

PEOPLE WITH DISABILITIES BILL, 2016

Arrangement of Clauses

Clause

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A BILL
FOR

A LAW TO ESTABLISH THE OFFICE FOR DISABILITY AFFAIRS; TO PROVIDE PROTECTION AGAINST DISCRIMINATION BASED ON DISABILITY; TO PROVIDE EQUAL OPPORTUNITY AND ACCESS FOR PEOPLE WITH DISABILITIES; AND FOR CONNECTED PURPOSES

Sponsored by:

Hon. Aishat Bodunrin Ibrahim

Hon. AbdulRafiu AbdulRahman

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Date of
Commencement

BE IT ENACTED by the House of Assembly of Kwara State of Nigeria and by the authority of same as follows –

Part I – Establishment and Functions of the Office

- I. (1) There is established the Office for Disability Affairs (referred to in this law as the "Office").

Establishment of the
Office for Disability
Affairs.

- (2) The Office shall –

- (a) be a body corporate with perpetual succession and a common seal;
- (b) have power to sue and be sued in its corporate name; and
- (c) be capable of holding, purchasing, acquiring and disposing of movable or immovable property for the purpose of carrying out its functions under this Law

2. The functions of the Office include –

Functions of Office.

- (a) issuance of guidelines for the education, social development and welfare of people with disabilities;
- (b) collaboration with relevant ministries, parastatals or corporate bodies in issuing codes and directives for designing buildings so as to make them accessible to and usable by people with disabilities;
- (c) receipt of complaints from people living with disabilities on the violation of any of their rights;
- (d) investigation, prosecution and sanctioning in appropriate cases the violation of any of the provisions of this Law subject to an individual's right to seek redress in court;
- (e) registration and co-ordination of associations of people with disabilities;
- (f) re-orientation and education of the public on the right attitude towards people with disabilities;
- (g) combat stereotypes, prejudices and harmful practices relating to people with disabilities in all aspects of life.
- (h) collection and collation of data on people with disabilities and ensuring proper Government planning for people with disabilities;
- (i) issuance of directives and guidelines to the relevant authorities on special sports;
- (j) issuance of directives and guidelines to special schools for people with disabilities;
- (k) issuance of directives and guidelines on all manner of disabilities, preventive or curative exercises;
- (l) actualizing the enjoyment of all rights in this Law by people with disabilities;
- (m) issuance and revocation of certificates of disability (temporary or permanent);
- (n) establishment and promotion of schools as well as vocational and rehabilitation centres for the development of people with disabilities;

- (o) liaising with ministries and all other Government agencies to ensure that the peculiar interests of people with disabilities are taken into consideration in Government policies, programmes and activities;
- (p) keeping and updating of register and database of people with disabilities;
- (q) liaising with other countries and international organizations to ensure gap bridging on best practices available;
- (r) advocacy and enlightenment campaign drive targeted at members of the public on ways to empathize with people with disabilities;
- (s) ensuring compliance with the provisions of this Law.

PART II – Administrative Organization of the Office

3. (1) There shall be an Executive Secretary for the Office (to be deployed from directorate cadre of the civil service), who must be a person with appropriate experience and knowledge on matters relating to the care and maintenance of people with disabilities.
- (2) He shall –
 - (a) be the Chief Executive and Chief Accounting Officer of the Office;
 - (b) be responsible for the day-to-day administration and implementation of the policies of the Office;
 - (c) manage all the businesses and preserve the properties of the Office;
 - (d) have control of all employees of the Office;
 - (e) be assisted in the discharge of his duties by such officers as may be required from time to time.
- (3) There shall be deployed to the Office from the civil service such officers and employees as may be considered necessary for the Office to carry out its functions under this Law.
- (4) There shall be in the Office such departments and units as may be considered necessary for the proper and effective functioning of the Office.

