

SPECIAL ISSUE

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NAIROBI, KENYA

Kenya Gazette Supplement No 16 (Marsabit County Bills No 8)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KAKAMEGA COUNTY BILLS, 2019

NAIROBI, 28th October, 2019

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**THE KAKAMEGA COUNTY PERSONS WITH DISABILITIES
BILL, 2019**

A Bill for

AN ACT of the County Assembly of Kakamega 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 County Assembly of Kakamega as follows —

PART I—PRELIMINARY

Short title and commencement

1 This Act may be cited as the Kakamega County Persons with Disabilities Act, 2019, and shall come into operation on the date of publication in the County and *Kenya Gazette*

Interpretation

2 In this Act unless the context otherwise requires—

“adjustment order” means an order made by the council under section 24 of the Persons with Disabilities Act, No 14 of 2003

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

‘assembly’ means Kakamega County Assembly

"assistive devices and inclusive services" means implements, tools and specialized services (including the services of qualified interpreters for the deaf and qualified teachers for the visually impaired) provided to persons with disabilities to assist them in education employment or other activities

"Board" means the Kakamega County Board for Persons with Disabilities established under section 3,

‘County Executive Committee Member’ means the Kakamega County Executive Committee Member responsible for matters and affairs relating to Labour, Culture, Social Services, Sports

“disability” includes any physical, sensory, mental 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, (Cap 253),

"governor" means the governor of the County Government of Kakamega

"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

PART II—ADMINISTRATION

Objects and Purpose

3 The Object and Purpose of this Act is to ensure the realization of the rights of persons with disabilities within Kakamega County through—

- (a) the establishment of a county Board for persons with disabilities,
- (b) setting out the rights and privileges of persons with disabilities, and
- (c) generally protecting persons with disabilities from any form of discrimination and promoting their welfare

Establishment of the Board

4 (1) There is established the Kakamega County Board for Persons 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 appointed by the Governor upon approval by the Assembly—

- (a) four persons nominated by the County organization representing persons with various categories of disabilities within the County,

- (b) three members appointed from a panel of names submitted to the County Executive Committee Member by organizations for persons with disabilities,
 - (c) six members representing the County Government Departments responsible for the following—
 - (i) social services, youth, sports and culture
 - (ii) County Public Service,
 - (iii) Health,
 - (iv) Finance and Planning, and
 - (v) County Attorney
 - (vi) Roads and Public Works
 - (d) such other members as may be coopted by the Board
 - (e) membership of the Board shall not exceed fifteen persons, out of whom at least half of the members shall be persons with disabilities,
- (2) The Chairperson preferably a person with disability shall be appointed by the Governor
- (3) The Members shall at the first sitting elect one of the members appointed under subsection (1) (b) as the vice-chairperson
- (4) The chairperson and the vice-chairperson shall be of the opposite gender
- (5) The process of appointing and electing persons as chairperson, vice chairperson and members of the Board, shall be carried out in an open and transparent manner and that—
- (a) the membership of the Board shall as much as possible 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 Kakamega
- (6) The qualifications for the chairperson of the Board shall be similar as those of the Director of the Board

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

Director

7 (1) There shall be a Director of the Board

(2) The Director shall be appointed by the County Executive Committee Member on recommendation of the Board and shall be recruited through a competitive process

(3) To qualify for appointment as the Director, 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 Director 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 Director shall be the Secretary of the Board

(6) The Director shall—

- (a) subject to the direction of the Board be responsible for day to day management of the affairs of the Board,
- (b) under direction of 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 directed by the Board

Other staff of the Board

8 The Board shall employ such other staff in its Secretariat as may be necessary for the discharge of its functions under this Act, on such terms and conditions as the Board may determine in consultation with the County Public Service Board

Functions of the Board

9 (1) The functions of the Board shall be—

- (a) to co-ordinate and assist the implementation of adjustment orders as issued by the National Council for Persons with Disabilities under Section 24 of the Persons with Disabilities Act No 14 of 2003

- (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 accorded 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 county, and undertake research and data collection 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 County,
 - (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,
 - (viii) co-ordinate services provided in the County for the welfare and rehabilitation of persons with disabilities and to implement programmes for vocational guidance and counselling, and
 - (ix) to ensure disability integration and mainstreaming in all departments and institutions in the county
- (c) to assist in the registration at the National Level and within the County—
- (i) persons with disabilities,
 - (ii) institutions, associations and organizations, including those controlled and managed by the County Government, that provides 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 and access to free medical assessment for illness as a result of disability ,
- (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 National Government,
- (e) to consult with the County Government and the National 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 including provision of suitable and affordable housing for persons with disabilities
- (h) generally to carry out measures for public information on the rights of persons with disabilities and the provisions of this Act,
- (i) to promote the advancement of credit on terms that are friendly to persons with disabilities,
- (j) to receive quarterly reports and give status of buildings and/or premises that require adjustment to the National Council for Persons with Disabilities and present them to the Assembly,
- (k) to oversee and coordinate activities of persons with disabilities funded by the County Government in the annual Budget,
- (l) to perform such other functions in relation to the welfare and rehabilitation of persons with disabilities as the Board may deem necessary,

- (m) to perform such other functions as may be assigned to the Board under this or any other Act,
- (n) to consult with the County Executive Committee member responsible for Finance in relation to section 26 (2) of this Act, and
- (o) in consultation with the County Executive member to ensure that there is provision of sign language interpreters during county functions and public participation

