

SPECIAL ISSUE

Homa Bay County Gazette Supplement No. 7 (Bills No. 3)



REPUBLIC OF KENYA

***HOMA BAY COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2016

NAIROBI, 6th July, 2016

CONTENT

Bill for Introduction into the County Assembly of Homa Bay—

PAGE

The Homa Bay County Persons Living with Disabilities Bill, 2016 1

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

**THE HOMA BAY COUNTY PERSONS LIVING WITH
DISABILITY BILL, 2016**

ARRANGEMENT OF CLAUSES

Section

PART1—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Objects and purpose of the Act

PART II—ESTABLISHMENT OF THE BOARD

- 4—Establishment of the Board
- 5—Membership of the Board
- 6—Tenure of office
- 7—Chief executive officer
- 8—Functions of the Board.

**PART III—RIGHTS AND PRIVILEGES OF PERSONS WITH
DISABILITIES**

Rights of Persons with Disabilities

- 9—Realisation of rights of persons with disabilities
- 10— Right not to be discriminated in employment
- 11—Discrimination by employers prohibited
- 12—Incentives to employers
- 13—Records for job placement
- 14—Right not to be discriminated in an educational institution
- 15—Special and non-formal education
- 16—Health of persons with disabilities
- 17—Right to accessibility and mobility
- 18—Adjustment orders
- 19—Denial of admission into premises, etc.
- 20—Prohibition of adjustment orders against government institutions
- 21—Right to sports and recreation
- 22—Right to vote

23—Registration of organizations

24—Non-derogation

Privileges of Persons with Disabilities

25— Income tax exemptions

26— Donations, bequests, subsidies or financial aid

27— Promotion of access to credit

PART VI—MISCELLANEOUS

28— Failure to obey an adjustment order and discrimination

29— Concealment of persons with disabilities

30— Negligence by doctor

31— Giving false information to get registered

32— General penalty

33— Enforcement

34—Regulations

**THE HOMA BAY COUNTY PERSONS LIVING WITH
DISABILITY BILL, 2016**

A Bill for

AN ACT of the Homa Bay County to provide for the rights and rehabilitation of persons with disabilities; to achieve equalization of opportunities for persons with disabilities; to establish the County Board for Persons with Disabilities; and for connected purposes

ENACTED by the Homa Bay County Assembly as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Homa Bay County Persons Living with Disability Act, 2016.

Interpretation

2. In this Act unless the context otherwise requires—

“aged person” includes a person with a disability who has been forced into retirement from employment due to his disability;

“assistive devices and services” means implements, tools and specialized services (including the services of qualified interpreters for the deaf and

qualified teachers for the blind) provided to persons with disabilities to assist them in, information education, employment or other activities;

“Board” means the Homa Bay County Board for Persons with Disabilities established under section 3;

County Executive Committee Member means County Executive Committee member responsible for Tourism, Culture, Sports and Social Services

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has , or is perceived by significant

sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day to day activities

“discriminate” means to accord different treatment to different persons solely or mainly as a result of their disabilities and includes using words, gestures or caricatures that demean, scandalize or embarrass a person with a disability;

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

“Fund” means the County Development Fund for Persons with Disabilities established under this Act;

“organizations for persons with disabilities” means associations or societies formed for the purposes of rendering services to persons with disabilities;

“organizations of persons with disabilities” means associations or societies formed by persons with disabilities for their welfare and protection;

“usual day-to-day activities” means the activities of daily living which an ordinary person would reasonably be expected to carry out.

Objects and purpose of the Act

3. The object and purpose of this Act is to ensure the realization of the rights of persons with disabilities in the county through—

- (a) the establishment of a county Board for persons with disabilities;
- (b) setting out of the rights and privileges of persons with disabilities; and
- (c) generally protect persons with disabilities from any form of discrimination and promote their welfare.

PART II—ADMINISTRATION

Establishment of the Board

4. (1) There is established the Homa Bay County Board for Persons Living with Disabilities.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued, and acquiring, holding and disposing of movable and immovable property.

Membership of the Board

5. (1) The Board shall consist of the following members—

- (a) five persons nominated by organizations representing persons with various categories of disabilities within the County;
- (b) three members representing the Departments responsible for the following—
 - (i) culture and social services;

- (ii) education and ICT;
- (iii) health; and
- (iv) finance

Provided that the membership of the Board shall not exceed ten persons, out of whom at least half of the members shall be persons with disabilities;

(2) The members of the Board shall appoint its chairperson and vice chairperson at its first sitting.