Executive Secretary
and other staff of the
Office

PART III – Financial Provisions

4. (1) There is established a fund known as People with Disabilities Fund.
- (2) The purpose of the Fund is to advance the cause of people with disabilities in the State.
- (3) Individual, corporate bodies and Government may make contributions to the Fund.
- (4) The Fund shall be administered by the Office.
- (5) The office must satisfy itself that all reasonable management measures are taken to ensure that the Fund is safeguarded and utilized for the purpose mentioned in subsection (2) in the most transparent, economic, efficient and effective manner.
5. (1) The Office shall maintain an account with a bank or banks in the State and the signatories to the account shall be the Executive Secretary and any other officer duly authorized by the Office.
- (2) The Office shall keep proper account of all its transactions in a form that conforms with the best standard practice.
- (3) The accounts shall be produced and audited within six months after the end of each financial year by external auditors appointed by the Office from a list of auditors approved by the Auditor General of the State.
6. The Office may accept gifts of land, money or other properties on such terms and conditions as may be specified by the person or organization making the gift provided such terms and conditions are not illegal or inconsistent with the provisions of this Law.

People with Disabilities
Fund.

Accounts and audit

Power to accept gift

7. The Office may, with the approval of the Governor, borrow such sums as it may require to execute its functions under this Law.

Power to borrow

PART IV – Rights and Privileges of People with Disabilities

8. Every person with disability shall be assisted by his Local Government, the State Government, relatives, disability organizations, civil society or any other body or person to live as independently as possible and be integrated in the community.

Living independently

9. (1) No public building shall be constructed without the necessary accessibility aids such as lifts (where necessary), ramps and other facilities to make them accessible and usable to people with disabilities.

Access to buildings

(2) The landlord or landlady shall allow a person with disability lawfully occupying a property as a tenant to make such access-related modifications to the building as would allow him access his apartment, except that he shall remove such modifications before vacating the property.

(3) The Government shall ensure that roads, sidewalks, pedestrian crossings and all other facilities made for public use shall be made accessible to and usable by people with disabilities including those on wheelchairs.

(4) From the commencement of this Law, there shall be a transitory period of 5 years within which all public buildings, roads, pedestrian crossings and such other public structures shall be modified to be accessible to, and usable, by people with disabilities.

(5) (a) The relevant authority shall ensure that the plan for all public buildings conforms with the building code provided by the Office before approval is granted;

(b) the relevant authority or official responsible for the approval of building plans shall not approve the plan of a public building if the plan does not make provision for accessibility facilities in line with the building code provided by the Office.

(6) (a) A person with disability shall (subject to his right to seek redress in court) have a right to be notified of the state of inaccessibility or barrier to accessibility of any public place;

(b) upon the receipt of such complaint or notification as stated in paragraph (a), the Office shall take immediate and necessary steps to ensure the removal of the barrier and make the environment or public place accessible to the person with disability.

10. (1) The convenience and safety of people with disabilities shall be a primary consideration in assigning seats in commercial vehicles.

Assignment of seats in commercial vehicles

(2) For the purposes of subsection (1), and subject to the preference of the person with disability, the following factors shall be considered in assigning a seat to a person with disability –

(a) ease of access;

(b) ease of exit; and

(c) non-disturbance by the movement of other passengers.

11. (1) No person with disability shall be discriminated against on the ground of his disability by any person or institution in any manner or circumstance whatever.

Protection from discrimination and harmful treatment

(2) No person with disability shall be subjected to prejudice or harmful practices, including those based on sex, work, age or tradition.

(3) People with disabilities shall have the right to sue any individual, corporate body or the Government and its Agencies for damages in the event of the violation of their rights.

(4) Government shall be required to provide free legal aid without condition to people with disabilities through the Office of the Public Defender when required.

