recruitment process. (2) The Executive Director shall be the secretary to the Council. (3) A person shall be qualified for appointment as the Executive Director of the Council if the person— (a) is a citizen of Kenya; (b) at least a degree from a recognized university; (c) has at least ten years of proven work experience three years being at senior	THAT clause 45(4) of the Bill be amended by deleting the word "<i>five</i>" and substituting therefor the word "<i>three</i>".	<i>The amendment was accepted.</i>

		management level in a public or private institution; and (d) at least three years' experience on matters of Disabilities. (e) meets the requirements of Chapter Six of the Constitution. (4) The Executive Director shall hold office for a term of five years renewable once. The Executive Director shall be the accounting officer of the Council and be responsible to the Council for the day-to-day management of the affairs of the Council, and shall perform such other functions as may be so conferred by this Act or by any other written law.		
13.	Clause 50 Inquiry by the Council.	50. (1) The Council may conduct an inquiry or a sectoral investigation — (a) where it considers it necessary or desirable for the purpose of carrying out its functions; and (b) upon receiving a direction by the Cabinet Secretary in writing, requiring it to	THAT clause 50 of the Bill be amended- (a) in sub-clause (1), by inserting the words "<i>upon request by a member of the public or</i>" immediately before the words "<i>where it considers</i>" appearing in paragraph (a);	<i>The amendment was accepted to allow for the public to institute an investigation.</i>

		conduct an inquiry or a sectoral investigation into a matter specified in the direction. (2) A direction by the Cabinet Secretary under subsection (1)(b) shall specify the period within which the Council shall submit its report to the Cabinet Secretary. (3) At the request of a regulatory body, the Council may conduct an inquiry into any matter affecting persons with disabilities and provide a report within a reasonable period.	(b) in sub-clause (3), by inserting the words "<i>or a member of the public</i>" immediately after the words "<i>regulatory body</i>".	
14.	Clause 56 Exemptions for parents and guardians.	56. (1) The Cabinet Secretary responsible for matters related to finance may, on application by a parent or guardian of a person certified with severe disability and incapable of catering for their basic needs, grant an income tax exemption of Kshs 150,000/= to the parent or guardian, if the person with severe disability is in the care and custody of the parent or guardian. (2) The Cabinet Secretary responsible for matters related to social protection may on application of a parent or guardian who is indigent and assumes full custody and care of a person certified with severe disability	THAT clause 56 of the Bill be amended- (a) in sub-clause (1), by deleting the expression "<i>Kshs. 150,000/=</i>" and substituting therefor the words "<i>of such amount as may be prescribed by the Cabinet Secretary</i>"; and (b) in sub-clause (2), by deleting the expression "<i>Kshs. 10,000/=</i>" and substituting therefor the words "<i>such amount</i>"	<i>The amendment was accepted so as to the Cabinet Secretary may factor various issues such as inflation.</i>

		and incapable of catering for their basic needs, grant a long-term social assistance monthly cash transfer of not less than Kshs 10,000/= in accordance with the Social Assistance Act. (3) The Cabinet Secretary shall make regulations for the proper implementation of the provisions relating to this section.	<i>as may be prescribed by the Cabinet Secretary"</i>	
15.	Clause 62 Prohibition of abuse, exploitation or violence.	62. (1) Any person who treats persons with disabilities or does any of the acts specified in subsection (2) by reason of such persons' disability is commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years. (2) The acts referred to in subsection (1) include— (a) physical violence occasioning actual bodily harm or any form of physical or psychological torture. (b) wrongful confinement or detention whether in residential premises or in an institution resulting in denying of a person	THAT clause 62 of the Bill be amended by deleting the words " <i>one million</i> " and substituting therefor the words " <i>two million</i> ".	<i>The accepted the amendment on the enhanced fine amount as a deterrence.</i>

		with disability the opportunities and services available under this Act or any other law; (c) harmful cultural practices and exploitation; or any other form of cruel, inhuman and degrading treatment.		
16.	Clause 63 Concealment of Persons with Disabilities.	63. A parent, guardian, next of kin or a person in charge of institution of persons with disabilities shall not knowingly conceal such person in such a manner as to deny any such a person the opportunities and services available under this Act or any other law.	THAT clause 63 of the Bill be amended- (a) by renumbering the existing clause as sub-clause (1); (b) by inserting the following new sub-clause immediately after sub-clause (1)— " (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both".	<i>The Committee accepted the amendments under (a) as it was cleanup and under (b) since penalty where an offence has been created can act as a deterrence.</i>
17.	Clause 65	65. Any person who knowingly denies food or fluids to a person with disability who is	THAT clause 65 of the Bill be amended by deleting the words	<i>The Committee accepted the amendment on the enhanced fine</i>

	Denial of food and fluids.	under his or her care or responsibility or aids or abets in such denial commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	<i>"two hundred thousand shillings"</i> and substituting therefore the words <i>"two million shillings"</i> .	<i>amount since it can act as a deterrence .</i>
18.	Clause 66 Degrading treatment of a Person with disability.	66. Any person who voluntarily or knowingly commits or abets the degrading treatment of a person with disability by words, either spoken or written, or by signs or by visible representations or otherwise, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	THAT clause 66 of the Bill be amended by deleting the words <i>"two hundred thousand shillings"</i> and substituting therefore the words <i>"one million shillings"</i> .	<i>The Committee accepted the amendment on the enhanced fine amount since it could act as a deterrence.</i>
19.	Clause 72 Protection of road users with disabilities.	72. It shall be the duty of the National and County Governments to make public roads and highways under their respective mandates accessible to persons with disabilities by <i>inter alia</i> - (a) equipping pedestrian crossings with traffic control signals controlled by a pedestrian push-button system; and	THAT clause 72 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)- <i>"(c) ensuring that bus-stops are barrier-free"</i> .	<i>The Committee accepted the amendment as it enhances accessibility.</i>

		(b) providing pedestrian traffic lights with clearly audible signals.		
20.	Clause 74 Denial of admission into premises.	74. (1) No person shall, on the ground of disability alone, deny a person with disability— (a) admission into any premises to which members of the public are ordinarily admitted; or (b) the provision of any services or amenities to which members of the public are entitled. (2) The proprietor of premises referred to in subsection (1) (a) shall not have the right, on the ground of a person's disability alone, to reserve the right of admission to his or her premises against such a person. (3) A person with a disability who is denied admission into any premises or the provision of any service or amenity contrary to subsection (1) shall be deemed to have suffered an injury and shall have the right to recover damages in any court of competent jurisdiction.	THAT clause 74 of the Bill be amended- (a) in sub-clause (1) by deleting the word "alone" appearing in the opening statement; and (b) in sub-clause (2) by deleting the word "alone".	<i>The Committee accepted the amendments since no meaning would be lost.</i>

		(4) Without prejudice to subsection (3), damages awarded under that subsection shall be recoverable summarily as a civil debt. (5) The standards set out in the Second Schedule shall apply with regard to accessibility for purposes of this Act.		
21.	NEW CLAUSE 36A	Establishment of the Council There is hereby established a council to be known as the National Council for Persons with Disabilities. (2) The Council shall be a body corporate with perpetual succession and have a common seal and shall be capable, in its corporate name of— (a) suing and being sued; (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property; (c) borrowing; (d) doing or performing all such other things or acts for the proper discharge of its	THAT the Bill be amended by inserting the following new clause immediately after clause 36- <i>Headquarters and other offices of the Council:</i> <i>36A.(1) The headquarters of the Council shall be in Nairobi.</i> <i>(2) The Council shall establish other offices and decentralize its services to such other parts of the country as it considers</i>	<i>The Committee accepted the proposal as it enhances access and presence.</i>

		functions under the Constitution, this Act or any written law, as may be lawfully done or performed by a body corporate.	<i>necessary in accordance with Article 6(3) of the Constitution.</i>	
22.	NEW CLAUSE 66A	Degrading treatment of a Person with disability. 66. Any person who voluntarily or knowingly commits or abets the degrading treatment of a person with disability by words, either spoken or written, or by signs or by visible representations or otherwise, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	THAT the Bill be amended by inserting the following new clause immediately after clause 66- <i>Begging and receiving alms.</i> <i>66A. A person who causes, procures, encourages or solicits a child or an adult with disabilities to engage in begging or receiving alms commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years, or to both.</i>	<i>The Committee accepted the proposal since it could be a deterrence.</i>

APPENDIX 2:
THE VELLUM TO THE
PERSONS WITH
DISABILITY BILL (SENATE
BILLS NO. 7 of 2023) AS
PASSED BY THE SENATE.



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 7 of 2023)

**THE PERSONS WITH DISABILITIES
BILL, 2023**

(A Bill published in the Kenya *Gazette* Supplement No. 16 of 20th February, 2023
and passed by the Senate, with amendments, on 21st February, 2024)

THE PERSONS WITH DISABILITIES BILL, 2023
ARRANGEMENT OF CLAUSES

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- 2—Interpretation.
- 3—Guiding Values and Principles.

**PART II—RELATIONSHIP BETWEEN THE NATIONAL
GOVERNMENT AND COUNTY GOVERNMENT ON MATTERS
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- 4—Obligations of the National government.
- 5—Obligations of county governments.

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- 6— Right to Equality and Non-discrimination
- 7—Right to Legal Capacity.
- 8—Right to marry and form a family.
- 9—Right to Privacy.
- 10— Women with Disabilities.
- 11— Children with Disabilities.
- 12—Youth with Disabilities.
- 13— Older members of Society with disability.
- 14—Right to documents of registration or identification.
- 15—Right to physical and mental Integrity.
- 16—Right to Human Dignity.
- 17—Protection from abuse, exploitation and violence.
- 18—Protection and Safety of Persons with Disabilities in situations of risks and humanitarian emergencies.
- 19—Specific measures for persons with Disabilities.
- 20— Right to Education.

- 21—Right to work and Employment for Persons with Disabilities.
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- 23—Incentive for private employer.
- 24—Right to Health.
- 25—Council to participate in Health Programmes.
- 26—Access to information and communication technology services.
- 27—Access to financial and banking services
- 28—Access to Justice.
- 29—Sports, Recreation, Leisure and Culture.
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- 31—Adjustment Orders.
- 32—Civic and Political rights for persons with disabilities.
- 33—Right to Independent living.
- 34—Enforcement of rights.
- 35—Registration of Persons with Disabilities, organizations and institutions.

**PART IV—ESTABLISHMENT, POWERS AND FUNCTIONS OF
THE NATIONAL COUNCIL FOR PERSONS WITH
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- 45—Executive Director of the Council.

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THE PERSONS WITH DISABILITIES BILL, 2023

A Bill for

AN ACT of Parliament to give effect to Article 54 of the Constitution; to restructure the National Council for Persons with Disabilities and to provide for its functions and powers; to provide for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities; to provide for incentives and reliefs; and for connected purposes

PART I—PRELIMINARY

1. This Act may be cited as the Persons with Disabilities Act, 2023. Short title.

2. In this Act—

Interpretation.

“adjustment order” means an order made by the Council under section 29 of this Act;

“assistive devices” includes implements, tools, equipment, taped texts, audio, visual and pictorial recording, Braille equipment and materials, tactile equipment, orthopaedic appliances, software and other devices and machines of for persons with disabilities for their socio-cultural, economic, civil, political wellbeing of persons with disabilities;

“building” means any structure or erection and any part of any structure or erection of any kind whatsoever whether permanent, temporary or movable, and whether completed or uncompleted;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to persons with disabilities;

“communication” includes languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia and written, audio, plain-language, easy, to read, pictorial, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology.

“Council” means the National Council for Persons with Disabilities as restructured under section 34 of this Act;

“disability” includes any physical, sensory, mental,

psychological or other impairment, condition or illness that has or is perceived to have a substantial or long-term effect on an individual's ability to carry out ordinary day to day activities;

“disability mainstreaming” means a strategy through which concerns, needs and experiences of persons with disabilities are made an integral part or dimension of the design, budgetary allocation, implementation, monitoring and evaluation, and reporting of policies and programmes in all political, economic and societal spheres so that persons with disabilities benefit equally and inequality is not perpetuated;

“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;

Cap 253.

“doctor” means a person registered or licensed as a medical practitioner under the Medical Practitioners and Dentists Act;

“exploitation” includes any act which has the purpose and effect of taking unfair advantage of any limitation of persons with disability;

“harmful practices” include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of persons with disability or perpetuate discrimination against such persons;

“inclusive education” means an approach where learners and trainees with disabilities are provided with appropriate educational interventions within regular institutions of learning with reasonable accommodations and support.

“legal capacity” means the ability to hold rights and duties under the law and to exercise these rights and duties;

“media enterprise” means an organization whose business involves the collection, processing and dissemination of news or news articles, or in entertainment and education through the media;

“medical practitioner” means a person duly registered

under the Medical Practitioners and Dentists Act as a medical practitioner;

“older member of society” has the meaning assigned to it under Article 260 of the Constitution;

“organisations for persons with disabilities” means associations, groups, non-governmental organizations or societies formed for the purposes of rendering services to persons with disabilities;

“organisations of persons with disabilities” means associations, societies or other membership groups led and controlled by persons with disabilities to represent the rights and interests of persons with disabilities;

“persons with disabilities” includes persons with long term physical, mental, intellectual, developmental or sensory impairments, including visual, hearing or albinism, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;

“public building” means a building used, constructed or adapted to be used as a shop, office, hospital, learning institution or used for purposes of public entertainment or public assembly and accessed by the general public, and includes its entrance, exit, parking space, footpath and other appurtenant lands.

“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 persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

“specific measures” means legislative, policies and practices, including outreach or support programmes, allocation or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems designed, adopted and implemented in order to fulfil equal enjoyment of rights of persons with disabilities;

“support services” includes support provided by persons, sign language interpreters, guide dogs, government or other institutional services and other personal supports specifically provided to enable people with disabilities to fully participate in society and community life and include specialized expert or any other service;

“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 and it shall not exclude assistive devices for particular groups of persons with disabilities where this is needed;

3. In promoting and protecting the rights of persons with disability under this Act or any other law, every state organ, state office, public officer and all persons including incorporated and unincorporated business associations, civil society and organizations of and for persons with disability shall be guided by the following principles—

Guiding Values
and Principles.

- (a) respect for inherent dignity and individual autonomy including the freedom to make one’s own choices, and the independence of all persons in the conduct of their private affairs;
- (b) equality and non-discrimination;
- (c) full and effective participation and inclusion in society;
- (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) equality of opportunity;
- (f) accessibility;
- (g) access to information
- (h) equality between men and women;
- (i) respect for the evolving capacities of children with disability and respect for the right of children with disability to preserve their identities.

PART II—OBLIGATIONS OF THE NATIONAL AND COUNTY GOVERNMENTS

4. The national government shall—

Obligations of
the National
government.