(3) The chairperson and the vice-chairperson shall be of the opposite gender.

(4) In nominating or appointing persons as chairperson and members of the Board, the County Executive Committee Member shall ensure that the process is carried out in an open and transparent manner and that—

- (a) the membership of the Board shall equitably represent the types of disabilities occurring in the county;
- (b) not more than two-thirds of the members are of the same gender; and
- (c) the composition of the Board shall reflect the regional and ethnic diversity of the people of Homa Bay.

Tenure of office.

6. The chairperson, vice-chairperson and members shall hold office for a period not exceeding three years and shall be eligible for re-appointment for a further term not exceeding two years.

Chief executive officer.

7. (1) There shall be a chief executive officer of the Board.

(2) The chief executive officer shall be appointed by the county executive member on recommendation of the Board and recruited through a competitive process.

(3) To qualify for appointment as a chief executive officer, a person shall—

- (a) possess a degree in a relevant field from a recognized university;
- (b) have had experience in management for a period of not less than five years.

(4) The chief executive officer shall hold office for a period of three years, on such terms and conditions of employment as the Board may

determine, and shall be eligible for re-appointment for a further and final term of three years.

(5) The chief executive officer shall be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board.

(6) The chief executive officer shall—

- (a) subject to the direction of the Board, be responsible for day to day management of the affairs of the Board;
- (b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Board;
- (c) carry out any other function as may from time to time be assigned by the Board.

Functions of the Board

8. (1) The functions of the Board shall be—

- (a) to issue adjustment orders under the provisions of this Act;
- (b) to formulate and develop measures and policies designed to—
 - (i) achieve equal opportunities for persons with disabilities by ensuring to the maximum extent possible that they obtain education and employment, and participate fully in sporting, recreational and cultural activities and are afforded full access to community and social services;
 - (ii) co-operate with the National Government during the national census to ensure that accurate figures of persons with disabilities are obtained in the country, for purposes of planning;
 - (iii) advise the County Executive Committee Member on the provisions of any National Legislation or agreement relating to the welfare or rehabilitation of persons with disabilities and its benefits to the country;
 - (iv) recommend measures to prevent discrimination against persons with disabilities;
 - (v) put into operation schemes and projects for self-employment or regular or sheltered employment for the generation of income by persons with disabilities;
 - (vi) encourage and secure the rehabilitation of persons with disabilities within their own communities and social

- environment;
 - (vii) encourage and secure the establishment of vocational rehabilitation centres and other institutions and other services for the welfare, rehabilitation and employment of persons with disabilities; and
 - (viii) co-ordinate services provided in County for the welfare and rehabilitation of persons with disabilities and to implement programmes for vocational guidance and counselling;
- (c) to register—
- (i) persons with disabilities;
 - (ii) institutions, associations and organizations, including those controlled and managed by the County Government and local authorities, that provide services for the rehabilitation and welfare of persons with disabilities;
 - (iii) places at which services for the rehabilitation of persons with disabilities are provided; and
 - (iv) persons with disabilities whose condition requires constant medical attention for the purposes of availing subsidized medical services;
- (d) to provide, to the maximum extent possible—
- (i) assistive devices, appliances and other equipment to persons with disabilities; and
 - (ii) access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and rehabilitation of persons with disabilities, including those controlled and managed by the County Government;
- (e) to consult with the County Government in the formulation of suitable curricula for vocational rehabilitation centres and other training facilities for persons with disabilities;
- (f) to make provision for assistance to students with disabilities in the form of scholarships, loan programmes, fee subsidies and other similar forms of assistance in both public and private institutions;
- (g) to assess and report to the County Executive Committee Member on the welfare and rehabilitation of persons with disabilities and to advise on the relative priorities to be given to

the implementation of those measures;

- (h) to consult with the County Government in the provision of suitable and affordable housing for persons with disabilities;
- (i) generally to carry out measures for public information on the rights of persons with disabilities and the provisions of this Act;
- (j) to perform such other functions in relation to the welfare and rehabilitation of persons with disabilities as the Board may deem necessary; and
- (k) to perform such other functions as may be assigned to the Board under this or any other Act.