12. (1) No person with disability shall be subjected to –

Protection from cruel and inhuman treatment

(a) medical or scientific experiment without his consent; or

- (b) torture, cruel, inhuman or degrading treatment.
- (2) No person shall employ, use or involve a person with disability for alms begging.
- (3) Any person who contravenes the provisions of this section commits an offence and on conviction shall be liable to imprisonment for up to 3 months or a fine of up to N100,000 or both.
- 13. (1) All levels of Government shall take appropriate steps to ensure that people with disabilities have good standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions.
- (2) All levels of Government shall give special consideration to people with disabilities in welfare, social development, poverty reduction and other programs.
- (3) Government shall ensure that people with disabilities who are 60 years or older are provided with social support.
- (4) Where accommodation is being provided by schools, employers, organizations, Government or in any other circumstances whatever, people with disabilities shall be given special and priority consideration.
- 14. (1) In all situations of risk, including situations of violence, emergencies and the occurrence of natural disasters, Government shall take all necessary steps to ensure the safety and protection of people with disabilities, taking cognizance of their peculiar vulnerability.
- (2) People with disabilities shall be given first consideration as much as possible in queues.
- (3) Government and private institutions shall install emergency devices, such as fire alarm and vibration-triggered systems, in all buildings and facilities.
- 15. (1) Parents and guardians of children with disabilities shall ensure that such children, within and outside the home, are free from all forms of neglect, exploitation, violence or abuse, including their gender-based aspects.
- (2) Government shall take appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring appropriate forms of gender and age-sensitive assistance and support for people with disabilities, their families and care givers, including the provision of information and education on how to avoid, recognize and report instances of neglect, exploitation, violence or abuse.
- (3) In order to prevent the occurrence of any form of exploitation, violence or abuse, all facilities and programmes designed to serve people with disabilities shall be effectively monitored by the Office
- (4) Parents or guardians of children with disabilities shall ensure that such children get educated to at least Junior Secondary School level.
- (5) Children with disabilities shall be entitled to equal rights, treatments, recreation, maintenance and training with other children in the family.
- (6) No child shall be concealed, abandoned, neglected, segregated or mistreated on the basis of his disability,
- (7) Every child with disability shall be registered immediately after birth and shall have a right to –
 - (a) a name;
 - (b) be known and be cared for by this parents;
 - (c) subsidized and continual medical treatment in public health institutions; and
 - (d) nationality.
- (8) Government shall undertake to provide early and comprehensive information services and support to children with disabilities and their families.
- (9) No child shall be separated from his parents on the basis of a disability of either or both parents:

Provided that for the purpose of medical treatment, rehabilitation, training or general Improvement, a child with disability may be temporarily separated from his parents.

Provision of adequate standard of living and social protection

Situation of risk and humanitarian emergencies

Rights of children with disabilities.

(10) The Office shall endeavour to provide and sponsor alternative care for a child with disability where the immediate family is unable to provide the needed care.

(11) In all matters concerning children with disabilities, the best interest of the child shall be the primary consideration.

16. (1) Government shall guarantee that people with disabilities have unfettered access to adequate health care without discrimination on the grounds of their disabilities.

Right to health

(2) People with disabilities shall be entitled to free medical and health care services in all public health institutions.

(3) Where a doctor suspects a disability in the course of medical examination, he shall issue and submit to the Office a Temporary Certificate of Disability which shall last for not longer than 180 days in favour of such person.

(4) If the state of disability persists after 180 days, a doctor may issue the person with Permanent Certificate of Disability which shall last as long as the state of disability persists.

(5) Any person issued with a Permanent Certificate of Disability shall be entitled to all the rights and privileges under this Law.

(6) A Temporary Certificate of Disability or a Permanent Certificate of Disability may be withdrawn in warranted cases and situations.

(7) The Temporary Certificate of Disability and Permanent Certificate of Disability shall be as specified by the Office.

(8) Any hospital where a person living with communicational disability is being attended to shall ensure the provision of special communication equipment.

17. (1) Every person with disability shall have an unfettered right to education without discrimination or segregation in any form.

Right to education.

(2) People with disabilities shall be entitled to free tuition at all levels in all public educational institutions, except that the affected person must be so qualified and identified by the Office.