- (a) develop policies on the protection and promotion of the welfare of persons with disability;
- (b) undertake investigations, surveys and research

into the causes and nature of disabilities and development of new assistive devices;

- (c) put in place measures for the prevention of disabilities and rehabilitation of persons with disability;
- (d) provide facilities and infrastructure for the training of professionals in the rehabilitation and habilitation of persons with disability;
- (e) promote the integration of persons with disability in schools;
- (f) promote the inclusion of persons with disability in the public service and put in place measures to ensure that at least five per centum of the employment positions are filled by persons with disability;
- (g) prescribe minimum standards and guidelines to be adhered to by public transport vehicles, communication service companies and infrastructure developers to facilitate reasonable access by persons with disability;
- (h) adopt affirmative action measures in procurement of national government goods and services by implementing preferential procurement for persons or entities managed by persons with disability;
- (i) ensure access to free basic education and other social amenities to every child with a disability;
- (j) allocate adequate resources to programmes specifically targeting persons with disabilities;
- (k) allocate adequate resources for training on persons with disabilities;
- (l) ensure equity in the distribution of resources to all categories of disabilities;
- (m) promote affirmative action to ensure that learners with disabilities are enrolled in all levels

of learning institutions;

- (n) provide capacity building, funding and technical assistance to the county governments on all matters relating to persons with disabilities;
- (o) consult county governments on any matter relating to persons with disabilities that affect the functions and powers of county governments; and
- (p) develop programmes for care givers of persons with disabilities on specialised training, counselling and economic development.

5. (1) Every county government shall—

Obligations of
county governments.

- (a) implement national policies for the protection and promotion of the welfare of persons with disability;
- (b) allocate adequate resources to programmes specifically targeting persons with disability;
- (c) ensure access to free pre-primary education and other social amenities to every child with disability;
- (d) coordinate and disseminate information on government sponsored and non-government sponsored programmes targeting persons with disability within the respective counties;
- (e) promote the inclusion of persons with disability in the county public service by putting in place measures to ensure that at least five per centum of the employment positions are filled by persons with disability; and
- (f) adopt affirmative action in procurement of county government goods and services by implementing preferential procurement for individuals or entities

established or managed by persons with disability.

(2) In ensuring that a county government meet its obligations under subsection (1), the county executive committee member in each county shall—

- (a) advise the respective county governor on the appropriate measures and interventions to be put in place for the protection of persons with disability in the county;
- (b) develop mechanisms for the identification of persons with disability residing in the county;
- (c) liaise with the Council to maintain a database of persons with disability residing within the respective county containing the following information regarding the persons with disability—
 - (i) the name, age and place of residence of the person;
 - (ii) the type of disability of the person;
 - (iii) the education level of the person;
 - (iv) the health needs of the person;
 - (v) the employment status of the person;
 - (vi) any interventions made in relation to the person; and
 - (vii) any other information that the county executive committee member may consider necessary;
- (d) monitor and evaluate the progress by the county in ensuring the realisation of the

rights of persons with disabilities under Article 54 (1) of the Constitution;

- (c) formulate and implement programmes aimed at promoting the socio-economic development, including participation in cultural life, recreation and sports, by persons with disability in the county;
- (f) coordinate the implementation of programmes developed by the Council and the Authority relating to persons with disability in the county; and
- (g) prepare and publish reports containing statistical or other information relating to programmes and effect of the programmes carried out by the county in relation to persons with disability.

(3) The county executive committee member may, for the effective performance of the functions under subsection (2), designate a public officer within the county public service or constitute a committee to perform such functions as the county executive member may determine.

(4) Where the county executive member constitutes a committee under subsection (3), the committee shall consist of—

- (a) a person who represents persons with disability in the county;
- (b) two public officers serving in the respective county public service;
- (c) two members of the public with knowledge or experience on matters relating to the welfare, rehabilitation and the management persons with disability and belong to a related group or organization; and
- (d) such other persons, not exceeding two, as the county executive committee member shall consider necessary for the performance of the

functions of the committee.

- (5) In constituting a committee under subsection (4), the county executive committee member shall ensure that not more than two thirds of its members shall be of the same gender.
- (6) The respective county government shall enact county specific legislation to provide for—
 - (a) procedure for nomination and appointment of the members of the committee;
 - (b) such further qualifications for appointment to the committee as may be considered appropriate;
 - (c) the term of appointment;
 - (d) the criteria and procedure for removal of a member from the committee; and
 - (e) such other matters as the county government shall consider necessary.

PART III—RIGHTS OF PERSONS WITH DISABILITIES

6. (1) Every person with disability is—

(a) equal before the law in the social, cultural, economic, political, or any other field of life and is guaranteed to protection, benefit of the law and to effective legal protection against discrimination on all grounds;

(b) entitled to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others.

(2) Pursuant to subsection (1), specific measures, including support services which are necessary to accelerate or achieve equality and eliminate discrimination against persons with disabilities shall not be considered discrimination.

Right to Equality
and Non-
Discrimination.

7. (1) Persons with disabilities have the right to

Right to Legal
Capacity.

recognition everywhere as persons before the law, and to enjoy legal capacity on an equal basis with others in all aspects of life.

(2) Persons with disabilities are entitled to such support services as they may require in exercising their right to legal capacity.

(3) Every person with disability has a right to own and inherit property, to control their own financial affairs and to have access to savings and loan facilities, mortgages and other forms of financial credit on an equal basis with others.

8. (1) Every adult person with disability has the right to marry a person of the opposite sex and form a family based on free consent.

Right to marry
and form a
family.

(2) Every person with disability has the right to control his or her sexuality and reproductive health.

(3) No person with disability shall be separated from his or her child on the ground of disability.

(4) Every person with disability shall at marriage, during marriage and at the dissolution of marriage be entitled to protection of his or her property acquired at marriage, during marriage and dissolution of marriage.

9. (1) Every person with disability has a right to privacy and shall not be subjected to arbitrary interference and intrusion with his or her privacy, family, home or correspondence or other types of communication.

Right to Privacy.

(2) Every public or private institution shall protect confidential information relating to personal health and habilitation and rehabilitation services for persons with disabilities with dignity and such information shall not be shared without express authority of the person with disability concerned.

10. Every woman with disability has the right to enjoyment of her human rights and fundamental freedoms without discrimination on an equal basis with others, including the right to-

Women with
Disabilities.

(a) participate in social, economic and political decision-making and other related activities;

- (b) protection from sexual and gender-based violence;
- (c) be provided with habilitation, rehabilitation and psychosocial support against sexual and gender-based violence;
- (d) sexual and reproductive health services;
- (e) retain and control her fertility;
- (f) keep her child and not be deprived of her child on grounds of disability; and
- (g) full development, advancement and empowerment.

11. (1) Every child with disability has the right and freedom on an equal basis with other children in respect to—

Children with Disabilities.

- (a) a name and registration immediately after birth;
- (b) evolving capacities, identities and to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance, and independence;
- (c) freedom to express his or her views on all matters affecting him or her;
- (d) age and gender appropriate assistance to realize his or her rights;
- (e) living with his or her family for as long as is necessary;
- (f) accessing quality education;
- (g) accessing appropriate health care services; and
- (h) protection from abuse, exploitation and harmful practices.

(2) In all actions concerning children with disabilities, the best interest of the child shall be the primary consideration and shall be of paramount importance.

12. (1) Every person with disability who is a youth is entitled to enjoyment of human rights and fundamental freedoms on an equal basis with other youth.

Youth with Disabilities.

(2) The Council in consultation with National and County Governments and other state agencies shall take policy, legislative, administrative and other measures to ensure that the rights of youth with disabilities are fully

respected, including by—

- (a) promoting full, inclusive and accessible education, training and employment and programmes for youth with disabilities;
- (b) promoting the inclusion of youth with disabilities in mainstream youth organizations and programmes;
- (c) removing barriers that hinder or discriminate against the participation of youth with disabilities in society;
- (d) promoting training and access to Information, Communication and Technology especially for youth with disabilities in rural areas;
- (e) developing programmes to overcome social and economic isolation, and removing systemic barriers in the labour market for youth with disabilities;
- (f) ensuring access to credit facilities for youth with disabilities; and
- (g) developing and implementing specific measures to facilitate full and equal participation of youth with disabilities in training, sports, culture, science and technology.
- (h) ensuring that youth with disabilities have access to appropriate sexual and reproductive health education on an equal basis with others.

13. Older members of society who have disabilities have the right to enjoyment of human rights and fundamental freedoms on an equal basis with others, including the right to—

Older members of Society with disabilities.

- (a) access social protection programmes;
- (b) exercise their legal capacity and that appropriate measures and safeguards are put in place to provide them with the support they may require to exercise their legal capacity; and
- (c) access inclusive services.

14. (1) Every person with disability has a right to be issued with a certificate of birth, national identification card, passport, disability identification card and any other

Right to documents of registration or

document of registration or identification free of charge.

identification.

(2) No person with disability shall be deprived, on the basis of disability, of his or her ability to obtain, possess and utilize documentation of his or her nationality or other documentation of identification, or to utilize relevant processes, that may be needed to facilitate exercise of other rights.

15. Every Person with disability has a right to respect for his or her physical and mental integrity and the right to security of the person including his or her survival, liberty, protection and development.

Right to physical and mental Integrity.

16. Every person with disability has a right to human dignity and the right for that dignity to be respected and protected and in particular not to be referred to by demeaning, embarrassing, derogatory and any other term that may be considered as lowering his or her human dignity.

Right to Human Dignity.

17. (1) Every person with disability has the right to be protected against all forms of abuse, neglect, exploitation and physical, mental, sexual, or emotional violence on their person in all settings at all places including, home, care-houses, educational institutions, hospitals, workplaces, and any other place which resides, cohabits, employs or in other manner inhabits any person with disability whether temporarily or permanently.

Protection from abuse, exploitation and violence.

(2) Any person or organization working with a person with disability, or any person, who has reason to believe that an act of exploitation, neglect, violence or abuse has been, or is being, or is likely to be committed against any person with disability, shall give information about it to law enforcement agencies in whose jurisdiction such incident occurs or is likely to occur, and such agencies shall take immediate steps on the receipt of such information to stop it and have the persons responsible for it arrested, or, if it has not occurred, to prevent its occurrence.

(3) Any person who fails to comply with the provisions on subsection (2) commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment to a term not exceeding one year or both.

18. (1) Persons with disabilities have the right to protection in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Protection and
Safety of
Persons with
Disabilities in
situations of risk
and
humanitarian
emergencies.

(2) Every institution, whether public or private, shall maintain an inventory of all persons with disabilities within its establishment and shall, subject to data protection protocols, submit such inventory to the National and County governments and any other agencies responsible for disaster management.

(3) Entities which run places to which the public has access shall take appropriate measures to ensure protection and safety of persons with disabilities in situations of risk.

(4) The Kenya Defence Forces, the National Police Service and any other establishment whether public or private, engaged in emergency or humanitarian services shall give priority or and specific attention to persons with disabilities, in all situations of risk, take appropriate measures to ensure the safety and protection of persons with disabilities.

(5) Construction and reconstruction emergency or humanitarian programmes and activities undertaken by the Government and any other establishment whether public or private shall, after consultation with the Council, take into account the accessibility requirements of persons with disabilities.

(6) For purposes of this section, situations of risk include fire, floods, earthquakes, epidemics, cattle rustling, ethnic conflicts and terrorism.

19. (1) Every person with disability is entitled to specific measures to accelerate the equal participation in the social, cultural, economic, civil, political, or any other field.

Specific
measures for
persons with
Disabilities.

(2) Every public and private institution shall take effective measures and, where appropriate, specific measures to ensure continuing improvement of economic and social conditions of persons with disabilities.

20. (1) Every person with disability has a right to admission to any institution of learning and access to an inclusive, quality education on an equal basis with others.

Right to
Education.

(2) No person shall be excluded from the education system on the basis of disability.

(3) The National government shall facilitate participation of persons with disabilities in accessible and adaptable continuing adult education programmes on an equal basis.

(4) The National and County Governments shall ensure that persons with disabilities have access to inclusive education, without discrimination and on an equal basis at all levels.

(5) Every child with disability has the right to free and compulsory basic education.

(6) Children with disabilities shall not be excluded from free and compulsory early childhood, primary or secondary education, on the basis of disability.

(7) Every child with disabilities has a right to equal access to play, recreation and leisure and sporting activities, including those activities in the school system.

(8) The Council in consultation with relevant Government establishments shall ensure that—

- (a) learning institutions take into account the needs of persons with disabilities with respect to the set entry requirements, pass marks, curriculum, examinations, auxiliary services, use of school facilities, class schedules, physical education requirements and other similar considerations;
- (b) learning institutions provide individualized support measures, appropriate equipment, assistive devices, adoptive technologies and other supportive services in environments that maximize academic and social development, consistent with the goal of full inclusion of students with disabilities.
- (c) the Ministry responsible for education formulates strategies to implement inclusive education through—
 - (i) enforcement of recruitment and retention of special education teachers in all schools and institutions;
 - (ii) adaptation and structural adjustments of all educational institutions to the needs of persons with disabilities

- (iii) establishment of specialized institutions that undertake research and development in education for learners with disabilities;
- (iv) establishment of at least one assessment center in each county to support educational institutions within the county, by way of teacher trainers, educational aids, equipment and materials;
- (v) promotion of the use of appropriate augmentative and alternative modes, means and formats of communication, adaptive technologies, including Braille and Kenya Sign Language; and
- (vi) introduction of Kenyan Sign language courses in all learning and training institutions.

(9) The Cabinet Secretary in charge of education shall develop an adaptable examination framework and award a certificate to children with intellectual disabilities after completion of their education.

(10) Each learner with disability including an intellectual disability has a right to be assessed and be placed in an appropriate learning institution in accordance with the outcome of the assessment".

(11) Any person who denies a person with disability admission on the basis of disability commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or both.

(12) In addition to subsection (11) the court may order unconditional admission of the person with disability.

(13) The Cabinet Secretary responsible for education shall—

- (a) facilitate through policies and legislation, the development of persons with disabilities through their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- (b) in collaboration with the relevant line ministries shall provide training facilities for speech therapy, occupational therapy, physiotherapy, guidance and counselling, audio-logical assessments, habilitation, and aural and oral rehabilitation for

children with disabilities; and

- (c) together with the County Education Committees in charge of education make policy, legislation and sustainable financial frameworks in each financial year to achieve full realization of the right to education for persons with disabilities.

(14) Every Person with Disabilities is entitled to receive the support services required, within the general education system, to facilitate his or her effective inclusive education.

(15) The Council shall work in consultation with relevant agencies of National and County Governments to make provisions for an integrated system of special and non-formal schools and institutions, especially for the deaf, the blind, the deaf blind and those with developmental disabilities to cater for skills development and self-reliance, and establishment of braille and recorded libraries for persons with visual disabilities.

21. (1) No employer shall discriminate against a person with disability in job application procedures, hiring, advancement and other terms, conditions, and privileges of employment.

Right to work
and employment
for Persons with
Disabilities.

(2) Every employer shall—

- (a) reserve at least five per cent direct employment opportunities for persons with disabilities to secure employment;
- (b) formulate policies and programmes to promote basic human rights, improve working conditions, and enhance employment opportunities for persons with disabilities;
- (c) when recruiting, not discriminate on account of disability;
- (d) not conduct any 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; and
- (e) be required to carry out appropriate modifications in their work premises to accommodate the employment of persons with disabilities;

(3) Every employer shall submit an annual report on the status of employment of persons with disabilities within

their establishments to the Council in a format as may be prescribed by the Council.