(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

Funds of the Board

10 The Funds of the Board shall consist of—

- (a) funds appropriated by the County Assembly which shall be 2% of the annual budget
- (b) funds which the Board may receive as a result of public and private appeal, from local and international donors or agencies for the purposes of carrying out its functions

Annual Accounts

11 (1) The financial year of the Board shall be from the 1st of July of one year to the 30th June of the following year

(2) The Board shall ensure that proper accounts and other records are kept in relation to the revenue and expenditure of the Board and ensure

that, within three months of the end of each financial year of the Board, a statement of accounts of the Board is prepared and audited by an external auditor appointed by the Board and approved by the County Executive Committee Member

Annual Report

12 The Board shall prepare an annual report of its work and activities, which shall be presented to County Executive Committee Member who shall present it before the County Assembly for consideration

PART III—RIGHTS AND PRIVILEGES OF PERSONS WITH DISABILITIES

Rights of Persons with Disabilities

Realization of rights of persons with disabilities

13 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 set out in this Act

Right not to be discriminated in employment

14 (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, incentives or allowances as qualified able-bodied employees

(3) An employee with a disability shall be entitled to exemption from county levies and rates on all income accruing from the employment

Reservation of Employment

15 The Board shall endeavour to secure the reservation of at least five percent of all permanent, casual, emergency and contractual positions in employment in the public and private sectors within the County for persons with disabilities

Apprenticeship

16 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

17 (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 time,
- (c) the creation, classification or abolition of post,
- (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 provisions of 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 Employment and Labour Relations Court

(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

Incentives to employers

18 (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 department responsible for labour in the county that the persons with disabilities in respect of whom he claims the deduction are under his employ, 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 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

19 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

20 (1) No person or learning institution shall deny admission to a person with a disability to any early childhood education and vocational centres by reason only of such disability

(2) Early childhood and vocational training centres shall take into account the special needs of persons with disabilities with respect to the entry requirements, pass marks, curriculum, examinations, auxiliary services, use of school facilities, class schedules physical education requirements and other similar considerations

(3) Early childhood development and Technical and Vocational Training Institutions especially for persons with hearing impairment, visual impairment and intellectual disabilities shall be established to cater for formal education, skills development and self-reliance

Special and non- formal education

21 The Board shall work in consultation with the relevant agencies of the 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, Jaws and recorded libraries for persons with visual disabilities

Health of persons with disabilities

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

- (a) early identification of disability,
- (b) early rehabilitation of persons with disabilities,
- (c) enabling persons with disabilities to receive subsidised rehabilitation and medical services in public health institutions,
- (d) availing essential health services including disability medical assessment to persons with disabilities at subsidised fee,
- (e) availing field medical personnel to local health institutions for the benefit of persons with disabilities, and
- (f) priority attendance by medical personnel to persons with disabilities as circumstances deem fit
- (g) Qualified sign interpreters in every hospital

Right to accessibility and mobility

23 (1) Persons with disabilities shall be 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 Act comes into operation while operators of public service vehicles shall comply with subsection (2) within two year after this Act comes into operation

Adjustment orders

24 (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 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 appropriate 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 so to do, 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

25 (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 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

26 (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 National Government or registered under the Education Act Cap 211 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—
 - (a) 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,
 - (b) within sixty days after being requested to consent under subsection
 - (c) the Cabinet Secretary 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 consent had been given

Right to sports and recreation

27 (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 county, national and international sports events

(3) For the purpose of subsection (2) the Department 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) Sub section (1) shall not apply in cases where there is exclusive private hire of such facilities

Registration of organizations

28 The County Board shall keep and update a register of all organizations of or for persons with disabilities

Non- Derogation

29 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

30 (1) All persons with disabilities who are in receipt of an income may apply through the Board 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 exempted 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 exempted 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

31 (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

32 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

33 (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 one hundred thousand shillings or to imprisonment for a term not exceeding one year or both

(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

34 (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 Article 54 of the Constitution, 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 one hundred thousand shillings or to imprisonment for a term not exceeding one year or both

Negligence by doctor

35 (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

36 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

37 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 ten thousand shillings or imprisonment for a term not exceeding one year, or both such fine and imprisonment

Enforcement

38 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

39 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

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 Governor, or
- (b) be removed by the Governor 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 of a period exceeding six months, 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 Assembly be filled through the majority vote of the members for the remainder of the term

3 The Board shall pay to its members such remuneration as the County Executive Committee Member may approve in line with the advice of the Salaries and Remuneration Commission

4 The 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 Board shall be held on such date and at such time as the 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 Board at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board

7 The quorum of a meeting of the Board shall be seven members

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

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

9 A decision of the majority of members of the Board present at any meeting of the Board shall be deemed to be the decision of the 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 Board shall be invalid on account of a vacancy in the membership thereof or on account of the appointment of a member of the Board being defective

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to give effect to provisions of Article 54 of the Constitution provide for the rights and rehabilitation of persons with disabilities, to achieve equalization of opportunities for persons with disabilities and to establish the Kakamega 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, commencement date and interpretation

Part II of the Bill establishes the Kakamega 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, including the main streaming of those rights in all departments and institutions within the County 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 and free health treatment, right to accessibility and mobility and the right to sports and recreation This Part also makes provision for certain privileges to be enjoyed by persons with disabilities including 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 annual budget of the County Government of Kakamega

TIMOTHY ASEKA,
*Nominated Member of County Assembly Representing
Persons with Disabilities*