(2) Without prejudice to the provisions of subsection (1), the Board shall have power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and in particular—

- (a) to conduct inquiries into any matter relating to the welfare and rehabilitation of persons with disabilities;
- (b) to constitute committees consisting of its members, and where necessary to co-opt experts to serve on such committees with the approval of the County Executive Committee Member;
- (c) to vest in or delegate to any committee constituted under paragraph (b) such of the functions of the Board as the Board may with the approval of the County Executive Committee Member determine; and
- (d) with the approval of the County Executive Committee Member, to engage or make other arrangements with any other person to carry out research on, or supply information on, any matter relating to the welfare and rehabilitation of persons with disabilities.

PART III—RIGHTS AND PRIVILEGES OF PERSONS WITH DISABILITIES

Rights of Persons with Disabilities

Realization of rights of persons with disabilities

9. The County Government shall take steps to the maximum of its available resources with a view to achieving the full realization of the rights of persons with disabilities.

Right not to be discriminated in employment

10. (1) No person shall deny a person with a disability access to

opportunities for suitable employment.

(2) A qualified employee with a disability shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as qualified able-bodied employees.

(3) An employee with a disability shall be entitled to exemption from tax on all income accruing from the employment.

(4) The Board shall endeavour to secure the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities.

(5) Subject to the provisions of the Employment Act, persons with disabilities shall be eligible for engagement as apprentices or learners where their disability is not such as to impede their performance in particular occupations for periods for which they are hired.

Discrimination by employers prohibited

11. (1) Subject to subsection (2), no employer shall discriminate against a person with a disability in relation to—

- (a) the advertisement of employment;
- (b) the recruitment for employment;
- (c) the creation, classification or abolition of posts;
- (d) the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits;
- (e) the choice of persons for posts, training, advancement, apprenticeships, transfer, promotion or retrenchment;
- (f) the provision of facilities related to or connected with employment; or
- (g) any other matter related to employment.

(2) Notwithstanding subsection (1), an employer shall be deemed not to have discriminated against a person with a disability if—

- (a) the act or omission alleged to constitute the discrimination was not wholly or mainly attributable to the disability of the said person;
- (b) the disability in question was a relevant consideration in relation to the particular requirements of the type of employment concerned; or
- (c) special facilities or modifications, whether physical,

administrative or otherwise, are required at the work place to accommodate the person with a disability, which the employer cannot reasonably be expected to provide.

(3) A complaint by a person with a disability that his employer has discriminated against him in a way which is contrary to this Act may be presented to the Industrial Court through the appropriate trade union.

(4) Any contract for employment or for provision of goods, facilities or services, or any other agreement, shall be void insofar as it purports to deny any person any rights or privileges conferred under this Act or in any other way to limit the operation of this Act.

(5) An employer shall provide such facilities and effect such modifications, whether physical, administrative or otherwise, in the workplace as may reasonably be required to accommodate persons with disabilities.

(6) The minimum retirement age for persons with a disability shall be sixty years

Incentives to employers

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

Provided that—

- (a) such an employer shall present proof certified by the Ministry responsible for labour in the county that the persons with disabilities in respect of whom he claims the deduction are under his employer; and
- (b) the persons with disabilities so employed are accredited with the Board as to their disabilities, skills and qualifications.

(2) A private employer who improves or modifies his or her 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 his net taxable income equivalent to fifty percent of the direct costs of the improvements, modifications or special services.

Records for job placement

13. The Board shall establish and maintain a record of persons with disabilities who are in possession of various levels of skills and training

and shall update such records regularly for the purposes of job placement.

Right not to be discriminated in an educational institution

14. (1) No person or learning institution shall deny admission to a person with a disability to any course of study by reason only of such disability, if the person has the ability to acquire substantial learning in that course.

(2) Learning institutions shall take into account the special needs of persons with disabilities with respect to the entry requirements, pass marks, curriculum, examinations, auxilliary services, use of school facilities, class schedules, physical education requirements and other similar considerations.

(3) Special schools and institutions, especially for the deaf, dumb, the blind and the mentally retarded and physically handicapped, shall be established to cater for formal education, skills development and self reliance.