(3) All schools, whether pre-primary, primary, secondary or tertiary, shall be equipped and run in a manner that is accessible to people with disabilities.

(4) In accordance with subsection (3), every school shall have –

- (a) at least a trained personnel to cater for the educational development of people with disabilities;
- (b) a program for continued training of personnel catering for people with disabilities;
- (c) special facilities for the effective education of people with disabilities;
- (d) programmes for co-operation and collaboration with relevant authorities, institutions or associations to ensure early education of people with disabilities.

(5) The Office shall design a programme of activities that would promote interaction between children with disabilities in special schools and children in ordinary schools.

(6) The curriculum of every primary, secondary or tertiary school shall include –

- (a) learning of Braille;
- (b) sign language;
- (c) augmentative and alternative communication skills;
- (d) peer support; and
- (e) mentoring.

(8) The government shall ensure that the education of people with disabilities, particularly children who are blind or deaf or with multiple disabilities, is delivered in the most appropriate languages modes

and means of communication for the individual, and in an environment which maximizes academic and social development.

(9) The government shall establish special schools for people with disabilities in the State.

18. (1) People with disabilities shall have the right to work on equal basis with other people, including the right to opportunity to gain a living by working freely in a chosen or accepted labour market and work environment.

Right to work and employment.

(2) No employer or his agent or purported agent shall discriminate against a person with disability in any manner whatever, including but not limited, to –

- (a) job application procedure;
- (b) the terms and conditions of employment;
- (c) denying the employee access, or limiting the employee's access, to opportunity for promotion, advancement, transfer or training, or to any other benefit associated with employment;
- (d) on-the-job training;
- (e) accommodation (where applicable);
- (f) employee compensation;
- (g) dismissal mainly on the ground of disability; or
- (h) subjecting the employee to any other detriment.

(3) No person, institution or corporate body shall subject a person with disability to slavery or servitude, forced or compulsory labour, or undue disadvantage in any form except by an order of court.

(4) A person who contravenes subsections (2) commits an offence and on conviction shall be liable to imprisonment for up to 3 months or fine of up to N100,000 or both; while a institution or corporate body in breach shall on conviction be liable to a fine of up to N500,000 as damages to the affected person with disabilities.

(5) All employers of labour employing 50 or more people shall reserve at least 5% of such workforce for qualified people with disabilities.

(6) (a) The Government shall take steps to ensure the self reliance of people with disabilities and, accordingly, give adequate assistance to people with disabilities who desire to be employed;

(b) The Government may setup vocational training institutions to facilitate acquisition of special skills by people with disabilities.

(7) Subject to subsection (8) (b) and (c), no employee shall be relieved of his employment on the ground of disability sustained during his employment.

(8) An employer of labour whose employee sustains a disability shall –

- (a) retain and re-train the employee for effectiveness within the organization; or
- (b) subject to his other benefits, pay him off with a sum that is not less than the aggregate value of his 48 months' salary, if his disability is of such degree that permanently renders him unable to discharge his normal functions or any other function that may be assigned to him; or
- (c) subject to his other benefits, pay him off with a sum that is not less than the aggregate value of his 60 months' salary, if his disability is sustained in the course of the employment and is of such degree as to permanently render him unable to discharge his normal functions or any other function that may be assigned to him.

19. (1) People with disabilities shall have the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas through any means of communication of their choice.

Right to freedom of expression.

