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TURKANA COUNTY ACTS, 2017

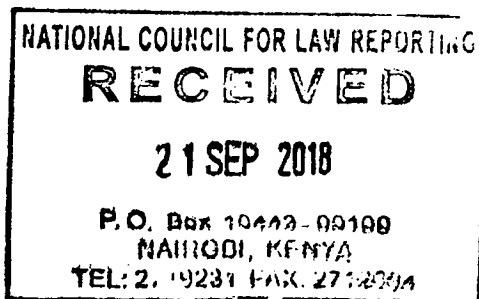
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THE TURKANA COUNTY PERSONS WITH DISABILITIES, 2017

No. 3 of 2017

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THE TURKANA COUNTY PERSONS WITH DISABILITY BILL, 2017

AN ACT of the County Assembly of Turkana to provide for the rights, habilitation 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 Turkana County Assembly, as follows—

PART I – PRELIMINARY

1. This act may be cited as the Turkana county persons with disabilities Act, 2018.

Short Title and
commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“Adjustment order” means an order made by the Board under section 18;

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

“Assistive devices and services” means implements, tools and specialised 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 education, employment or other activities;

“CEC” means County Executive Committee member responsible for persons with disabilities;

“PWDs” means Persons With Disabilities;

“Disability” means inability to function normally due to physical, mental, albinism, autism, gifted and talented, visually and hearing impairment, which may impact adversely on social, economic or environmental participation.

“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, scandalise 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

“Board” means the Turkana County Board for the persons with disabilities established under section 4.

“Fund” means the Turkana County for Persons with Disabilities Development Fund established under section 25;

“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.

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

Objects and
purpose of the Act

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

PART II— TURKANA COUNTY BOARD FOR PERSONS WITH DISABILITIES

4. (1) There is hereby established a Board to be known as Turkana County Board for Persons with Disabilities.

Establishment of
the board

(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.

5. (1) The Board shall be appointed by the county executive member in charge of PWDs affairs.

Membership of the
board

(2) The Board shall consist of eleven (11) members from the following categories—

No.3 *Turkana County Persons with Disabilities*

- (a) one person representing hearing impairment;
- (b) one person representing physical impairment;
- (c) one person representing visual impairment;
- (d) one person representing PWDs minority categories like dwarfism, albinism and El-Molo, mentally challenged; multiple impairment and others;
- (e) three members representing the Directorates of Social Protection, Education and Health in the county government;
- (f) such four other members 2 from organizations representing Persons With Disabilities and 2 other persons with disabilities co-opted by the Board in consultation with County Executive Committee Member responsible for Persons with Disabilities.
 - (i) not more than two-thirds of the members are of the same gender;
 - (ii) the composition of the Board shall reflect the regional balance and ethnic diversity of the people of Turkana County;
 - (iii) the county executive member responsible for persons with disabilities affairs shall appoint one of the members appointed under clause (2) as the chairperson and another as the deputy chairperson;
 - (iv) (a) the chairperson and the deputy chairperson shall be of the opposite gender.
- (b) the Chairperson and the deputy chairperson shall be members of persons with disabilities.
- (v) The members of the Board shall be registered persons with the National Council for Persons with Disabilities.

(3) The Turkana County Board for Persons with Disabilities chairperson shall be nominated by the Governor with approval of the County Assembly and the deputy chairperson shall be elected by the members of the County Board.

6. The Board members shall hold office for a period of not exceeding three years and shall be eligible for re-appointment for a further term not exceeding three years.

Tenure of office

2017

Turkana County Persons with Disabilities

7. (1) There shall be a Fund administrator of Turkana county PWDs development Fund.

Fund Administrator

(2) The Fund administrator shall be appointed by the county executive member in charge of finance and planning.

(3) The Fund administrator shall hold office for a period of three years and shall be eligible for re-appointment for a further and final term of three years.

(4) The Fund administrator shall be an ex-official member of the Board but shall have no right to vote at any meeting of the board.

(5) The fund administrator shall—

- (a) be the Secretary to the board;
- (b) subject to the direction of the Board, be responsible for day to day management of the affairs of the Board;
- (c) 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;
- (d) carry out any other function as may from time to time be assigned by the Board.
- (e) The Board shall recommend to the CEC Finance and Planning the removal of the Fund Administrator on grounds of –
 - (i) violation of Chapter Six of the Constitution of Kenya, 2010;
 - (ii) misappropriation of the Board's finances; or
 - (iii) if he or she contravenes the provisions of Article 54 of the Constitution of Kenya, 2010.

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

Functions of the board

- (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 Government during the national census to ensure that accurate figures of persons with disabilities are obtained in the county, for purposes of planning;
 - (iii) advise the County Executive committee member in charge of persons with disabilities affairs on the provisions of any international treaty or agreement relating to the welfare, habilitation 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 habilitation and rehabilitation of persons with disabilities within their own communities and social environment;
 - (vii) encourage and secure the establishment of vocational habilitation and 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 the county for the welfare, habilitation and rehabilitation of persons with disabilities and to implement programmes for vocational guidance and counseling.
- (c) to register—
- (i) persons with disabilities institutions, associations and organizations, including those controlled and managed by the County

2017

Turkana County Persons with Disabilities

Government, that provide services for the welfare, habilitation and rehabilitation of persons with disabilities;

- (ii) places at which services for the habilitation and rehabilitation of persons with disabilities are provided; and
 - (iii) 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, habilitation and rehabilitation of persons with disabilities, including those controlled and managed by the County Government.
- (e) consult with the County Government in the formulation of suitable curricula for vocational habilitation and rehabilitation centres and other training facilities for persons with disabilities;
- (f) to make provision for assistance to students with disabilities and needy children of persons with disabilities pursuing education 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 in charge of persons with disabilities affairs on the welfare, habilitation 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, affordable and disability friendly 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, habilitation and rehabilitation of persons with disabilities as the Council may deem necessary; and
- (k) to perform such other functions as may be assigned to the Board under this or any other Act.
- (l) without prejudice to the foregoing subsections, 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—
 - (i) to conduct inquiries into any matter relating to the welfare, habilitation and rehabilitation of persons with disabilities;
 - (ii) 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 in charge of persons with disabilities affairs;
 - (iii) 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 in charge of persons with disabilities affairs determine;
 - (iv) with the approval of the County Executive Committee in charge of persons with disabilities affairs, 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, habilitation and rehabilitation of persons with disabilities; and
 - (v) to constitute appeal committees for any discrimination matters relating to persons with disabilities with the approval of the County Executive Committee responsible for persons with disabilities affairs.

- (m) to conduct audit and maintain data of inclusion of persons with disabilities. The Audit shall include procurement, employment, education and capacity building to persons with disabilities.

PART III – RIGHTS, NEEDS AND PRIVILEGES OF PERSONS WITH DISABILITIES

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

Realization of
rights of persons
with disabilities

10. (1) No person shall deny a person with a disability access to opportunities for suitable employment.

Right not to be
discriminated in
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 his or her employment.

(4) The Board shall endeavor to secure the reservation of five per centum 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.

Cap. 226

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

Discrimination by
employers
prohibited

- (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; and
- (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/her employer has discriminated against him/her 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 five years.

12. (1) A private employer who engages a person with a disability with the required skills or qualifications either as

Incentives to
employers

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 County Executive Committee member responsible for persons with disabilities affairs or Ministry of labour in the county that the persons with disabilities in respect of whom he or she claims the deduction are under his or her 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 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.

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.

Records for job placement

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.

Right not to be discriminated in an educational institution

(2) Learning institutions 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) Special schools and institutions, especially for the deaf, the blind and the mentally retarded, shall be established to cater for formal education, skills development and self-reliance.

15. 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 and recorded libraries for persons with visual disabilities.

Special and non-
formal education

16. The Board shall be represented in the implementation of the county health programmes under the County Executive Committee member responsible for health for the purpose of—

Health of persons
with disabilities

- (a) prevention of disability;
- (b) early identification of disability;
- (c) early habilitation and rehabilitation of persons with disabilities;
- (d) enabling persons with disabilities to receive free habilitation and rehabilitation 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.

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.

Right to
accessibility and
mobility

(2) A proprietor of a public building 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) from the date of enactment and when this Act comes into operation while operators of public service vehicles shall also comply with the subsection.

18. (1) this section shall apply to —

Adjustment orders

2017

Turkana County Persons with Disabilities

- (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 17, 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/her 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 or she 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 or she 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 maybe 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.

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

Denial of admission into premises, etc

- (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 (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) 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.

(4) 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.

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

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

Prohibition of
adjustment orders
against government
institutions

- (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 in charge of persons with disability shall either give or refuse his/her consent and if he or she fails to do so within that period the Board may proceed to serve the adjustment order as though the County Executive Committee member in charge of persons with disability had consented.

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.

Right to sports and
recreation

No. 3

Turkana County Persons with Disabilities

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

(3) For the purpose of subsection (2) the County Executive Committee member 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.

22. (1) All persons with disabilities shall be entitled at their request, to be assisted by persons of their choice in voting during elections whether in the County or National government.

Right to vote

(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 or herself, in the prescribed form, to comply with that subsection.

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

(5) 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.

23. (1) The County Board shall register all organizations of or for persons with disabilities in consultation with the National Council for Persons with Disabilities.

Registration of
organizations

(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 within the County.

(3) Notwithstanding the provisions of any other law, organizations of or for persons with disabilities that are registered under this Act shall be exempt from registration under the Non-Governmental Organizations Co-ordination Act and the Societies Act.

No. 19 of 1990

Cap. 108

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 Kenyan constitution.

Non-derogation

Constitution 2010

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.

Privileges of
persons with
disabilities; Income
Tax exemptions

(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 or she 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 county government levies which would in any way defeat the purposes for or increase the cost of the said donations.

26. (1) Any donations, bequest, subsidy or financial aid which may be made to county government agencies involved in the habilitation and rehabilitation of persons with disabilities or to organizations involved in such habilitation and 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

Donations,
bequests, subsidies
or financial aid

Cap 470

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.

27. The County Executive Committee member responsible for people with disabilities affairs 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

Promotion of
access to credit

PART IV — TURKANA COUNTY PERSONS WITH DISABILITY DEVELOPMENT FUND

28. (1) There shall be established a Fund to be known as the Turkana County Persons with Disabilities Development Fund. The County Assembly shall allocate one and half per centum from the Turkana County allocations and money appropriated by the county assembly.

Establishment of
the Fund

(2) The Fund shall be established as a permanent fund and the income there from shall be used for the benefit of persons with disabilities in the county.

(3) The fund budget allocation shall be divided as follows—

- (a) administration costs three per centum;
- (b) capacity building ten per centum;
- (c) economic empowerment and development eighty seven per centum.

29. (1) The sources of the Fund shall be—

Sources and
payments from the
Fund

- (a) such moneys as may be appropriated by the County Assembly;
- (b) income generated by investments made by the Board; and
- (c) any other donations which the Board may receive for purposes of the Fund.

(2) The Board may, out of the Fund—

- (a) contribute to the expenses, including capital expenses, of organizations of or for persons with disabilities;
- (b) contribute to the expenses, including capital expenses, of institutions that train persons in the care of persons with disabilities;
- (c) contribute to the capital expenses of projects undertaken by the County Government for the benefit of persons with disabilities;
- (d) provide or contribute to the cost of assistive devices and services;
- (e) pay allowances to persons with disabilities falling in the following categories and who have no other source of income;-
 - (i) persons with severe disabilities and who are therefore not trainable in any skills;
 - (ii) aged persons with disabilities; and
 - (iii) single parents with children with disabilities and who cannot therefore seek employment; and
- (f) make payments or contributions for such purposes as may be prescribed by the Board.

30. (1) The Fund shall be administered by the Fund administrator and the Board as hereunder provided under Section 5.

Administration of
the Fund

(2) The county executive committee for finance and planning shall designate a person responsible for administration of the fund in accordance with section 116(2) of Public Finance Management Act, 2012 with approval of the County Assembly.

No. 18 of 2012

(3) The person designated in paragraph (4) may also be designated as the officer administering the Persons with disability development Fund.

(4) the officer administering the Fund shall—

- (a) supervise and control the administration of the Fund in the consultation with the Board;
- (b) impose conditions on the use of the any moneys in the Fund and may also impose any reasonable restriction or other requirement concerning such use;
- (c) shall cause proper books of accounts and other books and records to be kept in relation to the Fund and for all grants financed from the Fund;
- (d) shall prepare, sign and transmit to the County Executive Committee member for finance in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund, in such details as the County Executive Committee member for finance may from time to time direct in accordance with Public Finance Management Act;
- (e) shall furnish such additional information as he or she may deem to be proper and sufficient for the purpose of examination and audit by the County internal auditor;
- (f) ensure compilation of proper records, returns and reports from the Sub Counties;
- (g) perform any other duties as the Board may deem necessary from time to time for the proper

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management of the Fund;

- (h) facilitate the operations of the sub county management fund committees;
- (i) carry out capacity building, exposure, support to persons with disabilities and infrastructural development of the Fund beneficiaries;
- (j) prepare the overall performance report of the fund to be sent to County Executive Committee member for finance and the County Assembly; and
- (k) carry out monitoring and evaluation of the fund beneficiaries and projects.

(5) The officer appointed into this position must satisfy the requirements of chapter six of the constitution of Kenya.

31. (1) There shall be an eleven member Sub County Fund management Committees in every Sub-County where eight shall be elected by persons with disabilities at the Sub-County level taking into consideration Ward representation.

Establishment of
the Sub County
Fund management
committees
Membership

(2) The membership of the Sub-County Fund Management Committee shall include—

- (a) two person representing hearing impairment;-
- (b) two person representing physical impairment;-
- (c) two person representing visual impairment;-
- (d) two person representing people with disabilities minority categories like dwarfism, albinism and El-Molo, mentally challenged, multiple impairment, victims of Erus Ailimanyang and others;
- (e) three members representing the Departments of Social Protection, Education and Health in the County government; and
- (f) not more than two-thirds of the members are of the same gender.

(3) The Chairperson and the deputy chairperson shall be elected from among the members in the first meeting and shall be of the opposite gender.

(4) The officer in charge of disability affairs in the Sub County or, his or her designate shall be the Secretary.

(5) The committee will be holding meetings quarterly or as often as the situation demands.

(6) The quorum of the committee shall be two thirds of the members.

(7) The conduct of Business of the Sub county management fund committees shall be as in the schedule.

32. (1) The functions of the Sub County Management Fund Committees shall be to—

Functions of the
sub county
management fund
committees

- (a) 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;
- (b) co-operate with the County government during the County or National census to ensure that accurate figures of persons with disabilities are obtained in the County for purposes of Planning;
- (c) advise the Directorate of Social Protection on the provisions of any National treaty or agreement relating to the welfare, habilitation and rehabilitation of persons with disabilities and its benefits to the County;
- (d) recommend measures to prevent discrimination against persons with disabilities;
- (e) put into operation schemes and projects for self-employment or regular or sheltered employment for the generation of income by persons with disabilities;
- (f) encourage and secure the habilitation and rehabilitation of persons with disabilities within their own communities and social environment;
- (g) encourage and secure the establishment of vocational habilitation and rehabilitation centres and other institutions and other services for the welfare, habilitation and rehabilitation and employment of persons with disabilities; and

- (h) co-ordinate services provided in the Sub County for the welfare, habilitation and rehabilitation of persons with disabilities and to implement programmes for vocational guidance and counseling,
- (2) To provide, to the maximum extent possible—
 - (a) assistive devices, appliances, funds to groups & individuals and other equipment or support to persons with disabilities; and
 - (b) access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare, habilitation and rehabilitation of persons with disabilities, including those controlled and managed by the County Government.
- (3) To consult with the Board in the formulation of suitable curricula for vocational, habilitation and rehabilitation centres and other training facilities for persons with disabilities.
- (4) To make provision for assistance to students with disabilities and needy children of persons with disabilities pursuing education in the form of scholarships, loan programmes, fee subsidies and other similar forms of assistance in both public and private institutions.
- (5) To assess and report to the Board on the welfare, habilitation and rehabilitation of persons with disabilities and to advise on the relative priorities to be given to the implementation of those measures.
- (6) To consult with the Board in the provision of suitable, affordable and disability friendly housing for persons with disabilities.
- (7) Generally to carry out measures for public information on the rights of persons with disabilities and the provisions of this Act.
- (8) Manage public awareness of the fund within the wards and assess the proposals from people living with disabilities groups and individuals.
- (9) To perform such other functions as may be assigned by the Board under this or any other Act.

33. A member of the Sub County Fund management Committees may—

Removal of the sub
county
management fund
committees

- (a) resign by notice in writing to the County Board; or
- (b) be removed by the County Board in the county government by notice in writing if he or she;-
 - (i) is subject to a vote calling for his removal by a two thirds majority of all members of the Sub-County Fund management Committee;
 - (ii) has been absent from five consecutive meetings of the Sub County Fund Management Committee 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 for an offence punishable by a term of imprisonment; or
 - (vi) is otherwise unable or unfit to discharge his functions.

PART V — MISCELLANEOUS

34. (1) A person is guilty of an offence if the person;-

Failure to obey an
adjustment order
and discrimination

- (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.

35. (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.

Concealment of
persons with
disabilities

(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.

36. (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.

Negligence by
doctor

(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

37. 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.

Giving false
information to get
registered

38. 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.

General penalty

39. The Board may cause to be taken appropriate legal action if the Board believes that—

Enforcement

- (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

40. The County Executive Committee Member responsible for people with disabilities affairs may make regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality

Regulations

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 of persons entitled to economic empowerment and 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 from his or her office by notice in writing to the County Executive Committee Member responsible for people with disabilities affairs; or
 - (b) be removed by the County Executive Committee Member responsible for people with disabilities affairs by notice in writing if he or she;-
 - (a) is subject to a vote calling for his/her removal by a two thirds majority of all members of the County Board;
 - (b) has been absent from five consecutive meetings of the County Board without permission of the chairperson;
 - (c) is so incapacitated by prolonged physical or mental illness as to be unable to attend to and perform his duties;
 - (d) is an undischarged bankrupt;
 - (e) is convicted by a Court of an offence punishable by a term of imprisonment; or
 - (f) 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 responsible for Persons with Disabilities affairs be filled for the remainder of the term.
- (3) The County Board shall pay to its members and sub county committees such remuneration as the County Executive Committee Member responsible for persons with disabilities affairs may approve in according with the Salaries and Remuneration Commission circulars whichever is appropriate.
- (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.

No. 3

Turkana County Persons with Disabilities

(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 two thirds of the members.

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

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, deputy 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.