Special and non-formal education

15. The Board shall work in consultation with the relevant agencies of County

Government to make provisions in all sub-counties for an integrated system of special and non-formal education for persons with all forms of disabilities and the establishment where possible of Braille and recorded libraries for persons with visual disabilities.

Health of persons with disabilities

16. The Board shall ensure that the implementation of the County health programme puts measures in place for—

- (a) prevention of disability;
- (b) early identification of disability;
- (c) early rehabilitation of persons with disabilities;
- (d) enabling persons with disabilities to receive free rehabilitation and medical services in public and privately owned health institutions;
- (e) availing essential health services to persons with disabilities at an affordable cost;
- (f) availing field medical personnel to local health institutions for the benefit of persons with disabilities; and
- (g) prompt attendance by medical personnel to persons with disabilities.

Right to Health of persons with disabilities

17. (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.

(2) A proprietor of a public building or public service vehicle shall adapt it to suit persons with disabilities in such manner as may be specified by the Board.

(3) All proprietors of public buildings shall comply with subsection (2) within five years after this section comes into operation while operators of public service vehicles shall comply with subsection (2) within two years after this section comes into operation

Adjustment orders

18. (1) This section shall apply to—

- (a) any premises to which members of the public are ordinarily admitted whether on payment of a fee or otherwise; and
- (b) any services or amenities ordinarily provided to members of the public.

(2) Without prejudice to the provisions of section 19, if the Board 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 Board may, subject to this section, serve upon the owner 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 Board considers that the premises, services or amenities are inaccessible to persons with disabilities;
- (b) requiring the owner or provider concerned to undertake at his own expense such action as may be specified in order to secure reasonable 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 an order under subsection (2) the Board shall serve

notice upon the person concerned—

- (a) specifying the ground upon which the adjustment order is to be issued and the nature of the action which the Board considers necessary to rectify the situation which has given rise to the proposed order;
 - (b) stipulating the maximum period that the Board considers reasonable for the implementation of the action it proposes to order; and
 - (c) calling upon the person concerned, if he wishes to do so, to make representations to the Board within thirty days from the date of the service of the notice.
- (4) After considering any representations described in subsection (3)
- (c) the Board may issue, or 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), the person concerned may appeal against the confirmation or issue to the High Court in the prescribed manner on any grounds including on the grounds that—

- (a) he cannot reasonably be expected to bear the whole or any part of the expense required in implementing the adjustment order;
 - (b) the period stipulated for implementing the adjustment order is unreasonable;
 - (c) the nature of the action required to be taken in terms of the adjustment order is, in the circumstances of the case, unreasonable; or
 - (d) adequate access to the premises, services or amenities concerned may be secured without recourse to the action required by the adjustment order.
- (6) Upon hearing an appeal under subsection (5) the Court may—
- (a) confirm, vary or set aside the adjustment order appealed against; and
 - (b) make such order as to the costs of the appeal as it thinks fit.

Denial of admission into premises, etc

19. (1) No person shall, on the ground of disability alone, deny a person with a 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, unless such denial is motivated by a genuine concern for the safety of such person.

(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.

Prohibition of adjustment orders against government institutions

20. (1) The Board shall not serve an adjustment order upon—

- (a) any hospital, nursing home or clinic controlled or managed by the County Government or registered under the Public Health Act except with the consent of the County Executive Committee Member responsible for Health; or
- (b) any school or educational or training institution controlled or managed by the County Government or registered under the Education Act except with the consent of the County Executive Committee Member responsible for the administration of the institution or Act concerned.

(2) Within sixty days after being requested to consent under subsection (1) the County Executive Committee Member shall either give or refuse his consent and if he fails to do so within that period the Board may proceed to serve the adjustment order as though the County Executive Committee Member had consented

Right to sports and recreation.

21. (1) All persons with disabilities shall be entitled, free of charge, to the use of recreational or sports facilities owned or operated by the County Government during social, sporting or recreational activities.

(2) Persons with disabilities shall be entitled to participate in all national and international sports events.

(3) For the purpose of subsection (2) the Ministry responsible for sports shall, in consultation with the Board, provide the necessary suitable environment including—

- (a) architectural infrastructure;

- (b) apparatus and equipment;
- (c) training and medical personnel; and
- (d) transportation facilities for the participants.

(4) Section (1) shall not apply in cases where there is exclusive private hire of such facilities.