(2) The Government, corporate organizations and people shall –

- (a) provide information intended for the general public to people with disabilities in accessible formats and technologies appropriate to the different kinds of disabilities timeously and at no extra cost;
 - (b) accept and facilitate the use of sign languages, Braille, augmentative and alternative communication in all interactions.
- (3) No person with disability regardless of place of residence or living arrangement shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence or other types of communication or to unlawful attacks on his honour and reputation.
20. A person with disability shall have the right to drive any motor vehicle if – Right to drive motor vehicle.
- (a) his disability is not proved to reasonably impede his ability to drive; or
 - (b) the vehicle has been modified as to enable him drive safely.
21. (1) Any person with disability shall have the right to – Right to communal life.
- (a) live in the community with choices equal to those of other members of the community;
 - (b) the full enjoyment of his rights and full inclusion and participation in the community.
- (2) Any person with disability shall not be isolated or segregated from the community or compelled to live in a particular area except on medical grounds or in accordance with the provisions of the Constitution of the Federal Republic of Nigeria.
22. (1) The right of people with disabilities to take part on an equal basis with others in cultural life is guaranteed and, accordingly, the Government shall take all appropriate measures to ensure that people with disabilities – Right to participate in cultural life.
- (a) enjoy access to cultural materials in accessible formats;
 - (b) enjoy access to television programmes, films, theatres and other cultural activities in accessible formats;
 - (c) enjoy access to places of cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as much as possible, enjoy access to monuments and sites of national cultural importance.
- (2) The Government shall take appropriate measures to enable people with disabilities have the opportunity to develop and utilize their creative, artistic and intellectual potentials, not only for their own benefits, but also for the enrichment of the society.
- (3) The Government shall take all appropriate steps in accordance with international norms and standards to ensure that intellectual property practices do not constitute an unreasonable or discriminatory barrier to access cultural materials by people with disabilities.
- (4) People with disabilities shall be entitled on an equal basis with others to recognition and support of their specific cultural and linguistic identities, including sign languages and deaf culture.
- (5) The Government shall take appropriate measures to enable people with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, with a view to –
- (a) encourage and promote the participation to the fullest extent possible of people with disabilities in all sporting activities at all levels;
 - (b) ensure that people with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities;
 - (c) encourage the provision, on an equal basis with others, of appropriate instructions, trainings and resources;
 - (d) ensure that people with disabilities have access to sporting, recreational and tourism venues; and
 - (e) ensure that children with disabilities have equal access with other children to participate in play, recreation, leisure and sporting activities, including those activities in the school system.

23. In this Law, unless where the context otherwise requires –
- "accessibility" means enabling or allowing a person with disability to have access (directly or indirectly) to benefits of public social service in all spheres of society, and it includes access to information and physical environment such as tactile and sign language, interpretation for the deaf, deaf and blind persons, audio tapes, Braille, computerized information and programmes and making physical environment in buildings, public transport, roads and streets accessible for people with disabilities;
- "assistive device" means any device that assists, increase or improves the functional capabilities of people with disabilities;
- "augmentative and alternative communication" means the art of studying and (when necessary) compensating temporary or permanent activity limitation and participation restriction of an individual with severe disorder of speech-language production and/or comprehension, including spoken and written modes of communication;
- "close caption" means service for people with hearing disabilities that translates television programme dialogue into written words;
- "communication disability" means the kind of disability that affects the natural means of communication of a person including but not limited to deafness and blindness;
- "Commissioner" means the commissioner responsible for sport and youth development;
- "disability" means a state of substantial impairment of the physical, visual, vocal, auditory, sensory or mental capabilities of a person at birth or by injury, sickness or its effect or congenital deficiency;
- "environment" includes building, roads, sidewalks, pedestrian crossings, open spaces and similar places;
- "Government" means the government of Kwara State;
- "Governor" means the Governor of Kwara State;
- "landlord" or "landlady" includes a private house owner, his or her lawful agent and heir in title;
- "multiple disability" means more than one disability occurring in a person's life;
- "public building" means a building owned or used by government or government office, or a building available for the use of members of the public;
- "relay service" means telephone service that allows people with hearing and speech disabilities to make telephone calls;
- "relevant authority" means the person, natural or artificial, or body including ministry whose duty is to take an action that is in issue;
- "special communication" means special means (including sign language, augmentative and alternative communication) for communicating with people with speech or hearing disability;
- "social support" means assistance given to a person with disability to cope with his situation in a given environment;
- "State" means Kwara State of Nigeria.

24. This Bill may be cited as the People with Disabilities Bill, 2016.