(4) Every employer shall apply specific measures to employees with disabilities in promotions, training and other related matters arising in the course of, or through the length of employment.

(5) Without limiting the generality of subsection (2) (c), the following may constitute acts of discrimination—

- (a) limiting, segregating or classifying a job applicant with disabilities in a manner which adversely affects his or her work opportunities;
- (b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out or prohibit career progression of persons with disabilities;
- (c) 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;
- (d) providing less payment, remuneration or fringe benefits, to an employee with disability, than the amount paid to others performing the same work;
- (e) favoring an employee without disability over an employee with disability with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
- (f) re-assigning or transferring an employee with disability from a task or position the employee is able to perform to one which he or she cannot perform because of his or her disability;
- (g) failing to select or administer in the most effective manner, employment tests which accurately reflect the skills, and aptitude of an applicant or employee with disability, rather than the impaired sensory, manual or speaking skills of such applicant or employee: if any; and
- (h) excluding persons with disabilities from membership in trade and labour unions or similar organizations.

(6) For the purposes of subsection (5), the age of retirement for persons with disabilities shall be five (5) years above the mandatory age of retirement set by the

Government.

(7) For purpose of this section “reasonable accommodation” for purposes of employment includes—

- (a) (i) making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- (ii) job restructuring, part time or modified work schedules, reassignment to a vacant or suitable position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or policies, the provisions of qualified readers or interpreters, and other similar accommodations for persons with disabilities;
- (iii) payment of assistive allowances to employees with disabilities
- (b) “employer” means an employer in the public and private sector;
- (c) “discrimination” includes—
 - (i) limiting or classifying a job applicant or employee in an adverse way;
 - (ii) denying employment opportunities to qualified persons;
 - (iii) not making reasonable accommodation;
 - (iv) not advancing employees with disabilities in employment; and
 - (v) not providing necessary accommodations in training materials or policies; and the provision of qualified readers or interpreters.

22. No person with disability shall be dismissed or suffer any reduction in rank on the grounds of disability, acquiring any disability, or any consequences thereof:

No dismissal for employee with disability.

Provided that—

- (a) if any employee with disability is placed under undue stress or disadvantage in the usual course of employment as a result of the disability, such employee shall be eligible for a position at the

same rank with adequate support; and

- (b) such an employee may, if required by the nature of disability, be deployed to another post with the same pay scale and service and if it is not possible to adjust the employee against any post, the employee may be kept on a supernumerary post until a suitable post is available or he attains the age of retirement, whichever is earlier.

23. (1) A private employer who engages a person with a disability either as a regular employee, apprentice or learner shall be entitled to apply for a deduction from its taxable income equivalent to twenty-five percent of the total amount paid as salary and wages to such employee:

Incentive for private employer.

Provided that such an employer shall present proof certified by the Council of the person in respect of whom it claims the deduction and the person with disabilities so employed is accredited with the Council as to disabilities, skills and qualifications.

(2) A private employer who improves or modifies its physical facilities or avails special services in order to provide reasonable accommodation for employees with disabilities shall be entitled to apply for additional deductions from its net taxable income equivalent to fifty percent of the direct costs of the improvements, modifications or special services.

24. (1) Persons with disabilities have the right to the enjoyment of the highest attainable standard of health, including health-related habilitation and rehabilitation services, without discrimination on the basis of disability.

Right to Health.

(2) Persons with disabilities have the right to the enjoyment of sexual and reproductive health rights on an equal basis with other persons.

(3) Persons with disabilities have the right to information to enable them to make responsible and informed choices about their sexual and reproductive health.

(4) Persons with disabilities have a right to be treated with respect, privacy and dignity while seeking health related services.

(5) Persons with disabilities shall be entitled to free medical care and treatment in public health institutions

(6) Medical assessment reports for persons with

disabilities, including for purposes of registration under the Act, shall be done free of charge in public health institutions.

(7) The national and county governments shall ensure that all health institutions have an adequate number of Kenyan Sign language interpreters in their institutional structures.

(8) Every person with a disability has the right to access health care on the basis of free and informed consent.

(9) No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent:

Provided that where the person with a disability is a minor such procedure may, in cases of medical necessity confirmed by at least two medical practitioners, be performed with the parent or guardian's consent.

25. The Council shall be represented in the implementation of the National and County Health Programs under the Cabinet Secretary and County executive committee responsible for health for the purpose of—

Council to participate in Health Programmes.

- (a) early identification of disability;
- (b) early rehabilitation of persons with disabilities;
- (c) enabling persons with disabilities to receive free habilitation and rehabilitation and medical services in public health institutions;
- (d) availing health services and field medical personnel to persons with disabilities at an affordable cost; and
- (e) prompt attendance by medical personnel to persons with disabilities.

26. (1) Every person with disability has the right to access information, communication and other services including the freedom of expression and opinion, the freedom to seek, receive and impart information and ideas, electronic and emergency services open or provided to the public on an equal basis with others in a timely manner and without additional cost and through all forms of communication of his or her choice.

Access to information and communication technology services.

(2) Every person with disability has a right to information, communications technologies and systems

which includes talking software, Braille materials, hearing aids and other communication devices.

(3) Public and private institutions shall provide information intended for the general public, including through the internet, to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities.

(4) Public and private institutions shall accept and facilitate the use of Kenya sign language, Braille, augmentative and alternative communication, and all other accessible means and usable formats of communication to accommodate the needs of persons with disabilities;

(5) All public and private media enterprises and telephone service providers shall provide information and services in accessible formats and technologies appropriate to different kinds of persons with disabilities.

(6) All telecommunications entities in Kenya shall take steps to ensure functionally equivalent services for consumers with disabilities to effectively access services, products and programs offered by them.

(7) The Media Council of Kenya shall develop regulations on maintenance of low levels of risk to persons who have photosensitive epilepsy by television broadcasters.

No. 46 of 2013.

(8) All television stations shall provide a Kenya sign language inset, sub-titles in newscasts, and educational programs, and in all programs covering events of national and international significance.

(9) All public and private institutions of higher learning shall have a common course in Kenyan Sign language.

(10) Any public institution which fails to comply with the provisions of this section shall have its license suspended and shall not be reinstated until it complies.

27. Institutions that provide financial services, including online services and mobile money, shall ensure that their services, equipment and platforms are available to persons with disabilities in accessible formats and technologies.

Access to financial and banking services.

28. (1) Every person with disability has a right to effective access to justice on an equal basis with others, including through the provision of procedural

Access to Justice.

and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, at investigative and other preliminary stages.

(2) The Attorney-General, in consultation with the Council and the Law Society of Kenya, shall make regulations providing for free legal services for persons with disabilities with respect to the following—

- (a) matters affecting the violation of the rights of persons with disabilities or the deprivation of their property;
- (b) cases involving capital punishment of persons with disabilities; and
- (c) such matters and cases as maybe prescribed in the regulations made by the Attorney General.

(3) The Chief Justice shall make rules providing for—

- (a) the exemption of persons with disabilities from the payment of court fees in relation to matters or cases described in subsection (2) ; and
- (b) the provision, to persons with disabilities who attend court, of free Kenya sign language interpreters, Braille services, other communication formats and technologies accessible to persons with disabilities, physical guide assistance and intermediaries.

(3) Accused persons with disabilities who are denied bail shall be entitled to be held in custody in facilities modified in accordance with regulations made in accordance with standards prescribed under this Act.

(4) The Chief Justice shall ensure that all suits involving persons with disabilities are disposed of expeditiously having due regard to the particular disability and the convenience of such persons.

(5) Law enforcement agencies and institutions shall take into consideration the disability of a person on arrest, at detention, investigation, trial or confinement.

29. (1) Every person with disability has a right to take part on an equal basis with others in sports, recreation, leisure and cultural activities at the national, regional and international levels.

Sports,
Recreation,
Leisure and
Culture.

(2) Every person with disability shall be entitled to the

use of recreational or sports facilities owned or operated by the national and county governments during social, sporting or recreational activities, free of charge.

(3) The Cabinet Secretaries responsible for sports, recreation, leisure and cultural activities, in consultation with the Council, shall take appropriate measures to enable persons with disability to have the opportunity to develop and utilize their creative, artistic and intellectual potential.

(4) A person with disability shall be entitled, on an equal basis with others, to recognition and support of his or her specific cultural and linguistic identity, including Kenya sign language and Deaf culture.

(5) Every public and private institution with sporting, recreation, leisure and cultural activities for their employees shall ensure that such sporting, recreational, leisure and cultural activities are accessible and sensitive to the needs of persons with disabilities.

(6) Government agencies and institutions responsible for curriculum development shall restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities.

(7) Every person with disability shall be entitled to the use, without discrimination, and on the same basis with other persons, of recreational and tourism venues or sports facilities owned or operated by the Government during social, sporting or recreational activities.

(8) The National and County governments shall provide persons with disabilities with the necessary suitable environment, including appropriate instruction, training, resources and medical personnel, architectural infrastructure, apparatus and equipment, transportation facilities for the participants.

30. (1) Persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities, and assistive devices and other equipment to promote their mobility.

Accessibility.

(2) Every person with disability has a right to accessibility as an essential pre-condition to enable him or her to live independently and participate fully in all aspects of life and shall have the right to be provided with such accessibility to the physical environment, transportation,

information and communications, including appropriate technologies and systems, and other facilities and services including emergency services open or provided to the public.

(3) Public and private institutions shall implement minimum standards and guidelines for the accessibility of facilities and services open or provided to the public to accommodate all aspects of accessibility for persons with disabilities.

(4) Every person with disability has a right to personal mobility and the use of assistive devices of his or her choice, including assistance by guide animals, and no person with disability shall be denied access to any public place because of the nature of his or her assistive devices.

(5) The relevant government agencies when approving building plans shall ensure that such plans are compliant to the accessibility standards and regulations promulgated.

(6) The Council shall work with relevant government agencies and the private sector in the development and promulgation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.

(7) The standards and guidelines promulgated under sub-section (3) shall ensure that they are age and gender appropriate and are applicable to—

- (a) all buildings and facilities used by the public;
- (b) permanent, temporary or emergency conditions;
- (c) road and rail based transport;
- (d) aviation;
- (e) maritime transport and ports;
- (f) pedestrian infrastructure including zebra crossings, walkways and sidewalks;
- (g) public transport system;
- (h) any other mode of transport;

in order to enable persons with disability to travel with safety and comfort.

(8) No individual, organization or establishment shall be issued a certificate of completion or allowed to take occupation of a building if it has failed to comply with the standards and regulations.

(9) All new construction, modification or alterations on built environment immediately after the effective date of

this Act shall fully comply with the standards set out in the Second Schedule on accessibility of the built environment for persons with disabilities.

(10) The Cabinet Secretary responsible for matters relating to building standards shall prescribe standards to ensure a barrier free environment for persons with disabilities.

31. (1) This section shall apply to—

Adjustment
Orders.

- (a) all premises to which members of the public are ordinarily admitted whether on payment of a fee or otherwise;
- (b) public transport operators and providers of communication and information services; and
- (c) all services or amenities ordinarily provided to members of the public.

(2) If the Council considers that any premises, services or amenities are inaccessible to persons with disabilities by reason of any structural, physical, administrative or other impediment to such access, the Council shall, subject to this section, serve upon the proprietor of the premises or the provider of the services or amenities concerned, an Adjustment Order—

- (a) setting out—
 - (i) a full description of the premises, services or amenities concerned; and
 - (ii) the grounds upon which the Council consider that the premises, services or amenities are inaccessible to persons with disabilities;
- (b) requiring the owner or provider concerned to undertake at his or her own expense such action as may be specified in order to secure access by persons with disabilities to the premises, services or amenities concerned; and
- (c) stipulating the period within which the action referred to in paragraph (b) shall be commenced and completed.

(3) Before serving the Adjustment Order under subsection (2), the Council shall serve notice upon the person concerned—

- (a) specifying the grounds upon which the Adjustment Order is to be issued and the nature of

the action which the Council considers necessary to rectify the situation which has given rise to the proposed order;

(b) stipulating the maximum period that the Council considers reasonable for the implementation of the action it proposes to order; and

(c) calling upon the person concerned, to make representations to the Council within a specified period from the date of the service of the notice.

(4) After considering the representations if any, referred to in subsection (3) (c), the Council may issue, refrain from or defer the issuing of an Adjustment Order.

(5) Within thirty days after an Adjustment Order is confirmed or issued under subsection (4), a person aggrieved may appeal to the High Court against the confirmation or issue of the Adjustment Order.

(6) The Council shall consult and collaborate with the county governments and other government regulatory agencies in exercise of its functions under this section.

(7) A person is guilty of an offence if he or she fails to comply with an adjustment order served under this section.

(8) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

32. (1) Every Person with disability has a right to participate in political and public life and the opportunity to enjoy them on an equal basis with others, and to vote for and be voted directly or through freely chosen representatives in any public or political office.

Civic and
Political rights
for persons with
disabilities.

(2) It shall be the responsibility of the body conducting elections to facilitate persons with disabilities in the exercise of their civic and political rights by—

(a) providing voting procedures, facilities and materials which are appropriate, accessible and easy to understand and use;

(b) protecting the rights of persons with disabilities to vote by secret ballot in elections without intimidation and to offer themselves for elections; and

(c) allowing assistance in voting by a person of their

own choice, on request and facilitating the use of assistive and appropriate technologies.

(3) A person who undertakes to render assistance under subsection (3)(c) shall do so strictly in accordance with the instructions of the voter.

(4) A person described in subsection (2) shall bind himself or herself, in the prescribed form, to comply with that subsection.

33. (1) Every person with disability has a right to independent living and access to a range of in-home, residential and other support services, including personal assistance, necessary to support living and inclusion in society on an equal basis with others.

Right to
Independent
living.

(2) Subject to subsection (1), an employer may provide special allowance to a person with disability.

34. (1) Subject to subsection (2), if any person alleges that any of the provisions of this Act has been, is being or is likely to be contravened in relation to a person with disability, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress.

Enforcement of
rights.

(2) The High Court shall hear and determine an application made by a person in pursuance of subsection (1) and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of this Act.

35. (1) In order to facilitate access by persons with disabilities to the services set out under this Part, the Council shall register on a continuous basis—

Registration of
Persons with
Disabilities,
organizations
and institutions

- (a) persons with disabilities, to whom it shall issue disability identification cards in such form as it may determine;
- (b) institutions, entities owned by Persons with Disabilities, associations and organizations, including those controlled and managed by the Government, which promotes the rights of and provide services to persons with Disabilities and issue certificates of registration thereof.

(2) Existing organizations of or for persons with disabilities may apply in the prescribed manner to the Council for registration;

(3) Organizations for Persons with Disabilities and any integrated organization with at least seventy per cent persons with disabilities may within twelve months of formation, apply to the Council, in the prescribed manner, for registration.

(4) The Council shall not deny a person with disability who is not registered from accessing any of the services set out under this part.

(5) The disability identification card or certificate of identification issued by the Council under subsection (1) shall be conclusive evidence that—

- (a) the holder is a person with disability, or
- (b) the institution, integrated enterprise or organization holding it is registered with the Council.

PART IV—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

36. There is hereby established a council to be known as the National Council for Persons with Disabilities.

Establishment of
the Council.