Right to vote

22. (1) All persons with disabilities shall be entitled at their request, to be assisted by persons of their choice in voting in presidential, parliamentary and county elections.

(2) A person who undertakes to render assistance under subsection (1) shall do so strictly in accordance with the instructions of the voter.

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

(4) Polling stations shall be made accessible to persons with disabilities during elections, and such persons shall in addition be provided with the necessary devices and assistive devices and services to facilitate the exercise of this right under this section.

(5) A person who contravenes subsection (2) is guilty of an offence.

Registration of organizations

23. (1) The County Board shall register all organizations of or for persons with disabilities.

(2) All existing organizations of or for persons with disabilities shall, within twelve months after this section comes into operation, apply in the prescribed manner to the Board for registration.

Non-derogation

24. The rights set out under this Part are in addition to, and do not derogate in any way with the rights set out under Article 54 of the Constitution.

Privileges of Persons with Disabilities

Income tax exemptions

25. (1) All persons with disabilities who are in receipt of an income may apply to the County Executive Committee Member responsible for finance for exemption from income tax and any other levies on such income.

(2) The County Executive Committee Member responsible for finance shall, in consultation with the Board, assess all applications

received under subsection (1) and make such order thereon, if any, as he deems fit, exempting the applicant wholly, or to the extent provided by the order, from income tax or other levies specified therein, and any such order shall, notwithstanding the provisions of any other Act, have effect according to its terms.

(3) Materials, articles and equipment, including motor vehicles, that are modified or designed for the use of persons with disabilities shall be exempt from import duty, value added tax, demurrage charges, port charges and any other County government levy which would in any way increase their cost to the disadvantage of persons with disabilities.

(4) All goods, items, implements or equipment donated to institutions and organizations of or for persons with disabilities shall be exempt from import duties, value added tax, demurrage charges, port charges and any other government levy which would in any way defeat the purposes of or increase the cost of the said donations.

Donations, bequests, subsidies or financial aid.

26. (1) Any donations, bequest, subsidy or financial aid which may be made to county government agencies involved in the rehabilitation of persons with disabilities or to organizations involved in such rehabilitation and registered with the Board for the purposes of this section shall, subject to the provisions of the Income Tax Act, be allowed as deductions from the donor's gross income for the purpose of computing taxable income.

(2) The County Executive Committee Member responsible for finance in the county or other appropriate authority shall endeavor to provide, subject to the provisions of any other relevant law, incentives to local manufacturers of technical aids and appliances used by persons with disabilities including, but not limited to, the following—

- (a) additional deductions for labor expenses;
- (b) tax and duty exemptions on imported capital equipment;
- (c) tax credits on domestic capital equipment;
- (d) simplified customs procedures;
- (e) unrestricted use of consigned equipment;
- (f) employment of foreign nationals;
- (g) exemptions from taxes and duties on raw materials; and
- (h) access to bonded manufacturing systems.

Promotion of access to credit

27. The County Executive Committee Member may liaise with the

department responsible for matters relating to credit unions, cooperatives and other lending institutions to put in place measures to encourage the extension by such institutions of credit to persons with disabilities.

PART VI—MISCELLANEOUS

Failure to obey an adjustment order and discrimination

28. (1) A person is guilty of an offence if the person—

- (a) fails to comply with an adjustment order issued under this Act;
- (b) discriminates against a person with disability contrary to this Act; or
- (c) on the ground of any ethnic, communal, cultural or religious custom or practice, discriminates against a person with a disability.

(2) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) A person found guilty of an offence under this section may in addition to the penalty imposed by the court be ordered to pay the person injured by the offence such sums of money in compensation as the court may deem appropriate.

Concealment of persons with disabilities

29. (1) No parent, guardian or next of kin shall conceal any person with a disability in such a manner as to deny such a person the rights set out under this Act or any other law.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Negligence by doctor

30. (1) Any person who, being a doctor or other medical practitioner, negligently causes a disability to a patient is guilty of an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(2) The court may order a doctor convicted under this section to pay to the patient such sums of money in compensation as it may deem appropriate.

Giving false information to get registered

31. A person is guilty of an offence if the person knowingly gives false information to the Board for the purpose of being registered or for the purpose of acquiring any privilege or right due to persons so registered.

