

## **PERSONS WITH DISABILITIES ACT, 2021**

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## PERSONS WITH DISABILITIES ACT, 2021

**AN ACT** to make provisions for the health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment and work protection and promotion of basic rights for persons with disabilities and for connected matters.

**ENACTED** by the President and the National Assembly.

[            ]

### PART 1 – PRELIMINARY

#### 1. Short title and commencement

This Act may be cited as the persons with disabilities Act, 2021 and shall come into force on such date as the Minister may, by notice in the Gazette, appoint.

#### 2. Interpretation

In this Act unless the context otherwise requires -

**“Accessibility”** means enabling or allowing a person with disability to have access directly or indirectly to benefits of public social services in all spheres of society and it includes access to information, communication and physical environment such as tactile and sign language, interpretation for deaf and deaf blind persons, audio tapes, Braille, large print, low vision facilities, computerized information and programmes and making physical environment in buildings, public transport, roads and streets accessible for persons with disabilities;

**“Advisory Council”** means the advisory council for Persons with Disabilities;

**“Affirmative action”** means special measures adopted by every public institution or private enterprise, as set out in this Act, aimed at accelerating equality between persons with disabilities and other members of society who are not subjected to any form of discrimination”,

**“Albinism”** means a congenital lack of melanin pigmentation in the skin, eyes and hair;

**“Authorised officer”** means an officer appointed by the Director in writing, to act in matters of any specified kind;

**“Civil society”** means a community-based organization, Non-Governmental Organizations, faith-based organizations of and for persons with disabilities, private sector organization, trade union and professional organization;

**“Committee”** when used in relation to –

- (a) a village, means a village Committee,
- (b) ward, means a Ward Committee,
- (c) a Council, means a Council Committee,
- (d) a region, means a Regional Committee, and
- (e) a municipality, means a Municipal Council Committee;

**“Communication”** includes spoken and sign languages, display of text, braille, tactile communication, large print, accessible multimedia as well as written, audio, plain language, human reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

**“Director”** means the Director of Social Welfare under the Ministry of Gender, Children and Social Welfare;

**“Disability”** means physical, mental, Intellectual or sensory impairments which in interaction with various barriers may hinder full and effective participation in society on an equal basis with others;

**“Discrimination”** means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, gender, language, religion, political or other opinion , national or social origin, property, birth or other status whereby persons of one such description are subjected to disability or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description;

**“Discriminate”** means making any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field;

**“Employee”** means an individual who –

- (a) has entered into a contract of employment;
- (b) has entered into any other contract under which –
  - (i) the individual undertakes to work personally for other party to the contract, or
  - (ii) the other party is not a client or customer or of any profession, business or undertaking carried on by the individual, or
- (c) is deemed to be an employee under the provisions of the Labour Act;

**“Employer”** means a person who has entered into a contract of service to employ any person or group of persons and includes employee defined and recognized under other existing written laws;

**“Fund”** means the fund for persons with disabilities established under the Act;

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

**“Inclusion”** means the process whereby people or society value and respect diversity as part of life, and thus eliminates barriers in order to accommodate persons with disabilities to participate in, and contribute to that society;

**“Integration”** means a level of involvement and acceptance of persons with disabilities in the community;

**“Inclusive school”** means a place where barriers have been removed to enable students with disabilities to learn and participate effectively within the mainstream school system;

**“Job accommodation”** means appropriate measures to design and adapt work places and work premises in such a way that they become accessible to persons with disabilities;

**“Local Government Authority”** means a city council, a municipality and an area council;

**“Mental disability”** means a transient or chronic disability that significantly affects how a person feels, thinks, behaves, and interacts with other people but also initiates, develops and sustains mutually satisfying personal relationships;

**“Minister”** means the Minister responsible for Gender, children and Social Welfare;

**“Organization of Persons with Disabilities”** means an association or a society formed by persons with disabilities registered under the relevant laws in order to promote and protect the rights, wellbeing and dignity of persons with disabilities;

**“Organization for Persons with Disabilities”** means an association or a society formed by non-disabled individuals interested in the field of disability registered under the relevant laws in order to promote and protect the rights, wellbeing and dignity of persons with disabilities;

**“Person with a disability”** means a person with a physical, intellectual sensory or mental impairment and whose functional capacity is limited by encountering attitudinal, environmental and institutional barriers;

**“Public building”** means a building or part of a building to which members of the public have access and which is occupied, managed or controlled by the Government or private person which provides services to the public;

**“Reasonable changes”** means necessary and appropriate adjustments offered in a manner that does not impose a disproportionate burden, where needed in a particular case, to ensure persons with disabilities enjoy or exercise on an equal basis with others, all human rights and fundamental freedoms;

**“Rehabilitation”** means combined efforts in the social domain of health, education, vocational training, psychology, public awareness and work including community-based rehabilitation intended to raise the functional level of a person with disability so as to enable him or her, take part in the normal life of the community;

**“Relative”** means a person who is related to a person with disability by blood, marriage or adoption, guardianship or kinship;

**“Settlement”** means a public building established for the purpose of providing welfare requirements for persons with disabilities;

**“Social Protection”** means family and community support structures, and interventions by the state or non-state actors that support individuals, households and communities to prevent, manage, overcome the risks threatening their security and well-being; and

**“Social support”** means a support or assistance given to a person with disability in order to help that person to cope with his or her situation in a given environment.

**“Tactile”** means a script of dots similar to braille perceptible to the sense of touch for persons with deafblind condition;

“**Technical aids and services**” include qualified readers, interpreters, sign language interpreters and guides, taped texts, audio, visual and pictorial recording, braille equipment, large print and brailled materials, tactile equipment, orthopaedic appliance and other devices and services that support persons with disabilities to participate effectively in all aspects of life;

### **3. Disability Coding**

(1) There shall be established a disability coding mechanism which shall determine-

- (a) whether an impairment has a substantial functional limitation of daily life activities; or
- (b) whether impairment has a long-term effect on a person.

(2) The decision as to whether the impairment has a substantial functional limitation on daily life activities or a long-term adverse effect on the ability of a person shall be based on the coding provided under sub-section (1).

(3) In addition to the provisions of sub-section (2), a medical officer and any relevant organization of or for persons with disabilities shall be consulted.

## **PART II – PRINCIPLES AND OBLIGATIONS FOR REALISATION OF THE RIGHTS OF PERSONS WITH DISABILITIES**

### **4. Principles**

The Principles of this Act are to promote –

- (a) respect for human dignity, individual freedom to make individual choices and the independence of persons with disabilities;
- (b) non-discrimination;
- (c) full and effective participation and inclusion of persons with disabilities in all aspects in the society;
- (d) equality of opportunity;
- (e) accessibility;
- (f) equality between men and women with disabilities and recognition of their rights and needs; and
- (g) provision of basic standards of living and social protections.

### **5. Obligations for the realisation of the rights of persons with disabilities**



- (1) The Advisory Council shall work with the Ministry to ensure and promote the realisation of all rights and freedom of persons with disabilities without discrimination and shall, in that respect –
- (a) undertake measures to effectively comply with the rights of persons with disabilities as provided for under this Act, and international, regional and sub-regional conventions on the rights of persons with disabilities;
  - (b) take appropriate steps to ensure the realisation of the rights of persons with disabilities in all national policies, programmes and legislation;
  - (c) refrain from engaging in any act or practice that is inconsistent with provisions of this Act, and to ensure that public authorities and institutions at all levels act in conformity with this Act;
  - (d) take appropriate measures to eliminate discrimination on the basis of disability;
  - (e) collaborate with relevant institutions to undertake and promote research in relation to development, availability and use of -
    - (i) universally designed goods, services, equipment, and facilities to meet the specific needs of persons with disabilities, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with a disability and to promote universal design in the development of standards and guidelines, or
    - (ii) new technologies, including information and communication technologies, technical aids, devices and assistive technologies suitable for persons with disabilities, giving priority to technologies at an affordable cost;
  - (f) provide accessible information to persons with disabilities on technical aids, devices and assistive technologies including new technologies as well as other forms of assistance, support services and facilities; and
  - (g) promote the training of professionals and staff who are working with persons with disabilities on their rights and the rights of persons with disabilities, as recognized in the Act, so as to provide better assistance and services guaranteed by those rights.
- (2) The Ministry shall take appropriate legislative and administrative measures with a view to achieving the full realization of rights of persons with disabilities as set out under the provisions of this Act.

- (3) In the development and implementation of the rights under this Act, and in other decision-making processes concerning issues relating to persons with disabilities, the Minister shall consult representative organizations and other established mechanisms.
- (4) The standards provided in this Act shall be minimum standards for the realization of the rights of persons with disabilities, without prejudice to their rights, individually or collectively, through their organizations or other legitimate entities.

## **6. Equality and non-discrimination**

The Government shall -

- (a) ensure that all persons with disabilities are treated equally with people without disabilities and fully entitled without discrimination to equal protection and benefits of the law;
- (b) prohibit all forms of discrimination on the basis of disability and guarantee persons with disabilities equal and effective legal protection against discrimination on all grounds; and
- (c) for purposes of promoting equality and elimination of all forms of discrimination, take all appropriate measures to ensure that reasonable changes are provided to persons with disabilities of all ages and gender.

## **7. Awareness raising**

The Advisory Council shall in collaboration with civil society and other actors, take appropriate measures to –

- (a) raise public awareness regarding the potentials, contributions and rights of persons with disabilities and to promote their rights and dignity;
- (b) combat stereotypes, prejudices and harmful practices relating to persons with disabilities in all aspects of life; and
- (c) promote awareness of the abilities, talents and contributions of persons with disabilities in order to enhance the level of awareness in society about persons with disabilities through initiating and maintaining effective public awareness campaigns designed to –
  - (i) nurture receptiveness to the rights of persons with disabilities,

- (ii) promote positive perceptions and greater social awareness towards persons with disabilities, and
- (iii) promoting recognition of the skills, merits, abilities and contributions of persons with disabilities in the work place and the labour market,
- (d) foster at all levels of the education system, including early childhood development, an attitude of respect for the rights of persons with disabilities;
- (e) encourage all organs of the media to portray persons with disabilities in a manner consistent with the Act and other legal instruments supra; or
- (f) promote awareness and training programmes in relation to persons with disabilities and their rights.

### **PART III – ESTABLISHMENT, OBJECTIVES AND FUNCTIONS OF THE ADVISORY COUNCIL FOR PERSONS WITH DISABILITIES**

#### **8. Establishment of the Advisory Council for Persons with Disabilities**

(1) There is established by this Act, the Advisory Council for Persons with Disabilities

(2) The members of the Advisory Council other than ex-officio members shall be appointed by the President in consultation with The Gambia Federation of the Disabled and the Public service Commission.

(3) The Director shall be in charge of the day-to-day affairs of the Advisory Council and head of the Disability Unit.

#### **9. Objectives of the Advisory Council**

The objectives of the Advisory Council are to –

- (a) promote the implementation and the equalization of opportunities for persons with disabilities;
- (b) advise on the impact of policies and programmes designed for the equality and full participation of persons with disabilities;
- (c) advocate for and promote effective service delivery and collaboration between service providers and persons with disabilities including

family interaction with relatives; advise on the enactment of laws and the reviewing of existing laws with a view to complying with the equalization of opportunities; and

- (d) encourage best practices in the treatment of persons with disabilities in all aspects of life.

## **10. Functions and powers of the Director**

(1) The functions of the Director are to -

- a. maintain the register of persons with disabilities;
- b. determine the form and entries to be included in the register;
- c. monitor funds disbursed by the Advisory Council;
- d. coordinate the works of authorized officers;
- e. request and receive annual reports from the organizations of, and for persons with disabilities;
- f. submit periodic reports to the Minister;
- g. inspect facilities providing services to persons with disabilities for the compliance of the Provisions with this Act and other legal instruments on disability;
- h. enter any public premises for the purpose of investigating compliance with this Act; and other legal instruments on disability alluded to supra; and
- i. carry out any other duty as may be directed by the Advisory Council.

## **11. Composition of the Advisory Council**

(1) The Advisory Council is composed of –

- (a) a Chairperson, who shall be a person with a disability, appointed by the President;
- (b) a representative of the Ministry of Justice;
- (c) a representative of the Ministry Gender, Children and Social Welfare
- (d) a representative of the Directorate of Social Welfare;

- (e) a representative of the Ministry of Basic and Secondary Education;
  - (f) a representative of the Ministry of Finance and Economic Affairs;
  - (g) a representative of the Directorate of Gender Equality and Women Empowerment
  - (h) a representative of the Ministry of Local Government and Regional Integration;
  - (i) a representative of the Ministry of Health;
  - (j) a representative of the Department of Labour;
  - (k) a representative of the Social Security and Housing Finance Corporation;
  - (l) three representatives of Gambia Federation of the disabled (two of whom shall be females);
  - (m) a representative of the Ministry of Works, Construction and Infrastructure
  - (n) a representative of the Ministry of Higher Education, Research, Science and Technology; and
  - (o) a representative of a parent of a child with disability.
- (2) At least one third of the members of the Advisory Council shall be female.
- (3) The representative of the Ministry of Gender, Children and Social Welfare shall be the secretary to the Advisory Council.
- (4) The Advisory Council may co-opt any person during its meetings for the purpose of giving advice on any matter which is the subject of consideration.

## **12. Tenure of office of members of the Advisory Council**

The members of the Advisory Council, other than ex-officio members, shall hold office for a term of three years and may be appointed for one further term only.

## **13. Meetings of the Advisory Council**

(1) The Advisory Council shall meet at least once every three months, at such time and place as determined by the chairperson.

(2) The quorum at the meeting shall be five of the members of the Advisory Council.

(3) The Chairperson shall preside at the meetings of the Advisory Council, and in his or her absence another member elected by the members present shall preside.

(4) Matters before the Advisory Council shall be decided by a majority of the members present; each member shall have one vote but in the event of equality of votes, the chairperson or anyone presiding shall have a casting vote.

#### **14. Allowances of members**

Members of the Advisory Council shall be paid such allowances that the Minister in consultation with the Minister for Finance may determine.

#### **15. Functions of the Advisory Council**

(1) The Advisory Council shall –

- (a) act as national advisory body to the Ministry through which the needs, problems, concerns, potentials and abilities of persons with disabilities can be discussed and communicated to the Government and its agencies, for action;
- (b) advise the Minister on matters relating to care and maintenance of persons with disabilities;
- (c) participate in the monitoring of all facilities and programmes designed to serve persons with disabilities and advise accordingly;
- (d) advocate for the promotion of, and the encouragement of activities undertaken by institutions, organizations and individuals for the promotion and development of programmes and projects designed to improve the lives and situations of persons with disabilities;
- (e) advise on possible measures to prevent discrimination;
- (f) advise on preparation of code of conduct for effective implementation of relevant provisions of this Act;
- (g) recommend ways and means of controlling the unnecessary ~~of~~ persons prevalence of Persons with disabilities;

- (h) advise the Independent Electoral Commission on how persons with disabilities can fully participate and benefit in electoral process;
  - (i) advise on the establishment of a database for keeping records of persons with disabilities and their institutions, and in this respect seek the assistance of the Director in relation to the register and other statistical data of persons with disabilities;
  - (j) advise on putting affirmative action in place to secure employment positions in the private and public sectors for persons with disabilities;
  - (k) recommend tax exemption and reliefs for persons with disabilities to the Government;
  - (l) participate in the monitoring, evaluation and implementation of this Act in relation to the United Nations Convention on the Rights of Persons with Disabilities;
  - (m) promote research into all aspects of disability;
  - (n) participate in the dissemination of information to and education of the public on issues of disabilities;
  - (o) advise on the coordination of activities of organizations of and for persons with disabilities, and Non-Governmental Organisations that deal with disability;
  - (p) recommend, the repeal or amendment of any law, policy or strategy that hinders the implementation of this Act;
  - (q) advise on the ratification of regional and international treaties and other instruments relating to persons with disabilities; and
  - (r) perform any other functions relating to implementation of this Act as it deems necessary by the Ministry.
- (2) Notwithstanding sub-section (1), the Advisory Council may advise the Ministry on;
- (a) formulation of programmes which may secure the education and social integration and inclusion of persons with disabilities;
  - (b) all matters relating to the promotion of the welfare of persons with disabilities;
  - (c) co-ordination of policies, programmes and provision of grants relating to persons with disabilities;

- (d) the promotion of the collection and dissemination of information relating to programmes, services, facilities, goods, housing and accommodation for persons with disabilities and maintenance of inventories thereof;
- (e) the training or facilitation of the training of persons such as councilors and administrators who shall carry out programmes of the vocational rehabilitation of persons with disabilities;
- (f) elimination of all forms of discrimination against persons with disabilities;
- (g) provision of assistive devices, appliances and other equipment to persons with disabilities;
- (h) provision of tax exemptions to importers of appliances and other equipment for use of persons with disabilities;
- (i) provision of any international, regional, or sub-regional treaty or agreement relating to the rights of persons with disabilities and its benefit to the country; and
- (j) any other matters relating to the promotion and protection of the rights and development of persons with disabilities.

#### **16. Village, Ward, Area Council, Regional Municipal, City Council, and District Committees**

(1) There shall be a committee in every-

- (a) village,
- (b) ward,
- (c) District,
- (d) Area Council,
- (e) Region,
- (f) Municipality, and
- (g) City Council.

(2) The Composition, functions and proceedings of the Committees shall be prescribed by regulations in Consultation with The Gambia Federation of the Disabled.

### **PART IV – FINANCIAL PROVISIONS**

#### **17. Sources of Funds for the Council**



The sources of funds for the Council include—

- (a) moneys to be appropriated by the National Assembly;
- (b) donations, grants and gifts; and
- (c) any other funds legally acquired.

### **18. National Fund for persons with disabilities**

(1) There is established within the office of the Director, a fund to be known as the National Fund for Persons with Disabilities.

(2) The sources of fund for the Fund include -

- (a) fees or any sum that may become payable to the Fund in the discharge of its functions under this Act;
- (b) any moneys legally vested in or accrued to the Fund;
- (d) gifts, donations and grants; and
- (e) any other sources legally acquired.

(3) The Fund shall be used to -

- (a) finance education and vocational training;
- (b) finance rehabilitation programmes on disability and related matters;
- (c) issue grants to organizations of and for Persons with Disabilities;
- (d) support research on disability and other related matters; and
- (e) do any other things necessary for the promotion and development of the objectives of the Fund.

(4) The Director shall manage the funds.

### **19. Accounts and audit**

- (1) The Director of Social Welfare shall keep proper records and books of accounts of its income and expenditures in relation to its operations in a form approved by the Auditor- General.
- (2) The accounts of the Advisory Council shall, in respect of each financial year, be subject to audit by the Auditor General.
- (3) The Advisory Council shall submit the accounts of the Advisory Council to the Auditor General for audit within three months after the end of the preceding financial year.
- (4) The Auditor General shall after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.
- (5) Advisory Council shall submit reports and accounts to the National Assembly

## **20. Annual report**

- (1) The Advisory Council shall within two months of the end of the financial year, submit its annual report to the Minister covering the activities and the operations of the Advisory Council for the year to which the report relates.
- (2) The annual report shall include the report of the Auditor General.
- (3) The Minister shall within three months after a new financial year, submit the report to the National Assembly.
- (4) The Advisory Council shall also submit to the Minister any other reports which the Minister may require in writing.

## **PART V – INTEGRATION OF PERSONS WITH DISABILITIES**

### **21. Living independently and being included in the community**

- (1) Every person with disability shall be assisted by his or her local government authority, relative, state institutions, organizations of and for persons with disabilities, civil society or any other person may support him or her to live as independently as possible and be included into the society.
- (2) The Minister shall in consultation with the Advisory Council, make regulations and take such measures as may be necessary to enable and support persons with disabilities to live independently and be fully mainstreamed into the community, including –

- (a) provision of equal opportunities for every person with a disability to choose his or her place of residence and living arrangements, in accordance with any relevant laws;
- (b) provision of community services for the general public available without discrimination to persons with disabilities and are responsive to their basic needs; and
- (c) provision of a wide range of accessible community-based rehabilitation and inclusion services such as in-house, residential and other community support services, personal assistance, sign language interpretation, and any other measures necessary to support living and integration in the community, promote access to information about available support services, and to prevent disability-based discriminations in the community.

## **22. Obligation to provide social support.**

(1) Every relative of a person with a disability shall have an obligation to provide social support to that person.

(2) Where there is more than one relative of a person with a disability, the relatives shall be under collective obligation to provide social support to that person.

(3) Where it is established that a relative neglect to provide reasonable social support to a person with a disability the court may, on the application of either the person with a disability or a legal representative -

- (a) order the relative to make monthly payments of such sum as it may deem fit;
- (b) from time to time and by an order, vary or discharge any previous order made under subsection (a);
- (c) where the court makes an order under subsection (a), it may order the relative to secure to the satisfaction of the court, monthly payments to the person with a disability and may for that purpose give directions; and
- (d) to empower the court to grant an order for DNA tests to be conducted on concerned persons to prove that they are relatives of a person with a disability.

## **23. Formulation of Programmes**

(1) The Minister shall in consultation with the Advisory Council and relevant Ministers, formulate programmes in order to secure integral and inclusive social development of persons with disabilities including their vocational training and rehabilitation.

(2) The programmes provided in sub-section (1) may also provide for shelter, employment, marketing, accessibility and the promotion of innovation.

## **PART VI – SUPPORT SERVICES FOR PERSONS WITH DISABILITIES BY LOCAL GOVERNMENT AUTHORITIES**

### **24. Duty of local government authorities to safeguard persons with disabilities**

(1) A Local Government Authority shall safeguard and promote the rights and welfare of a person with disability within its jurisdiction.

(2) The social welfare officer in the Local Government Authority shall exercise his or her functions in relation to the rights and welfare of a person with disability and may be assisted by such officers of the Local Government Authority as the Authority may determine.

(3) The Local Government Authority through a social welfare officer shall provide counseling to parents, guardians, relatives and persons with disabilities for the purpose of eradicating stigma.

(4) The Local Government Authority shall within its jurisdiction, provide assistance to persons with disabilities in order to enable them to develop their potential, empowerment and self-reliance.

(5) Every Local Government Authority shall maintain a register of persons with disabilities and shall submit particulars therein to the Director.

(6) If a Local Government Authority fails to take care of the welfare of persons with disabilities within its jurisdiction, it shall be liable to pay a reasonable monetary compensation to the person concerned.

### **25. Duty to report alleged infringement of rights of a child with disability**

(1) Member of a community who has evidence or information that-

- (a) the rights of a child with disability are being infringed; or
- (b) a parent, guardian or relative having custody of a person with a disability who is able to, but refuses or neglects to provide the right to play, medical care, leisure and education, shall report the matter to the Local Government Authority as well as any other relevant Authority of the area.

(2) The social welfare officer shall on receiving the report, summon the person against whom the report has been made to discuss the matter and the decision shall be made by that officer in the best interest of the person with disability.

(3) Where the person against whom report was made refuses to comply with the decision made under sub-section (2), the social welfare officer shall refer the matter to the court which shall hear the matter and, in that respect, order the parent, guardian or relative to execute a bond to exercise proper care and guardianship by signing an undertaking to provide the person with a disability with any or all of the requirements.

(4) The procedure for handling any matter under sub-section (2) and (3) shall be as prescribed in Cap 45:01 of the Children's Act.

## **PART VII - STATISTICS, DATA COLLECTION AND REGISTRATION OF PERSONS WITH DISABILITIES**

### **26. Statistics and Data Collection**

(1) The Government shall collect appropriate information, such as statistical and research data, to enable it to formulate and implement policies.

(2) The process of collecting and maintaining this information shall -

- (a) comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities; and
- (b) comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

(3) The information collected in accordance with this section shall be disaggregated, as appropriate, and used to help assess the implementation, identification and address of the barriers faced by persons with disabilities in exercising their rights.

(4) The Advisory Council shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and the public.

### **27. Register of persons with disabilities**

(1) The Director shall after consultation with the Advisory Council, establish and maintain a register of persons with disabilities to be known as the Persons with Disabilities Register.

(2) Entries and other alterations in the register shall be made in such a manner as the Director may from time to time, determine.

(3) The register established under sub-section (1) shall only be used for identification and other statistical purposes.

## **PART VIII - HEALTHCARE OF PERSONS WITH DISABILITIES**

### **28. Health care and rehabilitation**

(1) Every person with a disability shall enjoy the highest attainable standard of health care service without any discrimination.

(2) Every public or Government health facility shall provide a person with a disability the right to health care service and take all reasonable and necessary measures to ensure access for such persons to health services.

(3) Every public or Government health facility shall -

- (a) provide persons with disabilities with the same level and standard of health and rehabilitation services as provided to other citizens, including health counseling, reproductive health, family planning, prenatal and postnatal child care and other general public health services;
- (b) make available basic facilities and rehabilitation essential for health and rehabilitation services needed by persons with disabilities in their respective locations; and
- (c) provide all health and rehabilitation personnel with appropriate education and training to increase their knowledge, awareness and respect for the rights, dignity and needs of persons with disabilities, in accordance with the provisions of this Act.

(4) The Advisory Council shall ensure that -

- (a) a code of ethics for public and private care which promotes quality care, openness and respect for the rights, dignity and autonomy of persons with disabilities, is put in place;
- (b) the services and conditions of public health care and rehabilitation facilities are well monitored;
- (c) the health and rehabilitation services provided to persons with disabilities, and disclosure of information in that regard, is carried out only after the person concerned has given his or her free and informed consent, or, if the person is incapacitated, the guardian has given free and informed consent, and that health and rehabilitation professionals inform persons with disabilities of their right;

- (d) adequate number of trained health and rehabilitation professionals at all levels including persons with disabilities are available to meet the health and rehabilitation needs of such persons and ensure that they have adequate specialized training;
- (e) promote the effective participation and empowerment of persons with disabilities and their organizations in planning, delivering, monitoring and evaluation of health and rehabilitation services; and
- (f) a disability module for all students and staff is included in all health training institution's curricula.

(5) A person with a disability is entitled to the provision of effective medical care and measures that prevent the occurrence of impairment that may cause permanent functional limitation or disability.

(6) A person with a disability is entitled to receive appropriate information related to health in the relevant accessible format.

### **29. Special health services**

The Government shall promote special health services required by persons with disabilities including –

- (a) providing access to reproductive health services which are relevant to the specific needs of women with disabilities;
- (b) enforcing user friendly health facility environments for use by persons with disabilities visiting hospitals and health care centers;
- (c) providing appropriate materials and equipment for use and services of persons with disabilities visiting health facilities;
- (d) encouraging population based public health programmes relevant to persons with disabilities; and
- (e) strengthening support and decentralize special needs schools and health services.

### **30. Prevention of disability**

The Government shall promote the prevention of disability through -

- (a) health and environmental education in schools and communities to mitigate the risk factors connected with lifestyles and the environment;
- (b) health prophylactics;
- (c) enforcement of healthy and safety labour conditions;
- (d) the introduction of an early identification system for disability and the intervention or strengthening of existing systems to minimize disability among children and the elderly;
- (e) the strengthening and implementation of road safety policies to minimize road accidents;
- (f) the strengthening of programmes for land-mine clearance where mines exist to protect persons from mines that cause disability;
- (g) the enforcement of all activities and services that may help to prevent disability in people.

## **PART IX - REHABILITATION OF PERSONS WITH DISABILITIES**

### **31. Measures of rehabilitation**

The Government shall -

- (a) adopt measures of habilitation and rehabilitation to help persons with disabilities gain or regain functional ability to enhance participation in social and economic life;
- (b) promote the research, exploration and application of new rehabilitation technology so as to provide more effective rehabilitation services for persons with disabilities;
- (c) establish medical rehabilitation departments or sections in hospitals, special institutions of rehabilitation and carry out clinical practice and training, scientific research, personnel training and work of technical guidance in the field of rehabilitation;
- (d) provide various forms of technical training for personnel engaged in rehabilitation work;
- (e) popularise knowledge of rehabilitation among persons with disabilities, their family members, relevant staff and volunteers and teach them methods of rehabilitation; and



- (f) ensure that medical institutions and other relevant educational institutions offer curricula and specialties on rehabilitation.

### **32. Vocational rehabilitation and employment**

(1) The Government shall take vocational rehabilitation measures to develop the skills and potentials of persons with disabilities to enable them to compete favorably for available productive and remunerative employment opportunities in the labour market.

(2) The Minister shall in consultation with the Advisory Council, make regulations prescribing vocational rehabilitation courses for persons with disabilities at or above the age of sixteen years in order to render them fit for employment to work independently and for making use of vocational training courses.

## **PART X- EDUCATION OF PERSONS WITH DISABILITIES**

### **33. Education and training for persons with disabilities**

(1) Persons with disabilities shall have the same right to education, training in inclusive settings and the benefits of research as other persons without disabilities.

(2) Every child with a disability shall have equal rights in relation to admission to mainstream public or private schools, provided he or she or his or her parents are able to pay the school fees of the school in question.

(3) Every child with a disability has the right to attend a mainstream public or private school or a special needs school.

(4) Children requiring special care shall be placed in institutions or schools that can successfully provide the appropriate services for their special needs where the needs could be met in regular schools and they will be mainstreamed.

(5) Mainstream institutions enrolling children with special needs shall respond to their individual needs without discrimination by providing appropriate curricula, organizational arrangements, teaching strategies, itinerant teaching, resource use and partnership with parents and communities.

(6) The Government shall, promote educational development of persons with disabilities through -

- (a) encouragement of inclusive education;

- (b) the formulation and design of educational policies and programs that promote the special needs and requirements of persons with disabilities;
- (c) the formulation of policies that give children with disabilities access to relevant education at all levels, paying particular attention to the requirements of the girl child and children in rural areas;
- (d) the establishment of special schools and units where inclusive education is not possible, with curricula designed for different disability conditions;
- (e) the inclusion of a module on teaching children with special needs and sign language in the curricula of teacher training courses;
- (f) the provision of adequate training for special teachers and in-service training for current teachers in mainstream schools to cater for the educational development of persons with disabilities;
- (g) the provision of learning and instrumental materials and assistive devices suitable for learners with special needs, through assessment of needs after admission and the provision of sign language interpreters;
- (h) the enforcement of recruitment and retention of special education teachers in all schools and institutions;
- (i) structural and other appropriate adaptations of all education institutions to the needs of persons with disabilities and the promotion of specialized institutions that facilitate research and the development of persons with disabilities;
- (j) the provision of assistive services during examinations including giving extra time or papers in Braille or any suitable format for students with special needs; and
- (k) the commitment of not less than 10% of all educational expenditure to the educational needs of persons with disabilities at all levels.

#### **34. Prohibition of discrimination in learning institutions and educational services**

(1) A person or learning institution shall not discriminate against a person with disability or to deny them educational services on the grounds of their disability.

(2) Discrimination shall be implied where a person or institution -

- (a) refuses or fails to accept an application for admission in an educational institute by a qualified person because of that person's disability;
- (b) gives terms and conditions on which it is prepared to admit such a person because of his or her disability, or if the terms and conditions of admission to the educational institution excludes persons with disabilities;
- (c) denies or limits any person with disability access to any benefits or services provided by that learning institution;
- (d) expels a student or pupil with a disability on the grounds of his or her disability;
- (e) discriminates against or subjects to unfair treatment, of a person in any way on the grounds of his or her disability; or
- (f) constructs or adapts school buildings or infrastructure that is not disabled user-friendly.

(3) This section shall not apply to a person denied admission to an educational institution established primarily for students who have a particular disability where that person does not have that particular disability.

### **35. Facilities for special schools.**

(1) Children with mild-to-moderate special needs will be integrated into regular schools with appropriate supportive services.

(2) Those that have severe special educational needs shall be enrolled in special schools where-

- (a) appropriate assessment will be conducted for all categories of special needs children to determine appropriate health care interventions;
- (b) appropriate assessment will be conducted by a multi-disciplinary team for all categories of special needs children to determine appropriate placement for educational interventions;
- (c) special needs children who can cope will be educated within the existing school system and adequate resources put in place to make schools more accessible; and
- (d) they will be afforded with opportunities to go to mainstream schools.

(3) Every manager or owner of a learning institution shall, in respect of admission, take into account the special needs of persons with disabilities.

(4) A person who owns or establishes a special school for persons with disabilities shall provide adequate facilities for such purposes.

## **PART XI - EMPLOYMENT OF PERSONS WITH DISABILITIES**

### **36. Employment of persons with disabilities**

(1) Persons with disabilities have a right to –

- (a) practice their profession if they satisfy all the professional requirements of the profession concerned; and
- (b) carry on any lawful occupation, trade or business of their choice.

(2) The Government shall encourage both the public and private sector to –

- (a) promote the empowerment of persons with disabilities, including those who acquire disability during the course of their employment;
- (b) allow persons with disabilities work on an equal basis with others; and
- (c) allow persons with disabilities earn a living by work through a quota system of employment.

(3) The Minister, in consultation with the Minister responsible for labour, shall -

- (a) determine the quota of persons with disabilities in an employer's workforce, and shall by statutory instrument publish the agreed quota; and
- (b) make regulations requiring every employer to employ persons with disabilities based on the agreed quota system.

(4) An employer shall be deemed to have contravened section 36(3), unless he or she can prove to the satisfaction of the Minister and the Advisory Council that -

- (a) after reasonable efforts he or she has failed to find a person with disability or a qualified person with a disability for the post;

- (b) due to the nature of the employment, he or she could not get a person with a disability with the skills or experience required;
- (c) due to the nature of work or the circumstance of the working place, it could not be possible to employ a person with a disability; and
- (d) taking into consideration the condition of the person with a disability, he or she is not or would not be able to perform the work adequately or as required.

(5) Every employer shall -

- (a) where appropriate in any public or private job advertisement, indicate that persons with disabilities would be considered and are encouraged to apply;
- (b) where there is a vacant post fit for a person with a disability and the person applies for the vacancy, give the post to the person with disability who meets the minimum qualification for such an employment;
- (c) each year, submit to the Director an annual report on persons with disabilities employed in his or her office, workplace, institution or organization; and
- (d) provide the necessary resources for persons with disabilities to make their work effective.

(6) The Minister shall at the end of each financial year, report to the National Assembly on the status of employment of persons with disabilities.

### **37. Continuation of employment for persons with disabilities**

Every employer shall be obliged to maintain and safeguard the employment of the persons with disabilities in his or her work place.

### **38. Prohibition of discrimination in employment**

(1) An employer shall not discriminate against a person with a disability in relation to

- (a) advertisement of employment;
- (b) recruitment of persons for employment;
- (c) offering terms or conditions of employment;

- (d) creation, classification or abolition of jobs or posts;
- (e) determination or allocation of wages, salaries, leave, accommodation or any other similar benefits;
- (f) training, advancement, apprenticeship, transfer or promotion
- (g) provision of facilities related to or connected with employment; and
- (h) provision of any other benefits or other matters related to employment.

(2) For purposes of sub section (1), the following shall constitute acts of discrimination -

- (a) segregating or classifying a job applicant with disabilities in such a manner that adversely affects his or her work opportunities;
- (b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out persons with disabilities;
- (c) utilizing standards, criteria, or methods of administration showing the effect of discrimination on the basis of disability or perpetuating the discrimination of others who are subject to common administrative control;
- (d) providing less payment, remuneration or fringe benefits, to a qualified employee with a disability, than the amount paid to a non-disabled person performing the same work;
- (e) favoring a non-disabled employee over a qualified employee with disabilities with regard to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
- (f) re-assigning or transferring a qualified employee with disabilities from a job or position he or she can perform to one which he or she cannot perform because of his or her disability;
- (g) dismissing or terminating the services of a qualified employee with a disability on grounds of his or her disability unless the employer can prove that he or she affects the overall performance and reputation of business, and that the employer has made every effort to accommodate the person with a disability with no improvement to results;

- (h) failing to select or administer, in the most effective manner, employment tests that accurately reflect the skills and aptitude of an applicant or employee with disability, rather than the impaired sensory, manual or speaking skills of such applicant or employee, if any; and
- (i) excluding persons with disabilities from membership in labour unions or similar organizations (freedom of association, section 25(e)).

(3) An employer who discriminates against any person with a disability in relation to employment commits an offence and is liable, on conviction, to a fine of one hundred thousand dalasis.

### **39. Access to work premises and working environment**

(1) Every employer shall –

- (a) ensure that the physical features of the premises occupied by the employer does not place an employee with a disability at a disadvantage;
- (b) carry out appropriate modification to work premises to facilitate the employment of persons with disabilities;
- (c) take all necessary measures to improve the work environment to prevent injuries and impairment;
- (d) ensure safe and healthy working conditions for all employees with disability;
- (e) protect employees with disability from harassment;
- (f) permit employees with disability to exercise their labour and trade union rights in accordance with any relevant laws;
- (g) enable employed persons with disabilities to have effective access to general technical and vocational guidance and continuing training for their career development and advancement; and
- (h) claim tax exemption on any costs incurred as a result of the modifications carried out under paragraph (b).

(2) The Minister shall ensure -

- (a) the promotion of employment for persons with disabilities by applying affirmative action treatment;
- (b) job retention and return to work for any employee who has obtained disability in a workplace; and
- (c) reasonable modifications are provided for persons with disabilities in the work place.

#### **40. Discriminative medical examination**

- (1) An employer shall not conduct any test or examination to establish whether an applicant is a person with a disability or as to the nature or severity of the person's disability.
- (2) The provisions of sub-section (1) shall not prevent an employer from making pre-employment inquiries into the ability of an applicant to perform job related functions.
- (3) An employer may require medical examination after an offer of employment if -
  - (a) all newly appointed employees are subject to such examination; and
  - (b) the examination is required for the health programme available in the employment.

#### **41. Discrimination against general employees**

An employer shall not discriminate against any employee on the grounds that the employee —

- (a) opposes acts or practices discriminating against persons with disabilities; or
- (b) testified, assisted or participated in an investigation, proceedings or hearing of a case against discrimination of a person with a disability.

#### **42. Tax reduction**

Private employers who employ ten or more persons with disabilities either as regular employees, apprentices or learners on full time basis shall be entitled to tax deduction of fifteen percent of all payable tax upon proof to the Gambia Revenue Authority, and subject to the approval of the National Assembly.



### **43. Void contracts**

A contract of employment or other agreement is void if the contract -

- (a) requires a person to do anything prohibited under this Act;
- (b) excludes or limits the operation of any provision of this Act; or
- (c) prevent a person from lodging a complaint.

## **PART XII – ACCESS TO BUILDINGS, SERVICES, INFORMATION AND PHYSICAL ENVIRONMENT**

### **44. Access to the physical environment**

(1) Persons with disabilities shall be entitled to a barrier-free and disability friendly environment to enable them have access to public premises, facilities, roads, communications and other social amenities to assist and promote their mobility.

(2) The Minister shall in consultation with the Minister responsible for works ensure that every publicly accessible building complies with the accessibility requirements under this Act.

(3) Every public or private body shall comply with this section to such extent as is practicable and, in particular shall -

- (a) do so at the time of the construction, material alteration or extension of a public building; or
- (b) if by doing so, access to public buildings would be provided to a greater number of persons with disabilities with more cost-effective manner than otherwise be the case.

(4) Architects, construction engineers and other persons who are involved in design and construction of physical environment shall observe and comply with accessibility requirements to ensure that all new buildings, roads, playgrounds, transport facilities and renovations, conform to designs aimed at creating access for persons with disabilities.

(5) The head of a public body shall as far as practicable, ensure the whole or part of a facility to which the public has access is also accessible to persons with disabilities in accordance with this Act.

(6) The Minister may in consultation with the Advisory Council by order published in the gazette, exempt any building from the conditions provided under this section.

#### **45. Access to service provided by a public body**

Where a service is provided by a public body, the head of the body shall -

- (a) ensure that the service is also accessible to persons with disabilities, and seek external advice or expertise where appropriate or necessary; and
- (b) if necessary, authorize at least one of his officers to provide, arrange or coordinate the provision of assistance and guidance to persons with disabilities in accessing its services.

#### **46. Access to information**

(1) Every relevant Government authority shall promote the rights of persons with disabilities to access information through -

- (a) the development and use of sign language and sign language interpreters in all public institutions and at public functions;
- (b) brailing and synthesizing (audio) of public information, such as Government documents, Government newspapers and other publications; and
- (c) ensuring that communications with the public is available in all accessible formats to persons with disabilities.

(2) A person who owns -

- (a) a television station shall provide sign language inset or subtitles in at least one major newscast programme each day and in all special programs of national significance; and
- (b) a telephone company shall provide special telephone devices for the hearing-impaired and tactile marks on telephone sets to enable persons with visual disability to communicate through the telephone system.

(3) The Minister may by order published in the Gazette, set a period during which the requirements under sub-sections (1) and (2) shall be complied with.

#### **47. Access to public transport facilities**

(1) A person providing a public transport services shall provide access to all transport –disadvantaged persons.

(2) For the purpose of sub-section (1), “transport disadvantaged persons includes” persons -

- (a) using mobility devices such as crutches or calipers, or wheel chairs;
- (b) using sensory devices such as white canes, low vision devices or hearing aids;
- (c) who need assistance such as those using sign language in other support in communication; and
- (d) having difficulty in negotiating steps, climbing stairs or walking long distance including persons having health problems, or those carrying heavy loads

#### **48. Regulations on accessibility**

(1) The Minister may after consultation with the Advisory Council and Ministers responsible for works, transport, communications, sports, establish regulations on accessibility by persons with disabilities in relation to transport services, public buildings, public services, sports, recreational activities and other areas of physical environment open for public use, through the provision of -

- (a) accessible and easy-to-find building entrances, connected by accessible pathways to accessible indoor or outdoor packing areas, local public transit stops and accessible elevators;
- (b) safe and accessible urinals and bathrooms for diverse disabilities;
- (c) safe and well- dimensioned stair cases for the comfort of persons with mobility challenges;
- (d) ramps wherever stairs obstruct the free passage pedestrians, mainly wheelchair users and people with mobility-challenges;
- (e) adequate railing around hazardous areas, stairs, ramps, accessible roofs, mezzanines, galleries, balconies and raise platforms; and

- (f) accessible elevators that serve all public floors, have embossed numerals on buttons and give suitable signals to alert visual and hearing-impaired users.

(2) Where it is difficult or not feasible to install a ramp or an elevator to an existing building, the owner of the building shall provide platform lifts to provide accessibility.

(3) Where a physical feature such as one arising from the design or construction of a building or the access to premises makes it impossible for persons with disabilities to use that facility, the provider of the facility shall make adjustments or provide an alternative method of making the facility available to the persons with disabilities.

(4) Sub-section (1) shall not require a provider of services to do any act which would fundamentally alter the nature of the service provided, the trade, profession, or business.

(5) The standards and guidelines shall be made accessible to different groups of persons with disabilities in such forms as –

- (a) braille, synthesizer (audio), tactile services and large print;
- (b) spoken information and appropriate technology and sign language;  
and
- (c) computerized information.

(6) The Minister shall in consultation with Local Government Authorities and by regulations, set up a monitoring and enforcement mechanism to ensure compliance with prescribed standards and guidelines on accessibility requirements for persons with disabilities throughout the country.

#### **49. Preparation of code of practice**

(1) The Advisory Council shall prepare a code of practice for public bodies relating to the matters referred to in this part.

(2) In preparing the code of practice under sub-section (1), the Advisory Council shall consult with relevant Ministries, Gambia Federation of the Disabled and any other person as it may consider appropriate.

(3) The Advisory Council may amend the code of practice when necessary.

(4) The code of practice prepared under this section shall be published in the Gazette.

## 50. Responsibilities of certain Ministers

- (1) The Advisory Council shall ensure that all relevant Ministries prepare and publish “sectoral plans” outlining the measures proposed to be taken by or on behalf of the Ministries responsible for matters relating to the provision or services to persons with specified disability or by public bodies or other persons in relation to performance of functions or allocation of funds.
- (2) Before publishing a sectoral plan under sub-section (1), the relevant Minister shall consult with the Gambia Federation of the Disabled.
- (3) The sectoral plan shall contain -
  - (a) appropriate information concerning codes of practice and relations, if any, relating to the subject matter of the plan;
  - (b) a complaints procedure to be provided by a public body or by other persons in relation to any matters which are the subject matter of the plan;
  - (c) monitoring and reviewing procedures in relation to subject matter of the plan;
  - (d) a statement of the intervals at which reports shall be prepared relating to the progress made in the implementation of the plan, being intervals of not more than two years from the date of the publication of the plan;
  - (e) if appropriate, the level of access relating to services specified in the plan; and
  - (f) such other matters as the Advisory Council concerned may consider appropriate.
- (4) Where an accessible public transport service and associated buildings and infrastructure are required by a sectoral plan to be provided within a specified date and the specified date is later than the date which would otherwise apply by virtue of section 45, the buildings or infrastructure may be provided at any time before the specified date.
- (5) For the purpose of this section, a sectoral plan shall provide for matters specified in this Part.

### **51. Complaint to the Ombudsman**

(1) The Director may on his or her own motion, and any aggrieved person or his or her legal representative may lodge a complaint relating to-

- (a) the deprivation of the rights of persons with disabilities; and
- (b) the non-implementation of laws, guidelines or instructions concerning the welfare and protection of rights of persons with disabilities to the office of the Ombudsman.

### **52. Prohibition of denial to public premises**

A person shall not deny a person with a disability by reason of his or her disability -

- (a) admission to any premises to which members of public are ordinarily admitted;
- (b) access to any building providing public service, roads, transport and other indoor and outdoor facilities including schools, housing, banks, medical facilities, sport facilities and workplaces;
- (c) any service ordinarily provided to members of the public; or
- (d) access to public facilities, services, information and communication including new information and communication technologies, and systems open or provided to the public both in urban and rural areas.

### **53. Accessibility of Roads to Persons with Disabilities**

(1) The Government shall make public roads and highways accessible to persons with disabilities through -

- (a) equipping pedestrian crossings with traffic control signals controlled by a pedestrian push-button system;
- (b) providing pedestrian traffic lights with clearly audible signals; and
- (c) use of alarms or bells to signal approaching traffic, among others.

(1) The Minister may in consultation with the Minister responsible for works, make regulations for prescribing road signs for persons with disabilities and for effective implementation of this section.

#### **54. Denial of driving permit**

A person with a disability shall not be denied a driving permit by reason of his or her disability, provided that he or she has passed a driving test and fulfills all other legal requirements to have a permit.

### **PART XIII – PARTICIPATION OF PERSONS WITH DISABILITIES IN POLITICAL AND PUBLIC LIFE; SOCIAL INCLUSION AND PROTECTION AND DISCRIMINATION**

#### **55. Participation of persons with disabilities in political public life**

(1) Every adult person with disability is entitled to enjoy and exercise the right to vote, hold public office and participate in political and public life as any other citizen without any form of discrimination.

(2) A person with a disability has the right to participate in public administration, civil society, political parties and other associations or organizations.

(3) A person with a disability has the right to fully participate and take part in decision-making process.

(4) The Minister shall after consultation with the Council and Independent Electoral Commission -

- (a) guarantee that persons with disabilities can exercise their political rights by -
  - (i) ensuring that political campaigns are fully accessible and easy to understand by all persons with disabilities particularly in the use of the media,
  - (ii) ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use,
  - (iii) ensuring that voter registration locations are accessible to persons with disabilities,
  - (iv) ensuring that all polling places in each voting Centre have accessible requirements to voters with disabilities including accommodation of voters who use wheelchairs, devices for persons with low vision and tactile ballot templates for visually impaired and deaf blind persons, and provision of a sign language interpreter for the deaf/hard of hearing,

- (v) providing training for poll workers on the rights of persons with disabilities and the practical means of ensuring their rights,
  - (vi) ensuring that voters with disabilities have the same degree of information available when casting their ballot as others,
  - (vii) encouraging and providing reasonable accommodation to persons with disabilities to stand for elections and to hold office and perform all political functions at all levels in the Government and the introduction of a minimum quota at the National Assembly,
  - (viii) guaranteeing the free expression of the will of persons with disabilities as electors, and where necessary, at their request, allowing assistance in voting by a person of their own choice, or
  - (ix) setting up criteria and procedures to be applied in appointing qualified persons with disabilities to be elected or appointed to represent persons with disabilities in all decision and policy making process during the elections, through affirmative action or special prescribed arrangements;
- (b) actively promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs without discrimination; encourage their participation in the public affairs including -
- (i) participation in non-governmental organizations and associations concerned with public and political life of the country including the activities and administration of political parties, or
  - (ii) forming and joining organizations of persons with disabilities to represent their interest at all levels.

(5) Where a voting centre is inaccessible to persons with disabilities, an alternative location shall be identified and publicized to be used by such persons.

(6) The Government shall initiate and encourage the appointment of persons with disabilities in the organs of Government at all levels.

(7) A person aggrieved by a decision of the Advisory Council may file a petition to the courts of law or the National Human Rights Commission for redress.



(8) Where a person with a disability is a party to any judicial proceedings, the adjudicating body shall take into account the physical and mental conditions of the person with disability.

## **56. Sports, recreation and leisure**

The Minister shall after consultation with the Advisory Council and the Minister responsible for sports, take appropriate measures to -

- (a) encourage and promote the participation of persons with disabilities in sport activities at all levels, national and international;
- (b) ensure that persons with disabilities have opportunities to organize, develop and actively participate in sport and recreational activities specific for persons with disabilities;
- (c) urge the provision of appropriate instruction, training and resources for their sports and recreational activities;
- (d) encourage persons with disabilities so as to have access to sports and recreational and tourism venues; and
- (e) ensure that children with disabilities and youth have equal access to participate in play, empowerment, recreational, leisure and other sports activities.

## **57. Provision of Technical aids or services**

(1) The provider of a service shall provide technical aids or services which enables or facilitate persons with disabilities to -

- (a) have access to sporting and recreational venues; and
- (b) have access to the services of the organizations responsible for specific sporting activities.

(2) A person shall or authority shall not exclude any person from a sporting activity or recreational activity in which he or she can participate on the ground of his or her disability.

(3) The provisions of sub-section (2) shall not apply to -

- (a) a person who is incapable of performing the required sporting activity; and

- (b) a person conducting sporting activities for persons who have a particular disability and that person does not have that disability.

(4) At least ten percent of all funds committed to sports and recreational activities shall be used for the development of the recreation and sports aimed at persons with disabilities.

### **58. Participation in cultural life**

(1) A person with disability shall be entitled to participate in cultural life in society without discrimination.

(2) The Government shall in collaboration with civil society, take appropriate steps to enable persons with disabilities to have an opportunity to develop and utilize their creative, artistic and intellectual potentials for their own benefit and for the enrichment of the society.

(3) The Minister shall in consultation with the Advisory Council and Minister responsible for cultural affairs, take effective and appropriate steps to ensure that persons with disabilities -

- (a) enjoy access to cultural materials in all accessible formats;
- (b) enjoy access to television programmes, films, theatres and other cultural activities, in all accessible formats; and
- (c) enjoy access to places for cultural performances or services, including theatres, museums, cinemas, libraries and tourism services.

(4) Sign language, tactile language and braille shall be recognized and promoted as official means of communication.

### **59. Right to supportive social services and protection**

(1) A person with disability shall be entitled to social protection without discrimination on the basis of his or her disability.

(2) The Minister shall after consultation with the Advisory Council and the Ministers responsible for labour, employment and finance, take appropriate steps to ensure that persons with disabilities enjoy access to social security and protection, including steps to -

- (a) ensure access for persons with disabilities to appropriate and affordable services, devices and other assistance for disability related needs, including -

- (i) acquisition of assistive devices, medical specialty and assistance personal services,
  - (ii) specialized training activities to improve functional limitations,
  - (iii) counseling, rehabilitation and orientation to improve self-image, or
  - (iv) child care services for the children of persons with disabilities;
- (b) ensure access by persons with disabilities, in particular the aged, women, children and youth, to social protection programmes and poverty reduction strategies, and
  - (c) ensure access by persons with disabilities to available grants and credit services for income-generating activities and to public housing programmes, if resources allow.

## **60. Access to justice**

(1) The Government shall ensure that persons with disabilities -

- (a) enjoy the right to liberty and security of person on an equal basis with others; and
- (b) are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

(2) If persons with disabilities are deprived of their liberty through any process, they are entitled to guarantees provided by the constitution and in accordance with international human rights law.

(3) If persons with disabilities are involved in judicial proceedings—

- (a) full information shall be made accessible to them, including provision of a sign language interpreter or written documents provided in braille; and
- (b) buildings shall be accessible to them and lack of accessibility is not sufficient reason for the case to be adjourned.

## **61. Multiple discrimination and enjoyment**

(1) The Government shall take measures to ensure the full and equal enjoyment by persons with disabilities of all human rights and fundamental freedoms on an equal basis with other persons without disabilities which include but not limited to:

- (a) special health care, particularly in the field of sexual and reproductive health;
- (b) prosecuting allegations of gender-based violence and providing the necessary systems for women with disabilities to have a voice in the legal, educational and healthcare sectors;
- (c) promoting full, inclusive and accessible education for youth with disabilities;
- (d) promoting the inclusion of youth with disabilities in mainstream youth organisation and programmes;
- (e) removing barriers that hinder or discriminate against the participation of youth with disabilities in society;
- (f) promoting training and access to information, communication and technology for youth with disabilities;
- (g) developing programmes to overcome social and economic isolation, and removing systemic barriers in the labour market for youth with disabilities;
- (h) ensuring access to credit facilities for youth with disabilities;
- (i) developing and implementing specific measures to facilitate full and equal participation of youth with disabilities in sports, culture, science and technology;
- (j) promoting the participation of youth with disabilities in political decision-making and activities;
- (k) ensuring that older persons with disabilities exercise their legal capacity on an equal basis with others, and that appropriate measures and safeguards are put in place to provide older persons with all the support they may require to exercise their legal capacity;
- (l) ensuring that older persons with disabilities have access to appropriate services that respond to their needs within their community;

(m) ensuring that older persons with disabilities are protected from violence, including violence on the basis of accusations or perceptions of witchcraft; and

(n) ensuring that older persons have access to appropriate sexual and reproductive health information and services.

(2) The interest of children with disabilities shall be a primary consideration of the Government.

## **PART XIV - OTHER RIGHTS**

### **62. Constitutional rights and freedoms**

The fundamental rights and freedoms enshrined in Chapter Four of the 1997 Constitution and other laws of the Gambia shall be respected, upheld and promoted by all organs and agencies of Government and by all persons including persons with disabilities.

### **63. Affirmative action in favour of persons with disabilities**

The government shall take affirmative action for the purpose of redressing injustices which exist against persons with disabilities.

### **64. Freedom from torture or cruel, inhuman and degrading treatment or punishment.**

(1) A person or institution shall not subject a person with a disability to torture or to cruel, inhuman and degrading treatment or punishment.

(2) A person or institution shall not subject a person with a disability to medical or scientific experimentation without the free and informed consent of the person concerned.

### **65. Right to privacy**

Persons with disabilities, including those living in an institution, shall not be subjected to arbitrary or unlawful interference with their privacy.

### **66. Right to family**

(1) A person with a disability has the right to a home and a family and is entitled -

(a) to experience his or her sexuality and to have sexual and other intimate relationships;

- (b) at the age of eighteen years and above, to marry a spouse of his or her own choice and to found a family;
- (c) to equal rights in marriage, during marriage and at its dissolution;
- (d) to decide the number and spacing of his or her children; and
- (e) to guardianship, trusteeship and adoption of children under the relevant laws.

(2) A person with a disability has a right and duty to care for and bring up his or her child and shall not be separated from his or her child except in accordance with the law.

(3) A child with a disability shall not be separated from his or her family or a person entitled to bring up that child except in accordance with the law.

### **67. Harmful Practices**

(1) A person or institution shall not subject –

- (a) persons with disabilities to any form of harmful practices, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens;
- (b) any form of stereotyped views on the capabilities, appearance or behaviour of persons with disabilities, and they shall prohibit the use of derogatory language against persons with disabilities.

(2) The Government shall prohibit and criminalize any form of abuse and harmful p targeted at persons with disabilities.

## **PART XV - SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES**

### **68. Protection and safety of persons with disabilities**

(1) The agency responsible for disaster Management shall include persons with disabilities as a target vulnerable group in disaster management planning activity implementation and assessment.

(2) Persons with disabilities shall have their rights be respected in situations of risk, including, but not limited to, armed conflict, civil unrest, humanitarian emergencies and natural disasters.

## **PART XVI - MISCELLANEOUS PROVISIONS**

### **69. Delegation of powers or functions by the Minister**

The Minister may delegate some of his or her powers or functions to any government department or any person for the exercise by that department or person as the case may be, for activities outlined in this Act.

### **70. Offences and penalties**

(1) A person who –

- (a) procures or by conduct causes a person with a disability not to be admitted to any place;
  - (b) discriminates against persons with disabilities for whatever reasons;
  - (c) hides, conceals or causes a person with a disability not to have access to or be admitted to schools or training institutions for whatever reason;
  - (d) abandons, rejects or denies a person with a disability the right to social support;
  - (e) denies the admission of the persons with disabilities to any heritage site or institution;
  - (f) fails to conduct reasonable inquiry;
  - (g) objects to a lawful order or obstructs any officer or institution in the performance of its functions;
  - (h) builds or constructs any public premises that is not accessible to persons with disabilities;
  - (i) denies the participation of a person with a disability in social, economic and political activities;
  - (j) fails to provide health care and rehabilitation to a person with a disability;
  - (k) without good cause, denies employment to a person with a disability;
- (l) makes an unauthorised entry or alteration on the register; and

(m) denies or discriminates against any person with a disability in relation to access to health care and rehabilitation,

commits an offence and is liable on conviction –

(I) in case of body corporate, to a fine of hundred thousand dalasis;  
or

(II) in case of a natural person to a fine of fifty thousand dalasis or six months imprisonment or to both; and

(III) in the case of forgery charge according to the criminal code.

(2) A person who knowingly aids, abets, counsels another person in committing an offence under sub-section (1) shall be deemed to have committed the offence.

## **71. Regulations**

The Minister may, upon the recommendation of the Advisory Council, and in consultation with the Advisory Council, by statutory instrument, make regulations prescribing -

- (a) application and registration standards for the establishment and management of settlements for persons with disabilities;
- (b) early detection, intervention, assessment and treatment of disability;
- (c) treatment and medicines for infants and children with disabilities;
- (d) provision of assistive devices;
- (e) responsibilities of local government authorities, private sectors, community and other institutions under this Act;
- (f) inclusion of persons with disabilities;
- (g) registration of persons with disabilities, employers, institutions, associations and other organizations including those controlled and managed by the Government and local government authorities providing services for the rehabilitation of persons with disabilities;
- (h) the manner in which extra time suitable for students with special needs during examinations shall be given;
- (i) standards and code of ethics;



- (j) industrial rehabilitation;
- (k) co-ordination of services provided to persons with disabilities;
- (l) setting of an average number of persons with disabilities to be employed by every employer;
- (m) dispute settlement mechanism;
- (n) treatment and handling of persons with disabilities in retention homes and prisons;
- (o) rights and welfare of persons with disabilities in remands and prisons;
- (p) in collaboration with relevant Ministers, driving and road safety matters in respect of persons with disabilities;
- (q) fees and charges; and
- (r) any other matters related to the development, protection and promotion of welfare and rights of persons with disabilities.

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**HON. FATOU KINTEH**  
**MINISTER OF GENDER, CHILDREN AND SOCIAL WELFARE**