(2) The Council shall be a body corporate with perpetual succession and have a common seal and shall be capable, in its corporate name of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing;
- (d) doing or performing all such other things or acts for the proper discharge of its functions under the Constitution, this Act or any written law, as may be lawfully done or performed by a body corporate.

37. The functions of the Council shall be to work with other relevant Government agencies and the private sector

Functions of the
Council.

to—

- (a) advise on, and enforce accessibility, reasonable accommodation, non-discrimination for persons with disabilities and with regard to information, goods, services and the built environment and their participation in society on an equal basis with others;
- (b) advise on formulation and development of policy and legal framework, administrative actions, measures, guidelines, standards, strategies and mobilize resources designed to—
 - (i) ensure persons with disabilities have access to facilities and services which ensure effective enjoyment of the right to life;
 - (ii) facilitate the achievement of equal opportunities for persons with disabilities by ensuring that they obtain education and employment and participate fully in sporting, recreational and cultural activities and are accorded full access to community and social services;
 - (iii) advise the Government during the national census to ensure that accurate figures of persons with disabilities are obtained in the country for purposes of planning;
 - (iv) advise the Cabinet Secretary on the provisions of any national, regional or international agreements and treaties relating to issues affecting persons with disabilities and their benefits to the country;
 - (v) provide assistive devices, appliances and other equipment to persons with disabilities registered with the Council;
 - (vi) make provision for assistance to students with disabilities registered with the Council in the form of scholarships, loan programmes, fee subsidies, assistive devices and related technologies and other similar forms of assistance in both public and private institutions;
 - (vii) advise on and oversee inclusion and mainstreaming of disability in execution of development at the national and county level,

and provide technical support to public and private sectors;

- (viii) ensure information and communication, transportation, built environment, utilities and services are accessible to persons with disabilities;
- (ix) actualize healthcare needs of persons with disabilities and ensure persons with disabilities are knowledgeable of their own health conditions, health-care personnel support and protect the rights and dignity of persons with disabilities;
- (x) consult with the Government in the provision of suitable and affordable housing for persons with disabilities;
- (xi) prevent discrimination against persons with disabilities;
- (xii) operationalize programmes for self-employment or regular employment for the generation of income by persons with disabilities;
- (xiii) in collaboration with the health service providers secure habilitation and rehabilitation of persons with disabilities within their own communities and social environment;
- (xiv) ensure continuous improvement on accessibility and usability of physical environment, roads, transportation, information and communications, indoor and outdoor facilities, including schools, housing, medical facilities and workplace and other facilities and services open or provided to the public meet the needs of persons with disabilities; and
- (xv) ensure that private entities offering facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- (xvi) advice bodies that manage disaster and humanitarian crisis on disability issues to enable them put in place modalities for accessible disaster and humanitarian crisis management.

- (c) advice on systematic collection, analysis and use of national statistics and disaggregated data on issues relating to persons with disabilities;
- (d) provide—
 - (i) information and technical assistance to institutions, associations and organizations concerned with the rights, habilitation and rehabilitation of persons with disabilities, and
 - (ii) advise on the relative priorities to be given to the implementation of national and international human rights instruments on persons with disabilities.
- (e) intensive public awareness and education on the rights of persons with disabilities;
- (f) carry out and publicize research on any matter relating to human rights of persons with disabilities;
- (g) establish and maintain linkages and networking with local and international organizations, including organizations of and for persons with disabilities;
- (h) promote the establishment of self-help organization and the setting up of specific projects for the benefits of persons with disabilities, and
- (i) perform such other functions as may be assigned to the Council under this or any other law.

38. In the performance of its functions under this Act, the Council may Act in association with other persons or bodies to—

Powers of the Council.

- (a) enforce and generally administer the provisions of this Act and any other related laws;
- (b) issue adjustment orders;
- (c) conduct accessibility audits;
- (d) issue summons or other orders in the conduct of its requiring the attendance of such person, organization or institution as it deems necessary for the fulfilment of its mandate;
- (e) control, supervise and manage the assets and liabilities of the Council in such a manner and as

best provides for the purposes of the Act;

- (f) seek and receive any grants, testamentary gifts, donations and make legitimate disbursements from such grants, testamentary gifts and donations for its purposes;
- (g) levy such fees and charges for its services as may be provided in this Act;
- (h) enter into association with other bodies within or outside Kenya which the Council may consider desirable or appropriate;
- (i) subject to the law on Public Finance, the Council invest the funds of the Council not immediately required for the purposes of the Council;
- (j) open and operate such accounts as are necessary for the funds of the Council with a bank or financial institution licensed to conduct banking business under the Banking Act to be approved by the National Treasury which shall be operated and maintained in the manner as may be prescribed by the National Treasury under the Public Finance Management Act; and
- (k) do all such other things or acts as may be necessary for the performance of its functions under this Act.

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39. For the better performance of its functions under this Act, the Council may—

Council may establish Committees.

- (a) constitute committees consisting of its members; and
- (b) co-opt experts, where appropriate, to serve on such committees for a renewable period of one year, and may assign to any committee such functions of the Council as it may determine.

40. (1) The Council shall consist of the following—

Composition of the Council.

- (a) the Chairperson, who shall be drawn from organizations of persons with disabilities and who shall be appointed by the President;
- (b) the Principal Secretary in the Ministry responsible for matters relating to disabilities or a representative duly appointed in writing;
- (c) the Principal Secretary in the Ministry responsible

for finance or a representative duly appointed in writing;

- (d) one person nominated by the council of county governors;
 - (e) the following appointed by the Cabinet Secretary—
 - (i) three persons representing different categories of disabilities, nominated by organizations of persons with disabilities;
 - (ii) two persons nominated by organizations for persons with disabilities, one of whom shall be from organizations of parents and guardians of persons with mental disabilities who cannot represent themselves;
 - (f) the Executive Director of the Council who shall be the Secretary to the Council.
- (2) The appointing authority, in making appointments under this section, shall ensure that—
- (a) there is equitable representation of different categories of persons with disabilities and that not more than two-thirds of the members are of the same gender;
 - (b) at least one of the members of the Council shall be from a rural-based organization;
 - (c) persons appointed have knowledge or experience of the requirement of persons with disabilities;
 - (d) the requirement of a mix of skills across all functionalities of the Council is observed.
- (3) Persons appointed under subsection (1) (d) shall be from organizations that have been in existence for at least three years.

41. (1) A person shall be qualified for appointment as the chairperson of the Council if the person—

- (a) is a Kenyan citizen;
- (b) holds at least a first degree from a university recognized in Kenya;
- (c) has knowledge and at least ten years' working experience, of which five years shall be on matters relating to disabilities, human rights or social

Qualifications
for appointment
of chairperson
and members.

development; and

- (d) meets requirements of Chapter Six of the Constitution

(2) A person shall be qualified for appointment as a member of the Council if the person-

- (a) is a Kenyan citizen;
- (b) holds at least Kenya Certificate of Secondary Education qualification or its equivalent:

Provided that this requirement shall not apply to a member of the Council appointed under section 39(d)(ii);

- (c) has knowledge and at least five years working experience of which three years shall be on matters relating to disabilities;
- (d) meets the requirements of Chapter Six of the Constitution of Kenya.

(3) A person shall not be qualified for appointment as the chairperson or a member of the Council if such person—

- (a) has been removed from office for contravening the provisions of the Constitution or any other law;
- (b) is a public officer;
- (c) is a member of a governing body of a political party;
- (d) is a member of Parliament or a county assembly;
- (e) has been convicted of a felony and sentenced to a term of imprisonment;
- (f) has been convicted of an offence under this Act;
- (g) has been compelled to resign or been removed from office, on account of abuse of office;
- (h) is adjudged bankrupt or has entered into a composition scheme or arrangement with the creditors; or
- (i) is disqualified under the provisions of any other written law from appointment as such.

42. (1) The members of the Council shall, at their first meeting elect one among their number to be a vice chairperson.

Election of the
Vice-
Chairperson.

(2) The person elected under subsection (1) shall be of opposite gender and of a different category of disability from the Chairperson.

43. (1) The Chairperson and members of the Council shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

Tenure of office
of Members of
the Council.

(2) A member may—

- (a) at any time resign from office by notice in writing to the Cabinet Secretary, or in the case of the Chairperson, to the President; or
- (b) be removed from office by the Cabinet Secretary if the member—
 - (i) has been absent from three consecutive meetings of the Council without the permission of the chairperson, or in the case of the chairperson, without the permission of the Cabinet Secretary;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with the creditors;
 - (iii) is convicted of an offence involving fraud or dishonesty;
 - (iv) is convicted of a criminal offence and sentenced to a term of imprisonment;
 - (v) is found to have acted in a manner prejudicial to the aims and objectives of this Act;
 - (vi) fails to comply with the provisions of this Act relating to disclosure of interest as provided under the First Schedule to this Act; or
 - (vii) is otherwise unable or unfit to discharge his or her functions as a member of the Council.

(3) The First Schedule shall apply with respect to the conduct of the business and affairs of the Council.

44. (1) Whenever a vacancy occurs in the office of the Chairperson or a member, the executive director shall forthwith notify the Public Service Commission accordingly.

Procedure for
Appointment.

(2) The Public Service Commission shall, within a period of fourteen days from the date of the occurrence of

the vacancy, by notice in two daily newspapers of national circulation and its official website and the website of the Ministry responsible for matters relating to disability, declare the vacancy and invite applications from persons qualified under this Act within a period specified in the notice.

(3) The Commission shall consider all applications submitted under subsection (2) and, within a period of fourteen days from the expiry of the period specified in the notice issued under that subsection, forward names of persons nominated for appointment to—

- (a) the President, in the case of the Chairperson, or
- (b) the Cabinet Secretary in the case of a Member.

(4) The appointment under this section shall be by notice in the *Gazette*.

45. (1) The Council shall appoint an Executive Director through an open, transparent and competitive recruitment process.

Executive
Director of the
Council.

(2) The Executive Director shall be the secretary to the Council.

(3) A person shall be qualified for appointment as the Executive Director of the Council if the person—

- (a) is a citizen of Kenya;
- (b) at least a degree from a recognized university;
- (c) has at least ten years of proven work experience three years being at senior management level in a public or private institution; and
- (d) at least three years' experience on matters of Disabilities.
- (e) meets the requirements of Chapter Six of the Constitution.

(4) The Executive Director shall hold office for a term of five years renewable once.

(5) The Executive Director shall be the accounting officer of the Council and be responsible to the Council for the day-to-day management of the affairs of the Council, and shall perform such other functions as may be so conferred by this Act or by any other written law.

46. The Executive Director may be removed from office by the Council in accordance with the terms of the contract of service and the Employment Act.

Removal of the Executive Director.

47. The Chairperson and Members of the Council shall be paid such allowances as may be approved by the Cabinet Secretary with the advice of the Salaries and Remuneration Commission.

Remuneration of Chairperson and Members.

48. (1) The Council may appoint such staff as may be necessary for the proper discharge of its functions under this Act, and upon such terms as the Council in consultation with the Salaries and Remuneration Commission may determine.

Staff of the Council

(2) The staff appointed under subsection (1) shall serve on such terms and conditions as the Council may determine.

(3) The National and County Governments may, upon request by the Council second to the Council such number of public officers as may be necessary for the proper performance of the functions of the Council.

(4) A public officer seconded to the Council shall, during the period of secondment, be deemed to be an officer of the Council and shall be subject only to the direction and control of the Council.

(5) The Council may establish a superannuation scheme for its employees and make such payments towards insurance as may be required under the relevant laws.

49. (1) The Council may delegate to any of its committees, members, the Executive Director or agencies either generally or otherwise as provided by the instrument of delegation, any of its powers other than—

Delegation by the Council.

(a) duties to make decision under the Act;

(b) power of delegation itself; and

(c) the powers to revoke or vary delegation.

(2) A delegated power shall be exercised in accordance with the instrument of delegation.

(3) A delegation may, at any time, be revoked or varied by the Council.

50. (1) The Council may conduct an inquiry or a sectoral investigation — Inquiry by the Council.

- (a) where it considers it necessary or desirable for the purpose of carrying out its functions; and
- (b) upon receiving a direction by the Cabinet Secretary in writing, requiring it to conduct an inquiry or a sectoral investigation into a matter specified in the direction.

(2) A direction by the Cabinet Secretary under subsection (1)(b) shall specify the period within which the Council shall submit its report to the Cabinet Secretary.

(3) At the request of a regulatory body, the Council may conduct an inquiry into any matter affecting persons with disabilities and provide a report within a reasonable period.

51. (1) The funds of the Council shall consist of the following— Funds of the Council.

- (a) funds appropriated by the National Assembly for purposes of the Council;
- (b) such moneys, as may accrue to or vest in the Council in the course of the exercise of its powers or the performance of its functions; and
- (c) any grants, testamentary gifts, donations or other endowments given to the Council.

52. The financial year of the Council shall be the period of twelve months ending on the thirtieth June of each year. Financial Year.

53. (1) The Council shall cause to be kept proper books and records of its income, expenditure, assets and liabilities. Accounts and Audit.

(2) The Council shall within a period of not less than three months before the commencement of each financial year, cause to be prepared estimates of its revenue and expenditure, differentiating the recurrent, development and expenditure of the Council for that financial year.

(3) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor

General the Accounts of the Council in respect to that year together with—

- (a) a statement of the income and expenditure of the Council during that financial year;
- (b) a balance sheet of the Council as at the last day of that financial year;
- (c) a statement of the assets and liabilities of the Council as at the last day of that financial year;
- (d) any other records of account required under the Public Audit Act, 2003; and

(4) The audited accounts of the Council shall be in accordance with the Public Audit Act and the Public Finance Management Act.

54. (1) Within a period of three months after the end of each financial year, the Council shall prepare an annual report in respect of that financial year and submit it to the Cabinet Secretary. Annual Report.

(2) The annual report shall—

- (a) provide information regarding the activities and plans of the Council during the year and such additional information or other material as the Cabinet Secretary may request in writing;
- (b) outline measures taken by it towards the realization of the values and principles of the public service in accordance with Articles 10 and 232 of the Constitution; and
- (c) contain a financial statement in respect of the year.

(3) The Cabinet Secretary shall, within two months after receiving the annual report, transmit it to the National Assembly.

(4) The annual report shall be published and publicized in such other manner as the Council may determine.

PART V— RELIEFS AND INCENTIVES

55. (1) All persons with disabilities who are in receipt of an income may apply to the Cabinet Secretary responsible Exemptions.

for finance for exemption from income tax and any other levies on such income.

(2) The Cabinet Secretary responsible for finance shall, in consultation with the Council, assess all applications received under subsection (1) and may exempt the applicant wholly or partially in accordance with the Income Tax Act, Cap 470.

(3) Subject to subsection (2) above, if an assessment demonstrates that an individual has a permanent disability, that person will be exempt from future assessments.

(4) Materials, articles and equipment, including motor vehicles for use by persons with disabilities, shall be exempt from import duty and value added tax to the extent provided under the tax laws.

(5) All goods, items, materials, machinery, tools, articles, implements or equipment donated to institutions and organizations of or for persons with disabilities shall be exempt from import duties and value added tax to the extent provided under the tax laws.

(6) The purchase, importation, transfer or gift of health materials or equipment relating to persons with disability shall be exempted from import duty and value added tax to the extent provided under the tax laws.

(7) The Cabinet Secretary for the time being responsible for matters relating to finance shall in consultation with the Council make regulations to give effect to this section.

56. (1) The Cabinet Secretary responsible for matters related to finance may, on application by a parent or guardian of a person certified with severe disability and incapable of catering for their basic needs, grant an income tax exemption of Kshs 150,000/= to the parent or guardian, if the person with severe disability is in the care and custody of the parent or guardian.

Exemptions for
parents and
guardians.

(2) The Cabinet Secretary responsible for matters related to social protection may on application of a parent or guardian who is indigent and assumes full custody and care of a person certified with severe disability and incapable of catering for their basic needs, grant a long-term social assistance monthly cash transfer of not less than Kshs

10,000/= in accordance with the Social Assistance Act.

(3) The Cabinet Secretary shall make regulations for the proper implementation of the provisions relating to this section.

57. (1) Any donations, bequest, subsidy or financial aid which may be made to institutions or organizations involved in the programmes of persons with disabilities and registered with the Council for the purposes of this section shall, subject to the provision of Income Tax Act and any other law, and on recommendation by the Council, be allowed as deductions for the purposes of computing taxable income of the person giving the donation.

Incentives.

(2) The Cabinet Secretary responsible for finance may in consultation with the Council and subject to the Income Tax Act and any other law, provide incentives to local manufacturers of assistive devices used by persons with disabilities on raw materials, inputs and imported capital equipment.

58. The Cabinet Secretary responsible for matters relating to credit unions, co-operatives and other lending institutions may on the advice of the Council, from time to time, develop guidelines to ensure the equal right of persons with disabilities to have equal access to bank loans, mortgages and other forms of financial credit.

Access to credit.

59. Any person who employs a person with disability and who incurs reasonable expenses on account of—

Exemption from taxable income of employers of persons with disability.

- (a) reasonable accommodation of the employee with disability;
- (b) modification of any part of the work place designed to meet the needs of the employee with disability; or
- (c) mobility aids, assistive devices, adaptive technology or other devices or equipment, including computer software and computerized systems designed to meet the requirements of the employee with disability,

shall be entitled to deductions of the expenditure

incurred in the computation of their taxable income.

60. (1) Pursuant to Article 54(1)(e) of the Constitution the following materials and devices shall be exempted from postal charges chargeable by a public postal licensee —

Exemption from
postal charges.

- (a) braille, printed or recorded literature, including any materials in tactile format, sent or received by postal mail from within or outside Kenya;
- (b) hearing aids, mobility aids and orthopedic devices designed for the use by persons with disabilities and sent within or outside Kenya for the purpose of repair or delivery to—
 - (i) persons with disabilities; or
 - (ii) a parent or guardian of a child with disability;
 - (iii) duly registered organizations of or for persons with disabilities.
- (c) all types of assistive devices and adaptive technology equipment sent by or delivered to the persons specified in paragraph (b).

(2) The exemptions under subsection (1) shall apply to items for personal or institutional purposes only where the person or institution is registered with the Council.

(3) The Cabinet Secretary for the time being responsible for matters relating to communication shall, in consultation with the Council, make regulations to give effect to this section.

(4) In this section, the term “public postal licensee” has the meaning assigned to it under the Kenya Information and Communications Act, No. 2 of 1998.

No. 2 of 1998.

PART VI—OFFENCES AND PENALTIES

61. (1) Any person who willfully and without any lawful justification treats a person with disability in any manner resulting in the contravention of Article 27(4) and (5) of the Constitution commits an offence and shall upon conviction, be liable to a fine not exceeding two million shillings or imprisonment not exceeding two years or both.

Discrimination
contrary to
Article 27 of the
Constitution.

(2) The following acts or omissions constitute discrimination within the meaning of subsection (1) if the act or omission complained of results in denial to any person by reason of his or her disability of any of the following—

- (a) public services or entry to public premises generally accessible to members of the public;
- (b) the right of inheritance in accordance with the law of succession;
- (c) health services including reproductive health services generally accessible to members of the public in accordance with the law relating to health.
- (d) educational or other training services, generally accessible to the public;
- (e) employment or indentured learner-ship;
- (f) the rights guaranteed under Article 53 of the Constitution;
- (g) the rights guaranteed under Article 55 of the Constitution;
- (h) the rights of older persons guaranteed under Article 57 of the Constitution;
- (i) the right to obtain, possess and utilize documents of registration or identification, including a certificate of birth, national identity card and passport;
- (j) the right to respect for personal dignity as guaranteed under article 28 of the constitution; and
- (k) reasonable accommodation.

(3) Nothing in this section limits the right of action of a person with disability for compensation or other appropriate remedies in civil proceedings.

62. (1) Any person who treats persons with disabilities or does any of the acts specified in subsection (2) by reason of such persons' disability is commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years.

Prohibition of abuse, exploitation or violence.

(2) The acts referred to in subsection (1) include—

- (a) physical violence occasioning actual bodily harm or any form of physical or psychological torture.
- (b) wrongful confinement or detention whether in residential premises or in an institution resulting in denying of a person with disability the opportunities and services available under this Act or any other law;
- (c) harmful cultural practices and exploitation; or
- (d) any other form of cruel, inhuman and degrading treatment.

63. A parent, guardian, next of kin or a person in charge of institution of persons with disabilities shall not knowingly conceal such person in such a manner as to deny any such a person the opportunities and services available under this Act or any other law.

Concealment of Persons with Disabilities.

64. (1) The national and county governments shall take such measures as it considers necessary to eliminate harmful practices committed against a person with disability, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.

Harmful practices

(2) A person who perpetrates a harmful practice against a person with disability is commits an offence and shall be liable, on conviction, to life imprisonment.

(3) A person who wilfully aids, abets or is an accessory to an offence in subsection (2), commits an offence and shall be liable, on conviction, to life imprisonment.

65. Any person who knowingly denies food or fluids

Denial of food and fluids.

to a person with disability who is under his or her care or responsibility or aids or abets in such denial commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

66. Any person who voluntarily or knowingly commits or abets the degrading treatment of a person with disability by words, either spoken or written, or by signs or by visible representations or otherwise, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Degrading
treatment of a
Person with
disability.

67. (1) A health professional shall not discriminate against persons with disabilities in the observance of ethical guidelines on informed consent and confidentiality while providing health care and other services to persons with disabilities.

Negligence by
medical
practitioners.

(2) Without prejudice to subsection (1), every health care professional shall when making impairment-specific interventions, take special care to provide complete information to persons with disabilities through accessible modes, methods and formats.

(3) Any health professional who contravenes the provisions of subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding one year, or both.

(4) Any persons who performs, conducts or directs any medical procedure to be performed on a person with disability which leads to or is likely to lead to infertility commits an offence and is liable upon conviction to a fine of three million shillings or to imprisonment for a term not exceeding four years or both;

(5) Any person acting as a care-giver of a person with disability, whether as parent or guardian or in any other capacity, who does any act to facilitate, or negligently fails to prevent such medical procedure from being performed, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand or to imprisonment for term not exceeding one year or both.

(6) The Cabinet Secretary responsible for matters relating to health shall, within three months of the date of

commencement of this Act, develop or review guidelines on medical practice so as to bring them into conformity with the provisions of this Act.

68. (1) No person shall publish, circulate or display, or cause or permit to be published, circulated or displayed, any publication that lowers or demeans the dignity of a person with disability or which amounts to discrimination.

Offensive
Publications.

(2) For the purposes of subsection (1), “advertisement” includes all forms of publicity—

- (a) in newspapers, internet, television or radio;
- (b) by displaying notices, signs, labels, shows cards or goods;
- (c) by the 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.

(3) Any person who contravenes subsection (1) commits an offence and shall on conviction be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one million or to both such fine and imprisonment.

69. Any person who—

Giving false
information for
purposes of
registration.

- (a) knowingly gives false information to the Council for the purpose of being registered or for the purpose of acquiring any right or privilege due to persons so registered; or
- (b) fraudulently avails or attempts to avail or confers or attempts to confer any benefit meant for persons with disabilities on a person not entitled to such benefit,

Commits an offence and shall be liable on conviction to imprisonment for a term not exceeding six months, or to both and any monetary benefits wrongly obtained under this section shall be returned to the Council with interest at commercial rates.

70. A person who causes harm or death of a person

Torture and
cruel treatment.

with disability through torture, cruel treatment, ritual killings or other harmful practices commits an offence and shall be liable, on conviction, to life imprisonment.

71. Any person who fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, he or she is duty bound to produce or furnish, or to answer any question put in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

Failure to
furnish
Information.

PART VII— MISCELLANEOUS

72. It shall be the duty of the National and County Governments to make public roads and highways under their respective mandates accessible to persons with disabilities by *inter alia*-

Protection of
road users with
disabilities.

- (a) equipping pedestrian crossings with traffic control signals controlled by a pedestrian push-button system; and
- (b) providing pedestrian traffic lights with clearly audible signals.

73. (1) A registered owner of a public transport vehicle shall adjust the vehicle to suit persons with disabilities in such manner as maybe specified by the Council in consultation with the relevant government agencies.

Public Service
vehicles and
Transport.

(2) A registered owner of public transport vehicle who improves or modifies it to make it accessible for persons with disabilities shall be entitled to apply to the Cabinet Secretary responsible for finance for twenty-five percent of the direct cost of the improvements and modifications.

(3) A registered owner of a public transport vehicle referred in subsection (2) shall present with the application under that subsection proof of modifications certified by the Council.

(4) For the purposes of this section “Para transit services” means special transportation services for persons with disabilities.

74. (1) No person shall, on the ground of disability alone, deny a person with disability—

Denial of admission into premises.

- (a) admission into any premises to which members of the public are ordinarily admitted; or
- (b) the provision of any services or amenities to which members of the public are entitled.

(2) The proprietor of premises referred to in subsection (1) (a) shall not have the right, on the ground of a person's disability alone, to reserve the right of admission to his or her premises against such a person.

(3) A person with a disability who is denied admission into any premises or the provision of any service or amenity contrary to subsection (1) shall be deemed to have suffered an injury and shall have the right to recover damages in any court of competent jurisdiction.

(4) Without prejudice to subsection (3), damages awarded under that subsection shall be recoverable summarily as a civil debt.

(5) The standards set out in the Second Schedule shall apply with regard to accessibility for purposes of this Act.

75. A person shall not, provide goods, information or services, or make facilities available to the general public, with a view to discriminating against a person with disability on the ground of that person's disability by—

Prohibition of discrimination relating to goods, facilities and services.

- (a) refusing to provide to a person with a disability any service which he or she provides to other members of the public; or
- (b) deliberately making it impossible or unreasonably difficult for persons with disabilities to make use of the goods, information, service or facility.

76. Every person with disability shall, subject to the provisions of the Employment Act, be eligible for engagement as an apprentice or learner in their particular occupation for the period for which he or she is hire.

Apprenticeship Technical, vocational Training, Rehabilitation and Self-Employment.

77. (1) All government ministries, departments, Agencies and county public offices shall establish a Disability Mainstreaming Unit for the purpose of—

Disability Mainstreaming Units and Inspectors.

- (a) mainstreaming disability issues;
- (b) carrying out regular inspections to ensure implementation and compliance with the provisions of this Act; and
- (c) liaising with the Council on disability matters.

(2) Each respective Ministry shall appoint an officer to head the Disability Mainstreaming Unit established under subsection (1).

(3) The officer appointed under subsection (2) shall submit annual reports to the Council outlining progress and compliance with this Act and any challenges faced.

(4) The Council shall appoint an inspector who shall be empowered to investigate and recommend prosecution or other remedy against infringement of this Act.

(5) The inspector appointed under subsection (4) shall report to the Council or the relevant committee of the Council, any person or persons whose conduct is in violation of this Act or any regulations made under the Act.

78. (1) All media houses with television and radio shall dedicate at least one-hour free airtime every month to educate the public on issues of disability.

Awareness
raising.

(2) The Council shall co-ordinate the production of at least one column in the print media every month for purposes of subsection (1).

79. The National and county governments shall put in place such measures to facilitate the participation of persons with disability in cultural, social and economic life and in public affairs, in particular those affecting them through—

Public
participation.

- (a) targeted public participation; and
- (b) offering information in accessible form.

80. (1) The national and county governments shall perform their functions and powers under this Act on the basis of consultation and cooperation.

Consultation
between the
National and county
governments.

(2) The Council shall, in carrying out its functions under this Act, consult the council of county governors on any matter that affects the functions and powers of county

governments.

81. The National and county governments when constructing markets shall reserve five percent of the stores for persons with disabilities

Markets.

82. The Director of Public Prosecutions may, pursuant to the provisions of the Criminal Procedure Code, appoint public prosecutors for purposes of this Act.

Appointment of
Public
Prosecutors.
Cap. 75

83. (1) Any person found guilty of an offence under this Act for which no penalty is expressly provided shall be liable to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years, or both.

General penalty.

(2) Nothing in this Act shall be construed to preclude an aggrieved person from seeking other civil remedies.

84. (1) The Council may in consultation with the Cabinet Secretary, by notice in the *Gazette*, make regulations generally for the better carrying into effect of the provisions of this Act.

Regulations

(2) Without limiting the generality of Subsection (1), Regulations may be made in respect of the following—

- (a) forms prescribed under this Act;
- (b) fees to be charged under this Act; and
- (c) adjustment orders.

85. The Persons with Disabilities Act, Cap. 133, is hereby repealed.

Repeal of
Persons with
Disabilities Act
Cap. 133

86. (1) Notwithstanding section 80—

- (a) a person who immediately before the commencement of this Act, was a member of the Council or Executive Director of the Council shall, at the commencement of this Act, be deemed to be a member or Executive Director of the Council under this Act as the case maybe, for

Transitional and
savings
provisions

the unexpired period of his or her term;

- (b) every person who immediately before the commencement of this Act, was a member of staff or employee of the Council not under notice of dismissal shall, at the commencement of this Act, be deemed to be an employee of the Council under this Act;
 - (c) anything done, any regulation made, directive or instruction issued or other administrative measure taken or any contract entered into or any obligation incurred immediately before the commencement of this Act, shall remain in force and shall be deemed to have been made, issued, taken, entered into or incurred, as the case may be, under this Act;
 - (d) all assets and liabilities which immediately before the commencement of this Act were in place shall be deemed to have been carried out under this Act.
 - (e) all actions, suits or legal proceedings by or against the Council subsisting immediately before the commencement of this Act shall be carried out on, prosecuted by, or against the Council, and no such suits, actions or legal proceedings shall abate or be affected by the coming into operation of this Act.
 - (f) A direction, notice, order, permit or any other document that was granted, issued or made under the repealed Act, and that was valid immediately before the coming into force of this Act, shall be given effect as if granted, issued or made under this Act.
- (2) Notwithstanding section 80, the National Development Fund for Persons with Disabilities established in section 32 of the Persons with Disabilities Act, Cap. 133, shall continue to be administered by the Board of Trustees which was administering the Fund immediately before the commencement of this Act until the Fund is re-established by the Cabinet Secretary responsible for matters relating to finance through regulations made under the Public Finance Management Act, Cap. 412A.
- (3) Without limiting the generality of paragraph (2), the regulations shall provide, among

other things, that—

- (a) the re-established National Development Fund for Persons with Disabilities shall be used for the benefit of persons with disabilities in Kenya; and
 - (b) the administration of the re-established National Development Fund for Persons with Disabilities shall be vested in the Council.
- (4) In this section, “Board of Trustees” means the Board of Trustees appointed under section 34 of the of the Persons with Disabilities Act, Cap. 133.

FIRST SCHEDULE

(s.43(5))

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

1. The Council shall meet at least four times in every year, and not more than three months shall pass between one meeting of the Council and the next.
2. Notwithstanding paragraph (1) the Chairperson may, on his own motion and shall, upon request by a member, convene a special meeting of the Council at any time when he or she deems it expedient for the transaction of the business of the Council.
3. The chairperson may on his or her own motion, or upon request by a member, call a special meeting of the Board of the Council at any time, where he or she considers it expedient for the transaction of the business of the Council.
4. Except in the case of a special meeting, or unless three quarters of members agree, at least fourteen days’ written notice of every meeting of the Council shall be given to every member of the Council by the chief executive officer.
5. The quorum at a meeting of the Council shall be at least two thirds of the members of the Council.

6. The chairperson shall preside over all meetings of the Council at which he or she is present, and in the absence the chairperson, the vice chairperson shall preside and in the absence of both, the members of the Council present shall elect from amongst themselves, a person to preside over the meetings of the Council.

7. The decisions of the Council shall be decided by a majority of the members present and voting, and in the event of equality of votes, the chairperson or person presiding shall have a casting vote.

8. The proceedings of the Council shall not be invalidated by reason only of a vacancy among the members or a defect in the appointment or qualification of a member.

9. Subject to this Schedule, the Council may determine its own procedure and the procedure for any committee of the Board and for attendance of any other persons at the meetings and may make standing orders in respect thereof

10. (1) A member of the Council who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the Council shall—

- (a) as soon as reasonably practicable, disclose, in writing, to the Council the full and accurate details of the interest;
- (b) not participate in any discussion by the Council relating to that matter;
- (c) not vote in relation to that matter; and
- (d) be absent from the meeting room when any such discussion or voting is taking place.

11. If a member of the Council makes a disclosure of interest and complies with requirements of subsection (1) in respect of a proposed contract—

- (a) the contract shall not be voided; and
- (b) the member is not liable to account to the entity for any losses that may be incurred upon entering into the contract.

12. If a member of the Council fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the Council shall void the contract.

13. Where a member of the Council has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that makes it reasonably foreseeable that a conflict might arise with his or her duties as member of the Board of the Council, the member shall as soon as is reasonably practicable, disclose to the Council, in writing, of the full and accurate nature of the interest.

14. A disclosure under this schedule shall be recorded in the minutes of the Council.

SECOND SCHEDULE

(s.30(9), 74(5))

Access to Public Buildings, Auxiliary aid, Sporting Venues and Public Facilities

1. The design standards issued under this Act by the Council are used to ensure access to the built environment for persons with disabilities. The Standards apply nationwide, in addition to any applicable state or local codes, where facilities are newly built or altered.

2. It shall be the responsibility of all organs in a public or private institution to provide—

- (a) suitable entry and exits for persons with disabilities; and
- (b) universal standards or designs of public buildings and places

3. A proprietor of a public building shall adapt the public building to suit persons with disabilities in such manner as shall be specified by the Council.

4. Where no modifications are possible wherever practicable, assistive services shall be made available to persons with disabilities or reservation of goods and services for use by persons with disabilities;

5. Facilities shall be provided to persons with disabilities at bus parks, railway stations, air and sea ports that meet the accessibility standards relating inter alia to—

- (a) parking spaces, toilets, ticketing counters, ticketing machines and cruise facilities;
- (b) provide access to all modes of transport that conform to universal design standards;

6. Duty to provide access to buildings —

(d) Any person, who constructs, a building to which the public is invited, shall ensure that persons with disabilities have access through provision of—

- (i) accessible and easy-to-find building entrances, connected by accessible pathways to accessible indoor or outdoor parking areas, local public transit stops and accessible elevators;
- (ii) safe and accessible urinal, bathrooms for the diverse disabilities;
- (iii) safe and well-dimensioned staircases for the comfort of persons with mobility problems;
- (iv) ramps wherever stairs obstruct the free passage of pedestrians, mainly wheel chair users and people with mobility problems;

- (v) adequate railing around hazardous areas, stairs, ramps, accessible roofs, mezzanines, galleries, balconies and raised platforms;
- (vi) well-dimensioned elevators, (in the case of multi-storied buildings) that persons with disabilities can use conveniently.

7. An accessible elevator shall—

- (a) serve all floors normally reached by the public;
- (b) have embossed numerals and tactile markings on the floor selector buttons to be easily identifiable by touch; and
- (c) signal arrival at each floor to alert visually impaired and the Deaf passengers simultaneously

8. Where it is difficult or unfeasible to install a ramp or an elevator to an existing building, the owner of the building shall provide platform lifts to provide accessibility.

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 21st February, 2024.

Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.

Speaker of the Senate

APPENDIX 3:
COMMITTEE MATRIX
OUTLINING RESOLUTIONS
AND JUSTIFICATIONS ON
THE AMMENDMENTS
FROM THE NATIONAL
ASSEMBLY

1. MATRIX ON NATIONAL ASSEMBLY AMENDMENTS TO THE PERSONS WITH DISABILITIES BILL
(SENATE BILLS NO. 07 OF 2023)

No.	Clause No.	Senate Clause	National Assembly Clause	Committee Determination
1.	Clause 4 Obligations of the National government.	4. The national government shall— (a) develop policies on the protection and promotion of the welfare of persons with disability; (b) undertake investigations, surveys and research into the causes and nature of disabilities and development of new assistive devices; (c) put in place measures for the prevention of disabilities and rehabilitation of persons with disability; (d) provide facilities and infrastructure for the training of professionals in the rehabilitation and habilitation of persons with disability; (e) promote the integration of persons with disability in schools; (f) promote the inclusion of persons with disability in the public service and put in place measures to ensure that at least five per centum of the employment	THAT clause 4 of the Bill be amended- (a)in paragraph (a), by deleting the word "welfare" and substituting therefor the word "rights"; (b)in paragraph (e), by inserting the words "inclusion and" and immediately after the words "promote the"; (c) in paragraph (i), by inserting the words "and compulsory" immediately after the word "free"; (d) by inserting the following new paragraph immediately after paragraph (p)- "(q)ensure inclusion of persons with disabilities in all mainstream programs and interventions".	<i>The Committee accepted these amendments as they are mainly cleanup provisions.</i> <i>*Accepted*</i>

		positions are filled by persons with disability; (g) prescribe minimum standards and guidelines to be adhered to by public transport vehicles, communication service companies and infrastructure developers to facilitate reasonable access by persons with disability; (h) adopt affirmative action measures in procurement of national government goods and services by implementing preferential procurement for persons or entities managed by persons with disability; (i) ensure access to free basic education and other social amenities to every child with a disability; (j) allocate adequate resources to programmes specifically targeting persons with disabilities; (k) allocate adequate resources for training on persons with disabilities; (l) ensure equity in the distribution of resources to all categories of		
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		disabilities; (m) promote affirmative action to ensure that learners with disabilities are enrolled in all levels of learning institutions; (n) provide capacity building, funding and technical assistance to the county governments on all matters relating to persons with disabilities; (o) consult county governments on any matter relating to persons with disabilities that affect the functions and powers of county governments; and (p) develop programmes for care givers of persons with disabilities on specialised training, counselling and economic development.		
2.	Clause 5 Obligations of county governments	5. (1) Every county government shall— (a) implement national policies for the protection and promotion of the welfare of persons with disability; (b) allocate adequate resources to programmes specifically targeting persons with disability; (c) ensure access to free pre-	THAT clause 5 of the Bill be amended— (a) in sub-clause (1)- (i) in paragraph (a), by deleting the word "welfare" and substituting therefor the word "rights"; (ii) in paragraph (c), by	<i>The Committee accepted these amendments as they are mainly cleanup provisions.</i> <i>*Accepted*- Cleanup (iii)(c) to read, "a person with disability"</i>

		primary education and other social amenities to every child with disability; (d) coordinate and disseminate information on government sponsored and non-government sponsored programmes targeting persons with disability within the respective counties; (e) promote the inclusion of persons with disability in the county public service by putting in place measures to ensure that at least five per centum of the employment positions are filled by persons with disability; and (f) adopt affirmative action in procurement of county government goods and services by implementing preferential procurement for individuals or entities established or managed by persons with disability. (2) In ensuring that a county government meet its obligations under subsection (1), the county executive committee member in each county shall—	inserting the words "<i>and compulsory</i>" immediately after the word "<i>free</i>"; (iii) by inserting the following new paragraph immediately after paragraph (f)- <i>"(g)ensure inclusion of persons with disabilities in all mainstream programs and interventions"</i>. (b) in sub-clause (2), by inserting the words "<i>responsible for matters relating to persons with disabilities</i>" immediately after the words "<i>committee member</i>" appearing in the opening statement; and (c) in sub-clause (4), by deleting paragraph (a) and substituting therefor the following new paragraph- <i>(a) a person with disabilities, who reside within the</i>	
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		(a) advise the respective county governor on the appropriate measures and interventions to be put in place for the protection of persons with disability in the county; (b) develop mechanisms for the identification of persons with disability residing in the county; (c) liaise with the Council to maintain a database of persons with disability residing within the respective county containing the following information regarding the persons with disability— (i) the name, age and place of residence of the person; (ii) the type of disability of the person; (iii) the education level of the person; (iv) the health needs	<i>respective county;</i>	
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		of the person; (v) the employment status of the person; (vi) any interventions made in relation to the person; and (vii) any other information that the county executive committee member may consider necessary; (d) monitor and evaluate the progress by the county in ensuring the realisation of the rights of persons with disabilities under Article 54 (1) of the Constitution; (e) formulate and implement programmes aimed at promoting the socio-economic development, including participation in cultural life, recreation and sports, by persons with disability in the county;		
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		(f) coordinate the implementation of programmes developed by the Council and the Authority relating to persons with disability in the county; and (g) prepare and publish reports containing statistical or other information relating to programmes and effect of the programmes carried out by the county in relation to persons with disability. (3) The county executive committee member may, for the effective performance of the functions under subsection (2), designate a public officer within the county public service or constitute a committee to perform such functions as the county executive member may determine. (4) Where the county executive member constitutes a committee under subsection (3), the committee shall consist of— (a) a person who represents persons with disability in the county; (b) two public officers serving in the respective county public service; (c) two members of the public with		
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		knowledge or experience on matters relating to the welfare, rehabilitation and the management persons with disability and belong to a related group or organization; and		
		(d) such other persons, not exceeding two, as the county executive committee member shall consider necessary for the performance of the functions of the committee. (5) In constituting a committee under subsection (4), the county executive committee member shall ensure that not more than two thirds of its members shall be of the same gender. (6) The respective county government shall enact county specific legislation to provide for— (a) procedure for nomination and appointment of the members of the committee; (b) such further qualifications for appointment to the committee as may be considered appropriate; (c) the term of appointment;		

		(d) the criteria and procedure for removal of a member from the committee; and such other matters as the county government shall consider necessary.		
3.	Clause 6 Right to Equality and Non-Discrimination.	6. (1) Every person with disability is— (a) equal before the law in the social, cultural, economic, political, or any other field of life and is guaranteed to protection, benefit of the law and to effective legal protection against discrimination on all grounds; (b) entitled to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others. (2) Pursuant to subsection (1), specific measures, including support services which are necessary to accelerate or achieve equality and eliminate discrimination against persons with disabilities shall not be considered discrimination.	THAT clause 6(1) of the Bill be amended by deleting the words "protection, benefit" appearing in paragraph (a) and substitute therefor the words "equal protection, equal benefit".	<i>The Committee accepted these amendments as they are mainly cleanup provisions.</i> <i>*Accepted*</i>
4.	Clause 8 Right to marry and form a family.	(1) Every adult person with disability has the right to marry a person of the opposite sex and form a family based on free consent. (2) Every person with disability has the right to control his or her sexuality and reproductive health.	THAT clause 8 of the Bill be amended - (a) in sub-clause (1), by deleting the words "on free consent" and substituting therefor the words "on free	<i>The Committee accepted these amendments as they are mainly cleanup provisions.</i> <i>*Accepted*</i>

		(3) No person with disability shall be separated from his or her child on the ground of disability. (4) Every person with disability shall at marriage, during marriage and at the dissolution of marriage be entitled to protection of his or her property acquired at marriage, during marriage and dissolution of marriage.	<i>and full consent"; and</i> (b) in sub-clause (2), by deleting the word "<i>sexuality</i>" and substituting therefor the word "<i>sexual</i>".	
5.	Clause 11 Children with Disabilities.	(1) Every child with disability has the right and freedom on an equal basis with other children in respect to— (a) a name and registration immediately after birth; (b) evolving capacities, identities and to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance, and independence; (c) freedom to express his or her views on all matters affecting him or her; (d) age and gender appropriate assistance to realize his or her rights; (e) living with his or her family for as long as is necessary; (f) accessing quality education; (g) accessing appropriate health care services; and (h) protection from abuse, exploitation and harmful practices. (2) In all actions concerning children with	THAT clause 11(l)(f) of the Bill be amended by inserting the word "<i>and inclusive</i>" immediately after the word "<i>quality</i>".	<i>The Committee accepted this amendment as it is enhancive to the spirit of the Bill.</i> <i>*Accepted*</i>

		disabilities, the best interest of the child shall be the primary consideration and shall be of paramount importance.		
6.	Clause 20 Right to Education.	20. (1) Every person with disability has a right to admission to any institution of learning and access to an inclusive, quality education on an equal basis with others. (2) No person shall be excluded from the education system on the basis of disability. (3) The National government shall facilitate participation of persons with disabilities in accessible and adaptable continuing adult education programmes on an equal basis. (4) The National and County Governments shall ensure that persons with disabilities have access to inclusive education, without discrimination and on an equal basis at all levels. (5) Every child with disability has the right to free and compulsory basic education. (6) Children with disabilities shall not be excluded from free and compulsory early childhood, primary or secondary education, on the basis of disability. (7) Every child with disabilities has a right to equal access to play, recreation and leisure and sporting activities, including those activities in the school system. (8) The Council in consultation with relevant Government establishments shall	THAT clause 20(8) of the Bill be amended by deleting the word "adoptive" appearing in paragraph (b) and substituting therefor the word "adaptive".	<i>The Committee accepted this amendment as it is a grammatical cleanup provision.</i> <i>*Accepted*</i>

		ensure that— (a) learning institutions take into account the needs of persons with disabilities with respect to the set entry requirements, pass marks, curriculum, examinations, auxiliary services, use of school facilities, class schedules, physical education requirements and other similar considerations; (b) learning institutions provide individualized support measures, appropriate equipment, assistive devices, adoptive technologies and other supportive services in environments that maximize academic and social development, consistent with the goal of full inclusion of students with disabilities. (c) the Ministry responsible for education formulates strategies to implement inclusive education through— (i) enforcement of recruitment and retention of special education teachers in all schools and institutions; (ii) adaptation and structural adjustments of all educational institutions to the needs of persons with disabilities (iii) establishment of specialized institutions that undertake research and development in education for learners with		
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		disabilities; (iv) establishment of at least one assessment center in each county to support educational institutions within the county, by way of teacher trainers, educational aids, equipment and materials; (v) promotion of the use of appropriate augmentative and alternative modes, means and formats of communication, adaptive technologies, including Braille and Kenya Sign Language; and (vi) introduction of Kenyan Sign language courses in all learning and training institutions. (9) The Cabinet Secretary in charge of education shall develop an adaptable examination framework and award a certificate to children with intellectual disabilities after completion of their education. (10) Each learner with disability including an intellectual disability has a right to be assessed and be placed in an appropriate learning institution in accordance with the outcome of the assessment". (11) Any person who denies a person with disability admission on the basis of disability commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not		
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		exceeding two years or both. (12) In addition to subsection (11) the court may order unconditional admission of the person with disability. (13) The Cabinet Secretary responsible for education shall— (a) facilitate through policies and legislation, the development of persons with disabilities through their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; (b) in collaboration with the relevant line ministries shall provide training facilities for speech therapy, occupational therapy, physiotherapy, guidance and counselling, audio-logical assessments, habilitation, and aural and oral rehabilitation for children with disabilities; and (c) together with the County Education Committees in charge of education make policy, legislation and sustainable financial frameworks in each financial year to achieve full realization of the right to education for persons with disabilities. (14) Every Person with Disabilities is entitled to receive the support services required, within the general education system, to facilitate his or her effective inclusive education.		
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		(15) The Council shall work in consultation with relevant agencies of National and County Governments to make provisions for an integrated system of special and non-formal schools and institutions, especially for the deaf, the blind, the deaf blind and those with developmental disabilities to cater for skills development and self-reliance, and establishment of braille and recorded libraries for persons with visual disabilities.		
7.	Clause 21 Right to work and employment for Persons with Disabilities.	21. (1) No employer shall discriminate against a person with disability in job application procedures, hiring, advancement and other terms, conditions, and privileges of employment. (2) Every employer shall— (a) reserve at least five per cent direct employment opportunities for persons with disabilities to secure employment; (b) formulate policies and programmes to promote basic human rights, improve working conditions, and enhance employment opportunities for persons with disabilities; (c) when recruiting, not discriminate on account of disability; (d) not conduct any 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	THAT clause 21 of the Bill be amended- (a) in sub-clause (2), by inserting the words "where an employer has at least twenty employees," immediately before the word "reserve" in paragraph (a); and (b) in sub-clause (5)(e), by deleting the word "solely".	<i>The Committee accepted these amendments.</i> <i>(a) It makes sense to reserve a quota for employees to subject to a threshold.</i> <i>(b) It is reasonable that the word "solely" be removed because it is superfluous. The meaning and intention may be retained without use of the word.</i> <i>*Accepted*</i>

		disability; and (e) be required to carry out appropriate modifications in their work premises to accommodate the employment of persons with disabilities;		
		(3) Every employer shall submit an annual report on the status of employment of persons with disabilities within their establishments to the Council in a format as may be prescribed by the Council. (4) Every employer shall apply specific measures to employees with disabilities in promotions, training and other related matters arising in the course of, or through the length of employment. (5) Without limiting the generality of subsection (2) (c), the following may constitute acts of discrimination— (a) limiting, segregating or classifying a job applicant with disabilities in a manner which adversely affects his or her work opportunities; (b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out or prohibit career progression of persons with disabilities; (c) 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;		

		(d) providing less payment, remuneration or fringe benefits, to an employee with disability, than the amount paid to others performing the same work; (e) favoring an employee without disability over an employee with disability with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability; (f) re-assigning or transferring an employee with disability from a task or position the employee is able to perform to one which he or she cannot perform because of his or her disability; (g) failing to select or administer in the most effective manner, employment tests which accurately reflect the skills, and aptitude of an applicant or employee with disability, rather than the impaired sensory, manual or speaking skills of such applicant or employee: if any; and (h) excluding persons with disabilities from membership in trade and labour unions or similar organizations. (6) For the purposes of subsection (5), the age of retirement for persons with disabilities shall be five (5) years above the mandatory age of retirement set by the Government. (7) For purpose of this section "reasonable accommodation" for purposes of employment		
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		includes—		
		(a) (i) making existing facilities used by employees readily accessible to and usable by persons with disabilities;		
		(ii) job restructuring, part time or modified work schedules, reassignment to a vacant or suitable position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or policies, the provisions of qualified readers or interpreters, and other similar accommodations for persons with disabilities;		
		(iii) payment of assistive allowances to employees with disabilities		
		(b) “employer” means an employer in the public and private sector;		
		(c) “discrimination” includes—		
		(i) limiting or classifying a job applicant or employee in an adverse way;		
		(ii) denying employment opportunities to qualified persons;		
		(iii) not making reasonable accommodation;		

		(iv) not advancing employees with disabilities in employment; and not providing necessary accommodations in training materials or policies; and the provision of qualified readers or interpreters.		
8.	Clause 25 Council to participate in Health Programmes.	25. The Council shall be represented in the implementation of the National and County Health Programs under the Cabinet Secretary and County executive committee responsible for health for the purpose of— (a) early identification of disability; (b) early rehabilitation of persons with disabilities; (c) enabling persons with disabilities to receive free habilitation and rehabilitation and medical services in public health institutions; (d) availing health services and field medical personnel to persons with disabilities at an affordable cost; and (e) prompt attendance by medical personnel to persons with disabilities.	THAT clause 25(e) of the Bill be amended by inserting the words "<i>putting in place mechanisms for</i>" immediately before the words "<i>prompt attendance</i>".	<i>The amendment has been accepted. It is a cleanup provision</i> *Accepted*
9.	Clause 26	26. (1) Every person with disability has the right to access information, communication and other services including the freedom of expression and opinion, the freedom to seek, receive and impart information and ideas, electronic and emergency services open or provided to the public on an equal basis with others in a timely manner and without additional cost and through all forms of communication of his or her choice.	THAT clause 26 of the Bill be amended - (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause- <i>(1) Every person with disability has the right to freedom of expression and</i>	<i>The amendments have been accepted. They are cleanup provisions.</i> *Accepted*

		(2) Every person with disability has a right to information, communications technologies and systems which includes talking software, Braille materials, hearing aids and other communication devices. (3) Public and private institutions shall provide information intended for the general public, including through the internet, to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities. (4) Public and private institutions shall accept and facilitate the use of Kenya sign language, Braille, augmentative and alternative communication, and all other accessible means and usable formats of communication to accommodate the needs of persons with disabilities; (5) All public and private media enterprises and telephone service providers shall provide information and services in accessible formats and technologies appropriate to different kinds of persons with disabilities. (6) All telecommunications entities in Kenya shall take steps to ensure functionally equivalent services for consumers with disabilities to effectively access services, products and programs offered by them. (7) The Media Council of Kenya shall develop regulations on maintenance of low levels of risk to persons who have photosensitive epilepsy by television broadcasters.	<i>opinion, including the freedom to seek, receive and impart information and ideas, and the right to access information, on an equal basis with others, in a timely manner and without additional cost";</i> (b) in sub-clause (2), by inserting the words "<i>forms of</i>" immediately after the words "<i>and other</i>"; (c) in sub-clause (7), by deleting the words "<i>Media Council of Kenya</i>" and substituting therefor the words "<i>Communication Authority of Kenya in consultation with the Council</i>"; (d) in sub-clause (8), by deleting the words "<i>sub-titles</i>" and substituting therefor the words "<i>closed captioning</i>"; and	
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		(8) All television stations shall provide a Kenya sign language inset, sub-titles in newscasts, and educational programs, and in all programs covering events of national and international significance. (9) All public and private institutions of higher learning shall have a common course in Kenyan Sign language. (10) Any public institution which fails to comply with the provisions of this section shall have its license suspended and shall not be reinstated until it complies.	(e) in sub-clause (10), by inserting the words "<i>and private</i>" immediately after the word "<i>public</i>".	
10.	Clause 28 Access to Justice.	28. (1) Every person with disability has a right to effective access to justice on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, at investigative and other preliminary stages. (2) The Attorney-General, in consultation with the Council and the Law Society of Kenya, shall make regulations providing for free legal services for persons with disabilities with respect to the following— (a) matters affecting the violation of the rights of persons with disabilities or the deprivation of their property; (b) cases involving capital punishment of persons with disabilities; and (c) such matters and cases as maybe	THAT clause 28(2) of the Bill be amended by deleting the word "<i>Kenya</i>" appearing in paragraph (b) and substituting therefor the word "<i>Kenyan</i>".	<i>The Committee accepted this amendment to be at paragraph 28(3), not 28(2). "Kenya" is a noun while "Kenyan" is an adjective and in this context an adjective would be more appropriate.</i> <i>*Accepted*</i>

		prescribed in the regulations made by the Attorney General. (3) The Chief Justice shall make rules providing for— (a) the exemption of persons with disabilities from the payment of court fees in relation to matters or cases described in subsection (2) ; and (b) the provision, to persons with disabilities who attend court, of free Kenya sign language interpreters, Braille services, other communication formats and technologies accessible to persons with disabilities, physical guide assistance and intermediaries. (3) Accused persons with disabilities who are denied bail shall be entitled to be held in custody in facilities modified in accordance with regulations made in accordance with standards prescribed under this Act. (4) The Chief Justice shall ensure that all suits involving persons with disabilities are disposed of expeditiously having due regard to the particular disability and the convenience of such persons. (5) Law enforcement agencies and institutions shall take into consideration the disability of a person on arrest, at detention, investigation, trial or confinement.		
11.	Clause 29	29. (1) Every person with disability has a right to take part on an equal basis with others in sports, recreation, leisure and cultural	THAT clause 29(4) of the Bill be amended by deleting the word "Kenya" and	<i>The Committee accepted this amendment as "Kenya" is a noun while</i>

	activities at the national, regional and international levels. (2) Every person with disability shall be entitled to the use of recreational or sports facilities owned or operated by the national and county governments during social, sporting or recreational activities, free of charge. (3) The Cabinet Secretaries responsible for sports, recreation, leisure and cultural activities, in consultation with the Council, shall take appropriate measures to enable persons with disability to have the opportunity to develop and utilize their creative, artistic and intellectual potential. (4) A person with disability shall be entitled, on an equal basis with others, to recognition and support of his or her specific cultural and linguistic identity, including Kenya sign language and Deaf culture. (5) Every public and private institution with sporting, recreation, leisure and cultural activities for their employees shall ensure that such sporting, recreational, leisure and cultural activities are accessible and sensitive to the needs of persons with disabilities. (6) Government agencies and institutions responsible for curriculum development shall restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities. (7) Every person with disability shall be entitled to the use, without discrimination, and on the same basis with other persons, of	substituting therefor the word "Kenyan".	<i>"Kenyan" is an adjective and in this context an adjective would be more appropriate.</i> <i>*Accepted*</i>
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		recreational and tourism venues or sports facilities owned or operated by the Government during social, sporting or recreational activities. (8) The National and County governments shall provide persons with disabilities with the necessary suitable environment, including appropriate instruction, training, resources and medical personnel, architectural infrastructure, apparatus and equipment, transportation facilities for the participants.		
12.	Clause 45 Executive Director of the Council.	45. (1) The Council shall appoint an Executive Director through an open, transparent and competitive recruitment process. (2) The Executive Director shall be the secretary to the Council. (3) A person shall be qualified for appointment as the Executive Director of the Council if the person— (a) is a citizen of Kenya; (b) at least a degree from a recognized university; (c) has at least ten years of proven work experience years being at senior management level in a public or private institution; and (d) at least three years' experience on matters of Disabilities. (e) meets the requirements of Chapter Six of the Constitution. (4) The Executive Director shall hold	THAT clause 45(4) of the Bill be amended by deleting the word "five" and substituting therefor the word "three".	<i>The Committee accepted this amendment, it seems to be a corporate governance measure.</i> <i>*Accepted*</i>

		office for a term of five years renewable once. The Executive Director shall be the accounting officer of the Council and be responsible to the Council for the day-to-day management of the affairs of the Council, and shall perform such other functions as may be so conferred by this Act or by any other written law.		
13.	Clause 50 Inquiry by the Council.	50. (1) The Council may conduct an inquiry or a sectoral investigation — (a) where it considers it necessary or desirable for the purpose of carrying out its functions; and (b) upon receiving a direction by the Cabinet Secretary in writing, requiring it to conduct an inquiry or a sectoral investigation into a matter specified in the direction. (2) A direction by the Cabinet Secretary under subsection (1)(b) shall specify the period within which the Council shall submit its report to the Cabinet Secretary. (3) At the request of a regulatory body, the Council may conduct an inquiry into any matter affecting persons with disabilities and provide a report within a reasonable period.	THAT clause 50 of the Bill be amended- (a) in sub-clause (1), by inserting the words "<i>upon request by a member of the public or</i>" immediately before the words "<i>where it considers</i>" appearing in paragraph (a); (b) in sub-clause (3), by inserting the words "<i>or a member of the public</i>" immediately after the words "<i>regulatory body</i>".	<i>The Committee accepted the amendment to allow for the public to institute an investigation.</i> <i>*Accepted*</i>
14.	Clause 56 Exemptions for parents and guardians.	56. (1) The Cabinet Secretary responsible for matters related to finance may, on application by a parent or guardian of a person certified with severe disability and incapable of catering for their basic needs, grant an income	THAT clause 56 of the Bill be amended- (a) in sub-clause (1), by deleting the expression "Kshs. 150,000/= " and substituting	<i>The Committee accepted the amendment. It is best to leave some money provisions to be determined by the Cabinet</i>

		tax exemption of Kshs 150,000/= to the parent or guardian, if the person with severe disability is in the care and custody of the parent or guardian. (2) The Cabinet Secretary responsible for matters related to social protection may on application of a parent or guardian who is indigent and assumes full custody and care of a person certified with severe disability and incapable of catering for their basic needs, grant a long-term social assistance monthly cash transfer of not less than Kshs 10,000/= in accordance with the Social Assistance Act. (3) The Cabinet Secretary shall make regulations for the proper implementation of the provisions relating to this section.	therefor the words "of such amount as may be prescribed by the Cabinet Secretary"; and (b) in sub-clause (2), by deleting the expression "Kshs. 10,000/=" and substituting therefor the words "such amount as may be prescribed by the Cabinet Secretary"	<i>Secretary in order for them to factor various issues such as inflation.</i> <i>*Accepted*</i>
15.	Clause 62 Prohibition of abuse, exploitation or violence.	62. (1) Any person who treats persons with disabilities or does any of the acts specified in subsection (2) by reason of such persons' disability is commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years. (2) The acts referred to in subsection (1) include— (a) physical violence occasioning actual bodily harm or any form of physical or psychological torture. (b) wrongful confinement or detention	THAT clause 62 of the Bill be amended by deleting the words "one million" and substituting therefor the words "two million".	<i>The Committee accepted the amendment on the enhanced fine amount.</i> <i>*Accepted*</i>

		whether in residential premises or in an institution resulting in denying of a person with disability the opportunities and services available under this Act or any other law; (c) harmful cultural practices and exploitation; or any other form of cruel, inhuman and degrading treatment.		
16.	Clause 63 Concealment of Persons with Disabilities.	63. A parent, guardian, next of kin or a person in charge of institution of persons with disabilities shall not knowingly conceal such person in such a manner as to deny any such a person the opportunities and services available under this Act or any other law.	THAT clause 63 of the Bill be amended- (a) by renumbering the existing clause as sub-clause (1); (b) by inserting the following new sub-clause immediately after sub-clause (1)— " (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both".	<i>The Committee accepted the amendments. The first is a cleanup provision. The second is to provide for a penalty where an offence has been created.</i> <i>*Accepted*</i>
17.	Clause 65 Denial of food and fluids.	65. Any person who knowingly denies food or fluids to a person with disability who is under his or her care or responsibility or aids or abets in such denial commits an offence and is liable on conviction to a fine not exceeding two	THAT clause 65 of the Bill be amended by deleting the words "two hundred thousand shillings" and substituting therefore the words "two	<i>The Committee accepted the amendment on the enhanced fine amount.</i> <i>*Accepted*</i>

		hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	<i>million shillings".</i>	
18.	Clause 66 Degrading treatment of a Person with disability.	66. Any person who voluntarily or knowingly commits or abets the degrading treatment of a person with disability by words, either spoken or written, or by signs or by visible representations or otherwise, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	THAT clause 66 of the Bill be amended by deleting the words " <i>two hundred thousand shillings</i> " and substituting therefore the words " <i>one million shillings</i> ".	<i>The Committee accepted the amendment on the enhanced fine amount.</i> <i>*Accepted*</i>
19.	Clause 72 Protection of road users with disabilities.	72. It shall be the duty of the National and County Governments to make public roads and highways under their respective mandates accessible to persons with disabilities by <i>inter alia</i> - (a) equipping pedestrian crossings with traffic control signals controlled by a pedestrian push-button system; and (b) providing pedestrian traffic lights with clearly audible signals.	THAT clause 72 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)- " <i>(c) ensuring that bus-stops are barrier-free</i> ".	<i>The Committee accepted the amendment. It adds to the spirit of the Bill.</i> <i>*Accepted*</i>
20.	Clause 74 Denial of admission into premises.	74. (1) No person shall, on the ground of disability alone, deny a person with disability— (a) admission into any premises to which members of the public are ordinarily admitted; or (b) the provision of any services or amenities to which members of the public are entitled. (2) The proprietor of premises referred to in	THAT clause 74 of the Bill be amended- (a) in sub-clause (1) by deleting the word " <i>alone</i> " appearing in the opening statement; and (b) in sub-clause (2) by deleting the word " <i>alone</i> ".	<i>The Committee accepted these amendments.</i> <i>It is reasonable that the word "alone" be removed because it is superfluous. The meaning and intention may be retained without use of the word.</i>

		subsection (1) (a) shall not have the right, on the ground of a person's disability alone, to reserve the right of admission to his or her premises against such a person. (3) A person with a disability who is denied admission into any premises or the provision of any service or amenity contrary to subsection (1) shall be deemed to have suffered an injury and shall have the right to recover damages in any court of competent jurisdiction. (4) Without prejudice to subsection (3), damages awarded under that subsection shall be recoverable summarily as a civil debt. (5) The standards set out in the Second Schedule shall apply with regard to accessibility for purposes of this Act.		<i>*Accepted*</i>
21.	NEW CLAUSE 36A	Establishment of the Council There is hereby established a council to be known as the National Council for Persons with Disabilities. (2) The Council shall be a body corporate with perpetual succession and have a common seal and shall be capable, in its corporate name of— (a) suing and being sued; (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;	THAT the Bill be amended by inserting the following new clause immediately after clause 36- <i>Headquarters and other offices of the Council:</i> <i>36A. (1) The headquarters of the Council shall be in Nairobi.</i> <i>(2) The Council shall establish other offices and</i>	<i>The Committee accepted this new clause as it provides for the headquarters of the Council.</i> <i>*Accepted*</i>

		(c) borrowing; (d) doing or performing all such other things or acts for the proper discharge of its functions under the Constitution, this Act or any written law, as may be lawfully done or performed by a body corporate.	<i>decentralize its services to such other parts of the country as it considers necessary in accordance with Article 6(3) of the Constitution.</i>	
22.	NEW CLAUSE 66A	Degrading treatment of a Person with disability. 66. Any person who voluntarily or knowingly commits or abets the degrading treatment of a person with disability by words, either spoken or written, or by signs or by visible representations or otherwise, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.	THAT the Bill be amended by inserting the following new clause immediately after clause 66- <i>Begging and receiving alms.</i> <i>66A. A person who causes, procures, encourages or solicits a child or an adult with disabilities to engage in begging or receiving alms commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years, or to both.</i>	<i>The Committee accepted this new clause as it advances the intention and spirit of the bill.</i> <i>*Accepted* *clean up disabilities to read, "an adult with disability"</i>
23.	NEW CLAUSE 73A	Public Service vehicles and Transport. 73. (1) A registered owner of a public transport vehicle shall adjust the vehicle to suit persons with disabilities in such manner as maybe specified by the Council in consultation with the relevant government agencies. (2) A registered owner of public transport	THAT the Bill be amended by inserting the following new clause immediately after clause 73~ <i>Housing.</i> <i>73A. Every Government agency putting up residential</i>	<i>The Committee accepted this new clause as it advances the intention and spirit of the bill.</i> <i>*Accepted*</i>

		vehicle who improves or modifies it to make it accessible for persons with disabilities shall be entitled to apply to the Cabinet Secretary responsible for finance for twenty-five percent of the direct cost of the improvements and modifications. (3) A registered owner of a public transport vehicle referred in subsection (2) shall present with the application under that subsection proof of modifications certified by the Council. (4) For the purposes of this section “Para transit services” means special transportation services for persons with disabilities.	<i>and commercial buildings shall reserve at least five percent of the said residential and commercial buildings for acquisition by persons with disabilities and the terms and conditions of such acquisition to persons with disabilities shall include interest free and longer periods of repayment.</i>	
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* *- Denotes the Committee Decision.

APPENDIX 4:
MESSAGE FROM THE
NATIONAL ASSEMBLY ON
THE AMMENDMENTS TO
THE PWD BILL (SENATE
BILLS NO. 7 OF 2023).



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT - THIRD SESSION
THE NATIONAL ASSEMBLY
MESSAGES
MESSAGE TO THE SENATE

_____ (No. 001 of 2025) _____

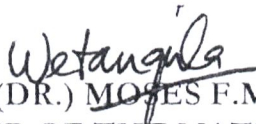
**SUBJECT: PASSAGE OF THE PERSONS WITH DISABILITIES BILL
(SENATE BILL NO. 7 OF 2023)**

PURSUANT to the provisions of Standing Order 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly—

WHEREAS, the Persons with Disabilities Bill (Senate Bill No. 7 of 2023), which is a Bill concerning county government and provides for, *inter alia*, the institutional framework for protecting and promoting rights of persons with disabilities, was passed by the Senate on Thursday, 21st February 2024 and thereafter referred to the National Assembly for consideration pursuant to the provisions of Article 110(4) of the Constitution;

AND WHEREAS, the National Assembly considered the said Bill and **passed** it with amendments on Thursday, 16th January, 2025, as contained in the Schedule of amendments attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 112(1)(b) of the Constitution and Standing Orders 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.


THE RT. HON. (DR.) MOSES F.M. WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Thursday, 27th February, 2025

THE PERSONS WITH DISABILITIES BILL (SENATE BILL NO. 7 OF 2023)

Bill also passed by the National Assembly on Thursday, 16th January, 2025

SCHEDULE OF AMENDMENTS MADE TO THE BILL BY THE NATIONAL ASSEMBLY

CLAUSE 4

THAT clause 4 of the Bill be amended—

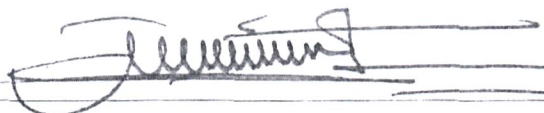
- (a) in paragraph (a), by deleting the word “welfare” and substituting therefor the word “rights”;
- (b) in paragraph (e), by inserting the words “inclusion and ” and immediately after the words “promote the”;
- (c) in paragraph (i), by inserting the words “and compulsory” immediately after the word “free”;
- (d) by inserting the following new paragraph immediately after paragraph (p)—
“(q)ensure inclusion of persons with disabilities in all mainstream programs and interventions”.

CLAUSE 5

THAT clause 5 of the Bill be amended—

- (a) in sub-clause (1)—
 - (i) in paragraph (a), by deleting the word “welfare” and substituting therefor the word “rights”;
 - (ii) in paragraph (c), by inserting the words “and compulsory” immediately after the word “free”;
 - (iii) by inserting the following new paragraph immediately after paragraph (f)—
“(g)ensure inclusion of persons with disabilities in all mainstream programs and interventions”.
- (b) in sub-clause (2), by inserting the words “responsible for matters relating to persons with disabilities” immediately after the words “committee member” appearing in the opening statement; and

Signature:



Clerk of the National Assembly

(c) in sub-clause (4), by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) a person with disabilities, who reside within the respective county;

CLAUSE 6

THAT clause 6(1) of the Bill be amended by deleting the words “protection, benefit” appearing in paragraph (a) and substitute therefor the words “equal protection, equal benefit”.

CLAUSE 8

THAT clause 8 of the Bill be amended —

(a) in sub-clause (1), by deleting the words “on free consent” and substituting therefor the words “on free and full consent”; and

(b) in sub-clause (2), by deleting the word “sexuality” and substituting therefor the word “sexual”.

CLAUSE 11

THAT clause 11(1)(f) of the Bill be amended by inserting the word “and inclusive” immediately after the word “quality”.

CLAUSE 20

THAT clause 20(8) of the Bill be amended by deleting the word “adoptive” appearing in paragraph (b) and substituting therefor the word “adaptive”.

CLAUSE 21

THAT clause 21 of the Bill be amended—

(a) in sub-clause (2), by inserting the words “where an employer has at least twenty employees,” immediately before the word “reserve” in paragraph (a); and

(b) in sub-clause (5)(e), by deleting the word “solely”.

CLAUSE 25

THAT clause 25(e) of the Bill be amended by inserting the words “putting in place mechanisms for” immediately before the words “prompt attendance”.

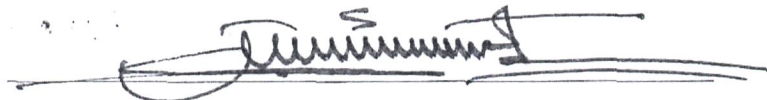
CLAUSE 26

THAT clause 26 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) Every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, and the right

Signature:



Clerk of the National Assembly

to access information, on an equal basis with others, in a timely manner and without additional cost”;

- (b) in sub-clause (2), by inserting the words “forms of” immediately after the words “and other”;
- (c) in sub-clause (7), by deleting the words “Media Council of Kenya” and substituting therefor the words “Communication Authority of Kenya in consultation with the Council”;
- (d) in sub-clause (8), by deleting the words “sub-titles” and substituting therefor the words “closed captioning”; and
- (e) in sub-clause (10), by inserting the words “and private” immediately after the word “public”.

CLAUSE 28

THAT clause 28(2) of the Bill be amended by deleting the word “Kenya” appearing in paragraph (b) and substituting therefor the word “Kenyan”.

CLAUSE 29

THAT clause 29(4) of the Bill be amended by deleting the word “Kenya” and substituting therefor the word “Kenyan”.

CLAUSE 45

THAT clause 45(4) of the Bill be amended by deleting the word “five” and substituting therefor the word “three”.

CLAUSE 50

THAT clause 50 of the Bill be amended—

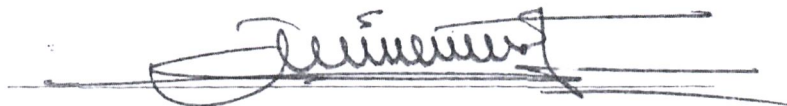
- (a) in sub-clause (1), by inserting the words “upon request by a member of the public or” immediately before the words “where it considers” appearing in paragraph (a);
- (b) in sub-clause (3), by inserting the words “or a member of the public” immediately after the words “regulatory body”.

CLAUSE 56

THAT clause 56 of the Bill be amended—

- (a) in sub-clause (1), by deleting the expression “Kshs. 150,000/=” and substituting therefor the words “of such amount as may be prescribed by the Cabinet Secretary”; and
- (b) in sub-clause (2), by deleting the expression “Kshs. 10,000/=” and substituting therefor the words “such amount as may be prescribed by the Cabinet Secretary”

Signature:



Clerk of the National Assembly

CLAUSE 62

THAT clause 62 of the Bill be amended by deleting the words “one million” and substituting therefor the words “two million”.

CLAUSE 63

THAT clause 63 of the Bill be amended—

- (a) by renumbering the existing clause as sub-clause (1);
- (b) by inserting the following new sub-clause immediately after sub-clause (1)—
 - “(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both”.

CLAUSE 65

THAT clause 65 of the Bill be amended by deleting the words “two hundred thousand shillings” and substituting therefore the words “two million shillings”.

CLAUSE 66

THAT clause 66 of the Bill be amended by deleting the words “two hundred thousand shillings” and substituting therefore the words “one million shillings”.

CLAUSE 72

THAT clause 72 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

- “(c) ensuring that bus-stops are barrier-free”.

CLAUSE 74

THAT clause 74 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “alone” appearing in the opening statement; and
- (b) in sub-clause (2) by deleting the word “alone”.

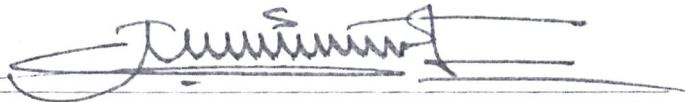
NEW CLAUSE 36A

THAT the Bill be amended by inserting the following new clause immediately after clause 36—

Headquarters and other offices of the Council. **36A.(1)** The headquarters of the Council shall be in Nairobi.

(2) The Council shall establish other offices and decentralize its services to such other parts of the country as it considers necessary in accordance with Article 6(3) of the Constitution.

Signature: _____



Clerk of the National Assembly

NEW CLAUSE 66A

THAT the Bill be amended by inserting the following new clause immediately after clause 66—

Begging and
receiving alms.

66A. A person who causes, procures, encourages or solicits a child or an adult with disabilities to engage in begging or receiving alms commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years, or to both.

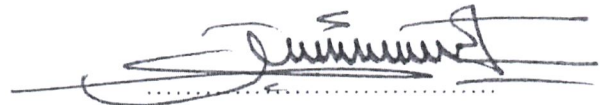
NEW CLAUSE 73A

THAT the Bill be amended by inserting the following new clause immediately after clause 73—

Housing.

73A. Every Government agency putting up residential and commercial buildings shall reserve at least five percent of the said residential and commercial buildings for acquisition by persons with disabilities and the terms and conditions of such acquisition to persons with disabilities shall include interest free and longer periods of repayment.

Certified



Clerk of the National Assembly

This...^{27th} day of ...^{Feb.} 2025.