General penalty

32. A person found guilty of an offence under this Act for which no penalty is expressly provided shall be liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or both such fine and imprisonment.

Enforcement.

33. (1) The Board may cause to be taken appropriate legal action if the Board believes that—

- (a) a person or group of persons is engaged in a practice which is discriminatory under this Act; and
- (b) the discrimination is a significant and substantial infringement of the rights of persons with disabilities and raises issues of public interest.

Regulations

34. The County Executive Committee Member may make regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the foregoing, may make regulations—

- (a) prescribing the procedures, forms and fees applicable under this Act;
- (b) specifying and describing the nature of acts of discrimination against persons with disabilities; and
- (c) prescribing the procedure and forms for persons entitled to subsidized medical care under this Act.

FIRST SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY BOARD

1. A member of the County Board may—

- (a) resign his office by notice in writing to the County Executive Committee Member; or
- (b) be removed by the County Executive Committee Member by notice in writing if he—
 - (i) is subject to a vote calling for his removal by a two thirds majority of all members of the County Board;
 - (ii) has been absent from five consecutive meetings of the County Board without permission of the chairperson;
 - (iii) is so incapacitated by prolonged physical or mental illness as to be unable to attend to and perform his duties;
 - (iv) is an undischarged bankrupt;
 - (v) is convicted by a Court of an offence punishable by a term of imprisonment; or
 - (vi) is otherwise unable or unfit to discharge his functions.

2. Where the office of a member becomes vacant the vacancy may with the approval of the County Executive Committee Member be filled through the majority vote of the members for the remainder of the term.

3. The County Board shall pay to its members such remuneration as the County Executive Committee Member may approve.

4. The County Board shall meet not less than four times in every year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

5. A meeting of the County Board shall be held on such date and at such time as the County Board shall decide, or in the absence of such a decision if the chairperson decides that a meeting is necessary, on a date and at a time determined by the chairperson.

6. Unless otherwise decided by a two-thirds majority of the members of the County Board, at least fourteen days' written notice of every meeting of the County Board shall be given to every member of the County Board.

7. The quorum of a meeting of the County Board shall be fifteen members.

8. (1) The chairperson, or in his absence, the vice-chairperson, shall preside at every meeting of the County Board.

(2) in the absence of both the chairperson and vice-chairperson, the members present may choose one of their number to preside at the meeting.

9. A decision of the majority of members of the County Board present at any meeting of the County Board shall be deemed to be the decision of the County Board and if upon any question the voting shall be equal, the chairperson, vice-chairperson or other person presiding shall have a second and casting vote.

10. No act, decision or proceedings of the County Board shall be invalid on account of a vacancy in the membership thereof or on account of the appointment of a member of the County Board being defective.

MEMORUNDUM OF REASONS AND OBJECTS

The principal object of this Bill is to provide for the rights and rehabilitation of persons with disabilities, to achieve equalization of opportunities for persons with disabilities and to establish the Homa Bay County Board for Persons with Disabilities.

The structure of the Bill is as follows—

Part 1 provides for preliminary matters. It provides for short title and commencement date, interpretation and objects of the Act.

Part II of the Bill establishes the Homa Bay County Board for Persons with Disabilities provides for its administrative framework and prescribes its functions and the powers of the Board. The Board shall comprise of key County officials and other appointees to ensure gender issues are mainstreamed. Among the functions of the Board include the formulation of policies, registration of persons with disabilities, issuance of adjustment orders, provision of assistive devices and other appliances and equipment.

Part III provides for the rights of persons with disabilities and requires the county government to take progressive measures to the maximum of its ability to avail resources for the full realization of the rights. Among the rights set out in this Part include the right not to be discriminated in any employment opportunity, right not to be discriminated in an educational institution, right to special health treatment, right to accessibility and mobility, right to sports and recreation and the right to voting. This Part also makes provision for certain privileges to be enjoyed by persons with disabilities. These include incentives to employers who employ persons with disabilities, income tax exemptions for persons with disabilities and promotion of access to credit.

Part IV contains miscellaneous provisions. These include offences, penalties, enforcement measures and the power by the County Executive Committee Member to make Regulations.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for in the county government of Homa Bay estimates.

RUTH ABONG'O,

*Nominated Member of County Assembly
Representing Persons Living With Disabilities.*

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA