

# PERSONS WITH DISABILITIES ACT 2025

A Simplified Guide



# A Simplified Guide to the Persons with Disabilities Act, 2025





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## FOREWORD

We at the United Disabled Persons of Kenya (UDPK) are proud to share this Simplified Guide to the Persons with Disabilities Act, 2025. The purpose of this guide is to support you as a person with disability, your family, and the broader community to better understand and apply the rights guaranteed under the law.

The Persons with Disabilities Act, 2025, is a landmark law that protects and promotes the rights of persons with disabilities. It affirms that every person with disability has the right to live with dignity, enjoy equal opportunities, and participate fully in all aspects of community life. Yet a law can only make a real difference when people know about it, understand it, and use it. Many

persons with disabilities face barriers in accessing information about their rights, navigating legal and policy language, and interacting with institutions and services that should safeguard their inclusion. This guide is intended to help close that gap by making the Act easier to understand and apply in everyday life.

The guide has been designed to deepen understanding of the Persons with Disabilities Act, 2025. By presenting the key provisions of the law in simplified and accessible language, the guide makes it easier for readers to connect the Act to real-life situations. It serves as a resource for persons with disabilities, their families, decision makers, service providers, employers and community leaders to strengthen their knowledge, advocate more effectively, and promote inclusion and accountability. I encourage you to read it, share it widely, and most importantly, put it into practice. Together, we can create a Kenya where persons with disabilities live with dignity, enjoy their rights, and participate fully in every sphere of life on an equal basis with others.

**Sally N Nduta**

**Chief Executive Officer  
United Disabled Persons of Kenya**

## ACKNOWLEDGEMENTS

The United Disabled Persons of Kenya (UDPK) acknowledges the organisations of persons with disabilities (OPDs) across the country. Their leadership, advocacy, and lived experiences have been the driving force behind the development of the Persons with Disabilities Act, 2025 and this publication. It is through the resilience, commitment, and unity of OPDs that disability rights continue to advance in Kenya.

We also extend deep appreciation to the reviewers, technical experts, self-advocates, caregivers, and community members who shared their voices, perspectives, and professional insights during the review process. Their combined contributions ensured that this publication is both accurate and practical, reflecting the lived realities of persons with disabilities.

UDPK is especially indebted to Commissioner Lawrence Mute, who not only authored the text but also carefully wove together the diverse perspectives, legal provisions, and practical experiences into a single, accessible, and user-friendly publication. His meticulous work in drafting, refining, and harmonising the different contributions ensured that this report truly serves as a bridge between complex legislation and the lived realities of persons with disabilities.

The production of this report was made possible through the generous financial support of the Embassy of Denmark in Kenya, channelled through Uraia Trust. Their partnership demonstrates a shared commitment to inclusion, democracy, and human rights.

Above all, UDPK recognises that this publication belongs to the disability movement in Kenya. It is dedicated to all persons with disabilities, who continue to claim their rightful space in shaping the destiny of our nation. At the same time, it speaks to parents, caregivers, communities, policy makers, and partners in government, civil society, and the private sector, reminding them of their shared responsibility to uphold the rights and dignity of persons with disabilities.

## CHAPTER ONE: BACKGROUND

The aim of this publication is to introduce and explain the Persons with Disabilities Act, 2025. This Act came into force on 27 May 2025, following its enactment by Parliament. The Act replaced the Persons with Disabilities Act, 2003, the first elaborate law on matters of disability in the country.

This publication is prepared by the United Disabled Persons of Kenya (UDPK), which is the umbrella organization that brings together diverse organizations of persons with disabilities (OPDs) in the country. UDPK aims to champion effective and full participation of persons with disabilities in all aspects of life and strengthening organisations of persons with disabilities for self-advocacy.

UDPK has prepared this publication for you as a person with disability to explain what the Persons with Disabilities Act, 2025, provides. The publication is also important for you as the parent or caregiver of a person with disability, and for you as a member of the general public. Each one of you may use the information in this publication to raise the awareness of others and to build the capacities of duty bearers on the Act.

You may have particular interests and needs. For example, you may need to know the rights elaborated in the Act, or you may need to know the reliefs and incentives which the Act establishes. All that information is in this publication.

This publication is written primarily for you as a person with a disability. It uses plain language to explain the provisions of the Act. The publication will address you directly, and it will use illustrations from your everyday experiences.

Keep in mind, though, that you should not read this publication as if it is the actual Persons with Disabilities Act, 2025. If you need to take specific legal action, it will be necessary that you refer to the provisions in the actual Act. As we have stated, this publication is made to make you aware of and build your capacities on the Act.

## SUMMARY

- This publication uses plain language and illustrations to introduce the Persons with Disabilities Act, 2025.
- It is written primarily for persons with disabilities.



### Key events

When Kenya enacted the first ever law on disability in 2003, persons with disabilities gained significant entitlements, reliefs and incentives, which they enjoyed for over two decades. Yet, persons with disabilities started to advocate for the enactment of new legislation on disability as long ago as 2009.

A number of key events made it necessary for the 2003 Persons with Disabilities Act to be replaced with a new one. First, in 2008, Kenya became a party to the Convention on the Rights of Persons with Disabilities (CRPD), which had been adopted by the United Nations in 2006. The CRPD established new clear legal standards for promoting and protecting the rights of persons with disabilities. Kenyans with disabilities found it important that their domestic law on disability should include those standards. Second, the country adopted the Constitution of Kenya, 2010, which, as we shall explain below, includes significant provisions on matters of disability and persons with disabilities. It then became even more important to enact legislation on disability that conformed to the provisions in the Constitution. Finally, in 2023, Kenya became party to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, adopted by the African Union in 2018.

Advocacy for new disability legislation has been a truly democratic process. It has involved legislators in the 12th and 13th Parliaments, State agencies like the Ministry of Labour and Social Protection, the National Council for Persons with Disabilities, the Kenya National Commission on Human Rights, and the National Gender and Equality Commission. Important advocacy has also been undertaken by organisations of persons with disabilities, including the United Disabled Persons of Kenya, the Caucus for Disability Rights Advocacy, organisations of parents and caregivers of persons with disabilities, and organisations for persons with disabilities.

### CONSTITUTIONAL, STATUTORY AND POLICY CONTEXT

The Constitution establishes an elaborate legal and institutional framework for ensuring the inclusion of persons with disabilities in society. It establishes national values and principles of governance which apply whenever a State organ, State officer and other person interprets the Constitution or enacts or adopts, or implements a law or policy. Of particular relevance to persons with disabilities are the values of human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised. The Constitution also prohibits direct or indirect disability-based discrimination.

Additionally, Article 54 of the Constitution establishes entitlements of persons with disabilities. These include entitlements:

- To be treated with dignity;
- To access educational institutions and facilities;
- To reasonable access to places;
- To use appropriate means of communication; and
- To access appropriate materials and devices.

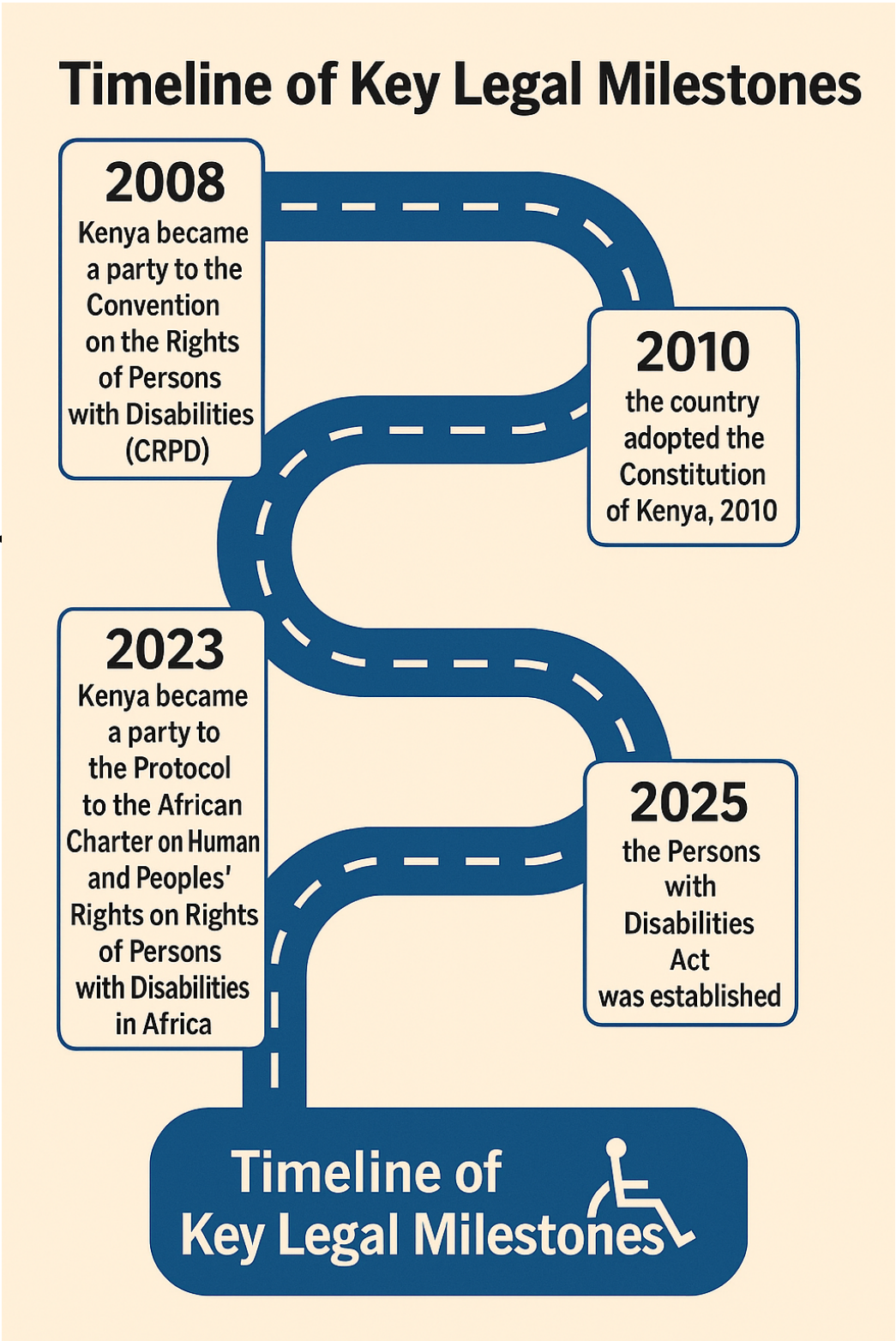
As we have already explained, Kenya is a party to the CRPD, which, therefore, is part of the laws of Kenya under the Constitution. As well, the African Disability Protocol, which came into force in 2024, is part of Kenyan laws under the Constitution.

Laws of general application in the country also apply to persons with disabilities. This is the case even where such laws do not make explicit mention of persons with disabilities. Nowadays, it is more common for laws across various spheres of life to make express mention of persons with disabilities. This, for example, is the case with the Basic Education Act, the Employment Act, and the Children Act.

Summary

- The key events that resulted in the enactment of the Persons with Disabilities Act, 2025, were the adoption of the CRPD, the promulgation of the 2010 Constitution, and the adoption of the African Disability Protocol.
- Advocacy for the Act was undertaken by persons with disabilities and other stakeholders.
- The Constitution makes important provisions ensuring the inclusion of persons with disabilities in society.

Laws of general application in the country also apply to persons with disabilities.



Structure of the Act

The Persons with Disabilities Act has 89 sections set out in the following seven parts:

- Part I: preliminary;
- Part II: obligations of the national and county governments;
- Part III: rights of persons with disabilities;
- Part IV: establishment, powers and functions of the National Council for Persons with Disabilities;
- Part V: reliefs and incentives;
- Part VI: offences and penalties; and
- Part VII: miscellaneous.





## **Purpose of the Act – Preamble**

According to its preamble, the purposes of the Persons with Disabilities Act are fourfold. First, it gives effect to Article 54 of the Constitution. The provisions in the Act elaborate how persons with disabilities may enjoy their entitlements under Article 54 of the Constitution. Second, the Act restructures the National Council for Persons with Disabilities, and it provides for its functions and powers. Third, the Act provides for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities. Finally, it provides for incentives and reliefs.

## **A person with disability under the Act – Section 2**

Under the Act, you are a person with disability if you have a long-term physical, mental, intellectual, developmental or sensory impairment, that interacts with various barriers to hinder your full and effective participation in society on an equal basis with others.

### **From the medical model of disability to the social model of disability**

The Act adopts the social model of disability, which recognises that disability arises not solely from individual impairments but from barriers within society and the built environment. Accordingly, the Act emphasises the need to redesign social structures and physical spaces to accommodate the diverse needs of individuals with visual, hearing, physical, albinism, psychosocial, intellectual or other impairments. This marks a significant shift from the medical model of disability, which traditionally views disability as a health condition to be treated or cured. Instead of focusing on fixing the person, the Act prioritises removing attitudinal, institutional, environmental, and information and communication barriers that limit full participation in society.

Additionally, the act recognizes that persons with disabilities are rights-holders and the State and other actors are duty-bearers obliged to respect, protect and fulfil these rights on an equal basis with others.

## **Guiding values and principles – Section 3**

The Act establishes the following values and principles to guide all State bodies and officials, and all persons:

- Respect for inherent dignity and individual autonomy including the freedom to make one's own choices, and the independence of all persons in the conduct of their private affairs;
- Equality and non-discrimination;
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Access to information;
- Equality between men and women; and
- Respect for the evolving capacities of children with disability and respect for the right of children with disability to preserve their identities.

## SUMMARY

Disability results from the interaction of your impairment with attitudinal, institutional, environmental, and information and communication barriers that limit your full and effective participation in society on an equal basis with others.

## CHAPTER FOUR: OBLIGATIONS OF THE NATIONAL AND COUNTY GOVERNMENTS

Part II of the Act establishes obligations which the national and county governments must take to ensure your full inclusion in society as a person with disability.

### Obligations of the national government – Section 4

The Act obligates the national government to protect and promote your rights as a person with disability. It obligates the government to promote inclusive education and inclusive employment for yourself and other persons with disabilities. At least five percent of employment positions should be filled by persons with disabilities. The Act requires the national government to develop supportive policies, infrastructure, and assistive technologies, while ensuring equitable resource allocation across disability categories. The Act also obligates the national government to enforce accessibility standards in transport and communication, affirmative action in procurement, and appropriate support mechanisms for caregivers.

#### Line ministries and line departments should provide inclusive services

Have you gone to seek services at the government's local education office or employment office? If the officers turn you away because you have a disability, they are failing to adhere to their obligations under the Act. Government departments should provide you with services in the same way that they provide services to individuals who are not persons with disabilities. While the National Council for Persons with Disabilities can provide you with certain services, it is the responsibility of line ministries and line departments to provide inclusive services to all persons.

### Obligations of county governments – Section 5

The Act obligates county governments to support and empower you as a person with disability by implementing county policies, allocating sufficient resources to targeted programs, and ensuring inclusive access to free and compulsory pre-primary education and other social amenities. It obligates county governments to share information on their disability-focused initiatives, and it requires them to establish affirmative action measures, such as reserving at least five percent of public service jobs and prioritising procurement from disability-led entities.



### County laws on disability

Has your county assembly enacted a law on persons with disabilities? If it has, it is important that you ask your governor and your county assembly to review that law to align it with the new national law on persons with disabilities. If your county has not enacted such a law, it is now required to do so under the Act.

Remind the governor and the assembly that they should not simply copy and paste the provisions in the national law into their county law. The county disability law should be based on the functions designated to counties under the Fourth Schedule of the Constitution.

These functions include:

- Agriculture;
- County health services;
- Cultural activities, public entertainment and public amenities;
- County transport;
- Animal control and welfare;
- Trade development and regulation;
- County planning and development;
- Pre-primary education, village polytechnics and childcare facilities;
- County public works and services;
- Firefighting services and disaster management;
- Control of drugs and pornography; and
- Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.



## SUMMARY

- The Act establishes specific obligations which the national and county governments should fulfil to ensure you may enjoy your rights fully.

**County governments should align their legislation to conform with the Persons with Disabilities Act, 2025.**

## CHAPTER FIVE: RIGHTS OF PERSONS WITH DISABILITIES

Part III of the Act elaborates the application of the Bill of Rights in the Constitution to persons with disabilities. Part III of the Act also supplements Article 54 of the Constitution which establishes specific entitlements for persons with disabilities.

### **Persons with disabilities enjoy all rights even where disability is not mentioned expressly**

Keep in mind that all the rights established in the Constitution apply to you as a person with disability, even where disability is not mentioned expressly. The elaboration of your rights in Part III of the Act makes it easier for relevant State agencies to focus on their implementation and for you to seek remedies when you think your rights have been violated or abused.

### **Right to equality and non-discrimination – Section 6**

The Act affirms that as a person with disability, you are equal before the law, and you have equal protection of the law, equal benefit of the law, and effective legal protection against discrimination on all grounds. You are also entitled to the full and equal enjoyment of goods, services, facilities or accommodations, on an equal basis with others.

The Act also provides that it is not discriminatory for the State or any other person to take specific measures necessary to accelerate or achieve equality and eliminate discrimination against persons with disabilities. Later in this chapter, we shall explain what specific measures are.

### **Meaning of discrimination**

1. Under Section 2 of the Act, discrimination on the basis of disability takes place when a person or entity makes a 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. It includes denial of reasonable accommodation.
2. Accordingly, discrimination on the basis of disability has four forms: direct discrimination, indirect discrimination, harassment, and denial of reasonable accommodation.
3. Under Section 2 of the Act, reasonable accommodation is necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.
4. Direct discrimination happens when a person with disability is treated less favourably than others in the same situation, just because of their disability (or another prohibited ground of discrimination like age, sex or others). For example, if a public school refuses to admit a child with disability because they don't want to adjust their learning programs, that is direct discrimination, since the refusal is based only on the child's disability.
5. Indirect discrimination means that laws, policies or practices appear neutral at face value but actually disadvantage persons with disabilities. For example, if a school does not provide books in Easy-Read format, it would indirectly discriminate against students with intellectual disabilities, who, although technically allowed to attend the school, would not really access learning on an equal basis with others.
6. Harassment is a form of discrimination when unwanted conduct related to disability or other prohibited grounds of discrimination takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

## Right to legal capacity – Section 7

As a person with disability, you have the right to recognition everywhere as a person before the law. You also have the right to enjoy legal capacity on an equal basis with others in all aspects of life. The Act entitles you to the support services you may require to exercise your right to legal capacity. Additionally, you have the right to own and inherit property, to control your own financial affairs, and to have access to savings and loan facilities, mortgages and other forms of financial credit, on an equal basis with others.

### Meaning of legal capacity

Under Section 2 of the Act, legal capacity means that as a person with disability, you have the ability to hold rights and duties under the law, and you have the right to exercise those rights and duties.

For example:

1. As a person with psychosocial disability, like all other persons, you have legal agency to undertake your everyday activities without the interference of any other person. It is illegal for your spouse to collude to have you confined in a hospital against your wishes.
2. Your brothers or sisters cannot take away the acre of land you are to inherit from your parents, because you have an intellectual disability.
3. A bank cannot say it will not issue you with a debit card or credit card, because you are blind, and the bank is protecting you against individuals who will steal money from your account.
4. As a non-speaking autistic young person, a bank cannot prevent you from opening or running a bank account or insist that your parent or caregiver open it and run it on your behalf.

## Right to marry and form a family – Section 8

The Act provides that as an adult with disability, you have the right to marry a person of the opposite sex, and the right to form a family based on free and full consent.

The Act also guarantees you the right:

- To control your sexual and reproductive health;
- Not to be separated from your child on the ground of disability; and
- To protection for the property you acquire at marriage, during marriage and at the dissolution of marriage.

### Free and informed consent

1. A person with any disability, therefore, can marry under this Act. For example, a woman or man with psychosocial disability who wishes to marry, like other persons, needs to show that both parties enter the marriage on the basis of free and informed consent.
2. It is illegal for a government agency to take a child away from its parents, arguing that they cannot take care of the child because both parents have disabilities.

## Right to privacy – Section 9

The Act guarantees you the right to privacy. It also guarantees you the right not to be subjected to arbitrary interference and intrusion with your privacy, family, home or correspondence or other types of communication.

The Act obligates public or private institution:

- To protect confidential information relating to your personal health, and the habilitation or rehabilitation services provided to you; and
- Not to share such information without your express authority.

### Information on your health is confidential

For example:

1. When you seek medical attention at a facility which provides you, as a deaf person, with sign language interpretation, the hospital must ensure that the sign language interpreter or health worker does not divulge your medical condition to third parties.
2. If, as a blind person, you take an HIV test at a voluntary counselling and testing centre, its employees must ensure that you are given the test results in a confidential setting.

## Women with disabilities – Section 10

As a woman with disability, you have the right to enjoy human rights and fundamental freedoms without discrimination on an equal basis with others.

This includes the following rights:

- The right to participate in social, economic and political decision-making;
- The right to be protected from sexual and gender-based violence;
- The right to be provided with habilitation, rehabilitation and psychosocial support against sexual and gender-based violence;
- The right to sexual and reproductive health services;
- The right to retain and control your fertility;
- The right to keep your child, and the right not to be deprived of the child on grounds of disability; and
- The right to full development, advancement and empowerment.



## Sexual and reproductive health services

There could be instances where:

- Health workers may have treated you as a woman with physical disability in a cruel and undignified way when you sought sexual and reproductive health services. A worker may have scoffed at you, shocked that you allowed a man to make you pregnant when you were using a wheelchair. The worker may have told you that the man was very unkind. This is wrong; you have a right to enjoy your sexual and reproductive health rights, with a partner of your choice, and to be provided with the services on an equal basis with others.
- Health workers may have sterilised you as a woman with intellectual disability without seeking your free and informed consent. When asked, they may say that they sterilised you to protect you from becoming pregnant again because you have an intellectual disability. Sterilising you without your free and informed consent is unlawful and morally wrong. It assumes that you, as a woman with intellectual disability, cannot have consensual sex or that you may not want to have a child at a time of your choosing.

## Children with disabilities – Section 11

As a child with disability, you have on an equal basis with others, the following rights and freedoms:

- The right to a name and to registration immediately after birth;
- The right to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance, and independence;
- The freedom to express your views on all matters affecting you;
- The right to age and gender appropriate assistance to realise your rights;
- The right to live with your family for as long as is necessary;
- The right to access quality and inclusive education;
- The right to access appropriate health care services; and
- The right to protection from abuse, exploitation and harmful practices.



### Killing infants with disabilities

1. The belief persists in some communities that children born with disabilities are cursed, bewitched and possessed; and that disability is a punishment for the sins of the mother. If the firstborn baby has a disability, it is believed that it should be killed if the parents want to have more children. This belief has resulted in the killing of infants born with disabilities.
2. Infants with albinism have also been killed or maimed for being perceived as ill omens. Others have faced ritual rape, the belief being they can cleanse their rapists of diseases such as HIV/AIDS.

## Youth with disabilities – Section 12

As a youth with disability, you are entitled to enjoy human rights and fundamental freedoms on an equal basis with other youth.

The Act obligates the National Council for Persons with Disabilities, in consultation with the national and county governments, and other State agencies, to take policy, legislative, administrative and other measures to ensure that your rights are fully respected.

These measures cover:

- The promotion of full, inclusive and accessible education, training and employment programmes;
- The promotion of your inclusion in mainstream youth organisations and programmes;
- The removal of barriers that hinder or discriminate against your participation in society;
- The promotion of your training and access to information, communication and technology;
- The development of programmes to overcome your social and economic isolation, and the removal of systemic barriers in the labour market;
- Access to credit facilities;
- The development and implementation of specific measures to facilitate your full and equal participation in training, sports, culture, science and technology; and
- Access to appropriate sexual and reproductive health education on an equal basis with others.

### Sexual and reproductive health services for youth with disabilities

It is common for parents and community educators not to provide youth with disabilities information on sexual and reproductive health services at the same level as they provide to youth without disabilities. Society assumes that youth with disabilities are not sexually active. Community outreach programmes even discourage youth with disabilities from attending community meetings where the use of condoms is being demonstrated to other youth.

## Older members of society – Section 13

As an older member of society with disability, you have the right to enjoy human rights and fundamental freedoms on an equal basis with others.

In particular, you have:

- The right to access social protection programmes;
- The right to exercise your legal capacity, and the right to be provided with the support you may require to exercise your legal capacity; and
- The right to access inclusive services.

### The rights of older women with disabilities

You are a 70-year-old woman with limited mobility living in the countryside. When you leave your home, you use a crutch to assist you to walk. When you seek to meet the teacher of your grandchild who you educate, you find it difficult to access the local primary school which is built at the top of a steep hill. Lately, your neighbours have started to whisper that you are an old witch, and you fear one day they might attack your home at night, possibly killing you and your grandchild. The Act guarantees you barrier-free access, and it also requires the State to protect you from violence.



## Documents of registration or identification – Section 14

The Act provides that as a person with disability, you have the right to be issued with a certificate of birth, national identification card, passport, disability identification card and any other document of registration or identification free of charge. The Act also provides that you may not be deprived, on the basis of disability, of your ability to obtain, possess and utilise documentation of your nationality or other documentation of identification, or to utilise relevant processes, that may be needed to facilitate exercise of other rights.

### Identity cards

Many persons with disabilities find it difficult to obtain identity cards. Adults with disabilities with high support needs face immense physical and social barriers which make it difficult for them to go to designated offices to apply for identity cards. A study undertaken by the National Gender and Equality Commission in 2015 found that only 51.1 percent of persons with disabilities had an identity card. This left them facing difficulties registering to vote and participating in elections.

## Physical and mental integrity – Section 15

As a person with disability, you have the right to respect for your physical and mental integrity. You also have the right to security of person, including your survival, liberty, protection and development.

### Physical integrity and mental integrity

1. Physical integrity refers to your right as a person with disability to bodily autonomy and protection from physical harm. The right to physical integrity affirms you are free from non-consensual medical procedures. You also have the right to make decisions about your own body, and the right to equal respect for your physical boundaries, just like anyone else.
2. Mental integrity refers to your psychological autonomy and protection from mental harm. In that regard, you have the right to informed consent for psychiatric treatment or therapy, and the freedom from coercive interventions, such as forced medication or seclusion. You have the right to respect for your thoughts, emotions, and mental privacy, and the right to protection from stigmatisation or discrimination based on psychosocial or intellectual disabilities.

## Human dignity – Section 16

As a person with disability, you have the right to human dignity, and the right for that dignity to be respected and protected. In particular, you have the right not to be referred to by demeaning, embarrassing, derogatory and any other term that may be considered as lowering your human dignity.

### Meaning of human dignity

1. Human dignity is the idea that every person has intrinsic worth and deserves to be treated with respect—simply because they are human.
2. Human dignity affirms that you have inherent value in spite of your background, beliefs, age or abilities.
3. Dignity demands that you should be treated fairly and equally with others.
4. Dignity requires that you should have the freedom and autonomy to make your own choices for your life.

## Abuse, exploitation and violence – Section 17

As a person with disability, you have the right to be protected against all forms of abuse, neglect, exploitation and physical, mental, sexual, or emotional violence on your person. This right applies in all settings and at all places, including home, care-houses, educational institutions, hospitals, and work-places.



If any person or organisation has reason to believe that an act of exploitation, neglect, violence or abuse has been, or is being, or is likely to be committed against you, that person or organisation is required to give the information to law enforcement agencies. The Act requires law-enforcement agencies to take immediate steps to prevent or stop your exploitation and to arrest those responsible for it.

### Illegal confinement of persons with psychosocial disabilities

In 2023, an ad hoc committee established by the Senate to investigate the proliferation of religious organisations reportedly rescued eight persons with psychosocial disabilities who were chained in a

compound of the Holy Coptic Ghost Church in Kisumu County. The Church confined persons with psychosocial disabilities on the premises with the pretext of praying for their healing.

## Situations of risk – Section 18

As a person with disability, you have the right to protection in situations of risk, including situations of armed conflict, humanitarian emergencies and when natural disasters occur.

The Act establishes the following obligations to ensure you may enjoy this right:

- Public and private institutions should maintain inventories of persons with disabilities in their establishments. Subject to data protection protocols, they should submit such inventories to the national and county governments, and other agencies responsible for disaster management.
- Public and private institutions engaged in emergency or humanitarian services, including the Kenya Defence Forces and the National Police Service, should give priority and specific attention to you as a person with disability, in all situations of risk.
- Entities which run places to which the public has access should take appropriate measures to ensure your protection and safety in situations of risk.
- Public and private construction and reconstruction emergency or humanitarian programmes and activities should, in consultation with the National Council for Persons with Disabilities, take into account your accessibility requirements.

### Situations of risk

1. Under Section 18 of the Act, situations of risk include fire, floods, earthquakes, epidemics, cattle rustling, ethnic conflicts and terrorism.
2. The measures that State agencies should take in line with the Act may include providing inclusive and accessible early warning systems to communicate imminent or actual disasters. Where the State establishes a disaster alert app, it must ensure the app is accessible to persons with different disabilities. For instance, a deaf person may not hear verbal evacuation orders, while a blind person may not see emergency lights.



## Specific measures – Section 19

As a person with disability, you are entitled to specific measures to accelerate equal participation in the social, cultural, economic, civil, political, or any other field.

The Act obligates public and private institutions to take effective measures and, where appropriate, specific measures, to ensure the continuing improvement of your economic and social conditions.

### Meaning of specific measures

- Under Section 2 of the Act, specific measures are laws, policies and practices designed, adopted and implemented to fulfil equal enjoyment of rights of persons with disabilities. These measures may include outreach or support programmes; allocation or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems.
- For you to enjoy your rights on an equal basis with your peers who are not persons with disabilities, the Act empowers the government to implement preferential treatment or establish and invest in targeted programmes. An example of such targeted programmes is the Access to Government Procurement Opportunities Programme which reserves 30% of public procurement opportunities for women, youth and persons with disabilities.
- Remember that specific measures are not charity. Specific measures seek to ensure fairness, equality and social justice.

## Education – Section 20

As a person with disability, you have the right to education. You have the right to admission to any institution of learning, and the right to access an inclusive quality education on an equal basis with others. You have the right not to be excluded from the education system on the basis of disability. As well, you have the right to receive the support services you require, within the general education system, to facilitate your effective inclusive education.

As a child with disability, you have the right to free and compulsory basic education. You cannot be excluded from free and compulsory early childhood, primary or secondary education on the basis of disability. As well, you have a right to equal access to play, recreation and leisure and sporting activities.

As a learner with disability, you have the right to be assessed and placed in an appropriate learning institution in accordance with the outcome of the assessment.

The Act establishes a number of obligations for various actors to ensure that as a person with disability you can enjoy your right to education.

It obligates the Ministry for Education to formulate strategies to implement inclusive education. The ministry should also work to provide for an integrated system of special and non-formal schools and institutions, to cater for skills development and self-reliance. This is especially for deaf persons, blind persons, deaf-blind persons, and persons with developmental disabilities. The Act also obligates the ministry to work to establish Braille and recorded libraries for persons with visual disabilities.

The Act requires the Cabinet Secretary responsible for education:

- To develop an adaptable examination framework and award a certificate to you as a child with intellectual disability.
- To facilitate, through policies and legislation, your development as a person with disability through your personality, talents and creativity, as well as your mental and physical abilities, to your fullest potential.
- To provide, in collaboration with relevant line ministries, training facilities for speech therapy, occupational therapy, physiotherapy, guidance and counselling, audio-logical assessments, habilitation, and oral rehabilitation, for you as a child with disability.
- To make policy, legislation and sustainable financial frameworks, together with the county education committees, in each financial year, to achieve full realisation of the right to education for you as a person with disability.

The Act establishes the following further obligations for other actors:

- The national government should facilitate your participation in accessible and adaptable continuing adult education programmes on an equal basis with others.
- The national and county governments should ensure that you have access to inclusive education, without discrimination and on an equal basis, at all levels.
- The National Council for Persons with Disabilities, in consultation with relevant government establishments, should ensure that learning institutions take into account your needs as a person with disability with respect to entry requirements, pass marks, curricula, examinations, auxiliary services, use of school facilities, class schedules, physical education requirements and other similar considerations. It also obligates these institutions to ensure that learning institutions provide you individualised support measures, appropriate equipment, assistive devices, adaptive technologies and other supportive services in environments that maximise academic and social development. These should be consistent with the goal of your full inclusion as a student with disability.

### **Inclusive education**

1. Under Section 2 of the Act, inclusive education is an approach where learners and trainees with disabilities are provided with appropriate educational interventions within regular institutions of learning, with reasonable accommodations and support.
2. For example, as a child with dyslexia, you have the right to learn in an inclusive school. Some teachers may complain that you lower the school mean grade and that, therefore, your parents should move you from the school. Under the Act, it is unlawful for the school administration to force your parents to move you from your school.
3. Many children with disabilities do not have the option of learning alongside their sisters and brothers in the local community school. Instead, they have to travel long distances to attend so-called special schools, where they stay away from their parents and siblings for most of the year. Inclusive education provides such children with the option of learning in the neighbourhood school and growing up in the local community.
4. As a child with a disability, you should also have the option of learning alongside other children with disabilities if that is your preference. Deaf children may wish to learn together with each other in an environment where they can develop Deaf Culture and Kenyan Sign Language.

## Work and employment – Section 21

The Act prohibits an employer from discriminating against you as a person with disability in job application procedures, hiring, advancement and other terms, conditions, and privileges of employment.

The Act obligates every public and private employer with at least 20 employees to reserve at least five percent direct employment opportunities for persons with disabilities to secure employment. The Act establishes the following additional obligations for public and private employers to ensure that as a person with disability, you may enjoy the right to work and employment:

- Your employer should formulate policies and programmes to improve your working conditions, and to enhance your employment opportunities.
- When recruiting, employers should not discriminate on account of disability. They should not conduct any test or examination to establish whether as an applicant, you are a person with disability. Additionally, they should not use a test or examination as a basis for determining the nature or severity of your disability.
- Your employer should carry out appropriate modifications in the work premises to accommodate your employment.
- Your employer should apply specific measures to you in promotions, training and other related matters arising in the course of, or through the length of employment.

The Act requires all employers to submit to the National Council for Persons with Disabilities an annual report on the status of employment of persons with disabilities within their establishments.

The Act provides that the age of retirement for persons with disabilities is five years above the mandatory age of retirement set by the government.

The Act lists the following as acts that may constitute discrimination:

- Limiting, segregating or classifying you as a job applicant with disability in a manner which adversely affects your work opportunities;
- Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out or prohibit your career progression;
- Utilising 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;
- Providing less payment, remuneration or fringe benefits to you as an employee with disability than the amount paid to fellow employees performing the same work;
- Favouring an employee without disability over you as an employee with disability with respect to promotion, training opportunities, study and scholarship grants, on account of your disability;
- Reassigning or transferring you as an employee with disability from a task or position you are able to perform to one which you cannot perform because of your disability;
- Failing to select or administer, in the most effective manner, employment tests which accurately reflect your skills and aptitude as an applicant or employee with disability, rather than your impaired sensory, manual or speaking skills; and
- Excluding you as a person with disability from membership in trade and labour unions or similar organisations.

For purposes of employment under the Act, accessibility and/or reasonable accommodation measures that may be provided to you as a person with disability include the following:

- Making existing facilities used by employees readily accessible to and usable by you;
- Restructuring your job, establishing part time or modified work schedules, reassigning you to a vacant or suitable position, acquiring or modifying equipment or devices for you, undertaking appropriate adjustments or modifications of examinations, training materials or policies, and providing you with qualified readers or interpreters; and
- Paying assistive allowances to you as an employee with disability.



- Limiting or classifying a job applicant or employee in an adverse way;
- Denying employment opportunities to qualified persons;
- Not providing reasonable accommodation;
- Not advancing employees with disabilities in employment; and
- Not providing necessary accommodations in training materials or policies, and not providing qualified readers or interpreters.

#### **Distinguishing between employment tests that assess the skills and aptitude of job applicants with disabilities, and discriminatory tests that focus on disability**

When interviewing a job applicant with disability, it is illegal and unethical to ask questions focusing on the candidate's disability instead of their qualifications. It is inappropriate to ask questions that assume limitations or make disability-based value judgements. Rather, interviews should focus on the applicant's qualifications, experiences and professional strengths.

Questions that may amount to disability-based discrimination include the following:

1. "How will you manage to read news bulletins on our radio station since you are blind?"
2. "It seems you have a psychosocial disability. Will your disability affect your ability to meet deadlines?"
3. "It seems you have an intellectual disability. Are you sure you will be able to handle complex tasks?"
4. "Have you always had a disability?"
5. "We see you have a physical disability. Are you sure you have the stamina to work for eight hours?"
6. Appropriate questions include the following:
7. "What motivated you to pursue a career in medicine?"
8. "Can you describe a task you are especially proud to have worked on?"
9. "How do you approach legal research and document review?"
10. "What types of support or tools help you perform at your best?"

## No dismissal – Section 22

The Act prohibits your employer from dismissing or reducing your rank on the grounds of disability, acquiring any disability, or any consequences thereof. If, as an employee with disability, you are placed under undue stress or disadvantage in the usual course of employment as a result of disability, you are eligible for a position at the same rank with adequate support. If the nature of your disability so requires, you may be deployed to another post with the same pay scale and service. If that is not possible, you may be kept on a temporary post until a suitable post is available, or until you attain the age of retirement, whichever is earlier.

### Employment disability-discrimination

1. It has been common for the Kenya Police Service to retire police officers who acquire disability in the course of their work. Courts have decided that where a police officer may not be able to perform certain tasks because of disability, the Police Service should reassign such officers other tasks within the Service.
2. Courts have also found that it is discriminatory for an employer to reduce an employee's rank because of her disability.

## Tax incentives – Section 23

The Act provides tax incentives for private employers covering:

- Taxable income deduction equivalent to 25% of the total amount paid as salary and wages to employees with disabilities; and
- Deductions from the employer's net taxable income equivalent to 50% of the direct costs of improvements, modifications or special services made to improve or modify its physical facilities, or made to avail appropriate services in order to provide reasonable accommodation for you as an employee with disability.

## Health – Section 24

As a person with disability, you have the right to enjoy the highest attainable standard of health, including health-related habilitation and rehabilitation services, without discrimination on the basis of disability.

You also have the following other rights:

- The right to enjoy sexual and reproductive health rights on an equal basis with other persons;
- The right to information to enable you make responsible and informed choices about your sexual and reproductive health;
- The right to be treated with respect, privacy and dignity while seeking health-related services;
- The right to access health care on the basis of free and informed consent; and
- The right not to be subjected to any medical procedure which leads to or could lead to infertility without your express consent.

The Act also entitles you to free medical care and treatment in public health institutions. Additionally, you are entitled to receive disability medical assessment reports, including for purposes of registration under the Act, free of charge in public health institutions.

The Act obligates the national and county governments to ensure that all health institutions have an adequate number of Kenyan Sign Language interpreters in their institutional structures.

## Freedom of expression – Section 26

As a person with disability, you have the right to freedom of expression and opinion. This includes the freedom to seek, receive and impart information and ideas, and the right to access information, on an equal basis with others, in a timely manner and without additional cost. Additionally, you have the right to information, communications technologies and systems, including talking software, Braille materials, hearing aids and other forms of communication devices.

The Act establishes the following obligations to enable you as a person with disability to enjoy the right to freedom of expression and access to information:

- It obligates public and private institutions to provide you with information intended for the general public, including through the internet, in accessible formats and technologies appropriate to your disability.
- It obligates public and private institutions to accept and facilitate the use of Kenyan Sign Language, Braille, augmentative and alternative communication, and other accessible means and usable formats of communication to accommodate your needs.
- It obligates public and private media enterprises and telephone service providers to provide information and services in accessible formats and technologies appropriate to you.
- It obligates telecommunications entities in Kenya to take steps to ensure functionally equivalent services for you as a consumer with disability to effectively access services, products and programs offered by them.
- It obligates the Communications Authority of Kenya, in consultation with the National Council for Persons with Disabilities, to develop regulations on maintenance of low levels of risk to you as a person with photosensitive epilepsy by television broadcasters.
- It obligates television stations to provide for you as a deaf person, Kenyan Sign Language insets, closed captioning in newscasts, and educational programs, and in all programs covering events of national and international significance.
- It obligates public and private institutions of higher learning to have a common course in Kenyan Sign Language.

### Sign language interpretation

Just over a decade ago, some of the key television broadcasters in the country were still challenging the requirement that they should provide sign language interpretation on their main newscasts. Nowadays, Kenyan Sign Language has become a key feature on primetime news across most television stations. This enables deaf persons to follow the news firsthand.

## Financial services – Section 27

The Act requires institutions that provide financial services, including online services and mobile money, to ensure that their services, equipment and platforms are available to you as a person with disability in accessible formats and technologies.

### Financial services

Some of the services and platforms that financial institutions use remain quite inaccessible to persons with specific disabilities. When a customer logs onto their bank's website to access their account, some banks send a PIN that expires within a limited time, such as 30 seconds, making it difficult for a customer with disability to read and enter the PIN before the set time elapses.



## Access to justice – Section 28

As a person with disability, you have the right to effective access to justice on an equal basis with others, in order to facilitate your effective role as a direct and indirect participant in legal proceedings. As an accused person with disability, you are entitled to be held in custody in modified facilities.

The Act establishes the following obligations:

- The Attorney General, in consultation with the National Council for Persons with Disabilities and the Law Society of Kenya, should make regulations providing you with free legal services. The free legal services may cover instances where your rights are being violated, or where you are being deprived of your property. They may also cover instances where you are charged with a crime that could result in capital punishment.
- The Chief Justice should make rules exempting persons with disabilities from paying court fees on certain matters or cases. The rules should also provide that when you attend court, you should be provided free Kenyan Sign Language interpreters, Braille services, other communication formats and technologies accessible to persons with disabilities, physical guide assistance and intermediaries. The rules should also ensure that when you file a suit, it is disposed of expeditiously, with due regard for your disability and your convenience.
- Law enforcement agencies and institutions should consider your disability on arrest, at detention, investigation, trial or confinement.

### Criminal justice

1. When, as a deaf person, you are on trial for a criminal offence, you have the right to sign language interpretation at no cost. It is unlawful for the trial to proceed without a sign language interpreter.
2. It is common for persons with intellectual disabilities to face significant barriers when they endeavour to use the justice system as victims of crime. The police and courts often ask questions in complex and technical language. The police and courts should make adjustments or adaptations to communicate to you the notion of time, quantity, dates or place. With these accommodations in place, you can provide reliable, credible evidence.
3. Persons with disabilities must have barrier-free access to courtrooms. Pleas or hearings should not take place in upstairs rooms with no ramp or lift access. On a number of occasions, courts have been moved to the ground floor to listen to the pleas or evidence of accused persons using wheelchairs or with other physical disabilities.

## Sports and recreation – Section 29

As a person with disability, you have the right to take part on an equal basis with others in sports, recreation, leisure and cultural activities at the national, regional and international levels.

The Act entitles you to the following:

- The use of recreational or sports facilities owned or operated by the national and county governments during social, sporting or recreational activities, free of charge.
- Recognition and support of your specific cultural and linguistic identity, including Kenyan Sign Language and Deaf culture.
- The use, without discrimination, and on the same basis with other persons, of recreational and tourism venues or sports facilities owned or operated by the government during social, sporting or recreational activities.

The Act establishes the following obligations to ensure you enjoy the right to sports and recreation:

- The Cabinet Secretary responsible for Sports and Culture, in consultation with the National Council for Persons with Disabilities, should take appropriate measures to enable you to have the opportunity to develop and utilise your creative, artistic and intellectual potential.
- Public and private institutions with sporting, recreation, leisure and cultural activities for their employees should ensure such activities are accessible and sensitive to your needs.
- Government agencies and institutions responsible for curriculum development should restructure courses and programmes to ensure your access, inclusion and participation in all sporting activities.

### **Accessibility – Section 30**

As a person with disability, you are entitled to a barrier-free and disability-friendly environment to enable you to have access to buildings, roads and other social amenities, and assistive devices and other equipment to promote your mobility. The Act provides that you have the following rights:

- The right to accessibility, to enable you to live independently and participate fully in all aspects of life.
- The right to have accessibility to the physical environment, transportation, information and communications, and other facilities and services open or provided to the public.
- The right to personal mobility and the use of assistive devices of your choice, including assistance by guide animals. You shall not be denied access to any public place because of the nature of your assistive devices.

The Act obligates public and private institutions to implement minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.

These guidelines should apply to:

- Buildings and facilities used by the public;
- Permanent, temporary or emergency conditions;
- Road and rail-based transport;
- Aviation;
- Maritime transport and ports;
- Pedestrian infrastructure, including zebra crossings, walkways and sidewalks;
- Public transport system; and
- Other modes of transport.





The Act establishes the following obligations to ensure you may enjoy your right to accessibility:

- Relevant government agencies should ensure that building plans comply with accessibility standards and regulations.
- The National Council for Persons with Disabilities should work with relevant government agencies and the private sector to develop and promulgate minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.
- The Cabinet Secretary responsible for building standards should prescribe standards to ensure a barrier-free environment for you.

The Act provides that an individual, organisation or establishment shall not be issued a certificate of completion or allowed to take occupation of a building if it has failed to comply with accessibility standards and regulations.

### **The hazards of travel**

As a person with physical disability, a conductor may have refused to allow you onto the matatu because he said there was no place to put your wheelchair. An airline may have refused to carry you although you had a ticket, because they could not figure out how to board you onto the plane because of your disability.

### **Adjustment orders – Section 31**

The Act empowers the National Council for Persons with Disabilities to serve adjustment orders to proprietors of premises or providers of services or amenities. The Council may do this when it finds that the premises or services are inaccessible to you as a person with disability because of structural, physical, administrative or other impediments. The Act obligates the Council to consult and collaborate with county governments and other government regulatory agencies in issuing adjustment orders.

### **Barrier-free access**

Think about the services you seek from public agencies and private agencies on a daily basis. You take your child to school, and when you are unwell, you go to the health centre. Sometimes, you go to the office of the education officer, and perhaps you have also visited the office of your MCA. Are all these offices accessible to you as a person with disability? Or, think about the hotel where you meet your friends on the weekend. Think about the church or mosque you worship in. Are those premises accessible? If they are not, consider sending a complaint to the National Council for Persons with Disabilities, because the Council has the power to order the offices and premises to be made barrier-free.

### **Political and public life – Section 32**

As a person with disability, you have the right to participate in political and public life on an equal basis with others. As well, you have the right to vote for and be voted directly or through freely chosen representatives in any public or political office.

The Act obligates the Independent Electoral and Boundaries Commission to facilitate you to exercise your civic and political rights, by doing the following:

- Providing voting procedures, facilities and materials which are appropriate, accessible and easy to understand and use;
- Protecting your rights to vote by secret ballot in elections without intimidation, and the right to offer yourself for elections; and
- Allowing you to vote using an assistant of your own choice, and facilitating you to use assistive and appropriate technologies.

### **Participating in the activities of political parties**

Does your county assembly have members with disabilities? If it does not, the county assembly is in breach of your right as a person with disability to political participation. However, too, are you a member of a political party? It is important that you join and participate in the activities of a political party, so that the party will have members with disabilities to help it to put in place disability inclusive policies. This will also provide the party with a pool of leaders with disabilities to put on its electoral party lists. Keep in mind that you may also run for political office under the first-past-the-post electoral system.

### **Independent living – Section 33**

As a person with disability, you have the right to independent living and access to a range of in-home, residential and other support services, necessary to support living and inclusion in society on an equal basis with others. Under the Act, an employer may provide special allowance to you.

Special allowance include a range of in-home, residential and other support services, including personal assistance, necessary to support living and inclusion in society on an equal basis with others

#### **Meaning of independent living**

As a person with disability, you have the freedom to make choices about your own life, just like your brothers or sisters who do not have disabilities.

Exercising the right to independent living enables you to:

1. Live where you choose, and not to be required to live in an institution or other specific arrangement;
2. Control your daily routine – when you wake up, what you eat, who you spend time with, and how you participate in the community; and
3. Access the support you need to live your life, including community services, a personal assistant, or assistive technology.

### **Enforcement of rights – Section 34**

Either you or another person can seek redress before the High Court on allegations that your rights as a person with disability have been violated or abused. The High Court will listen to the case and provide the remedies it deems fit.

### **Registration – Section 35**

The Act empowers the National Council for Persons with Disabilities to register you as a person with disability. The Council is also empowered to register institutions, entities owned by persons with disabilities, and associations and organisations which promote the rights of and provide services to persons with disabilities. Once registered, the Council issues you a disability identification card as conclusive evidence of being a person with disability. Similarly, it issues organisations and institutions a certificate of identification as evidence of registration with the Council.

#### **You cannot be denied services if you have a disability**

Remember that under the Act:

1. The Council cannot deny you access to services because you are not registered by it.
2. Registration is evidence of disability.
3. The fact that you are not registered does not mean you are not a person with disability

## SUMMARY

- The Act affirms that persons with disabilities enjoy all human rights on the basis of equality with others.
- The Act also provides specific measures to tackle the barriers that stop persons with disabilities from enjoying their rights fully.

## CHAPTER SIX: THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

Part IV of the Act establishes the National Council for Persons with Disabilities, and provides for its functions and institutional framework.

The Council is a body corporate with perpetual succession. It is headquartered in Nairobi, but it has offices and decentralised services in other parts of the country.

The Council comprises ten persons, who hold office for five years, and may be reappointed for a further term. The chairperson is nominated from an organisation of persons with disabilities and appointed by the President. The Principal Secretary responsible for disability, and the Principal Secretary responsible for finance, sit on the Council. The Council of County Governors nominates one person to the Council. Three persons representing different categories of disabilities are appointed onto the Council by the Cabinet Secretary responsible for disability from nominees of organisations of persons with disabilities. The Cabinet Secretary also appoints two members from nominees of organisations for persons with disabilities. One of these appointees must be from organisations of parents and guardians of persons with mental disabilities who, according to the Act, cannot represent themselves. The final member of the Council is its Executive Director.



### Organisations of and for persons with disabilities

Under Section 2 of the Act:

1. Organisations of persons with disabilities are associations, societies or other membership groups led and controlled by persons with disabilities to represent the rights and interests of persons with disabilities. Under the CRPD, all persons with disabilities, including those with psychosocial and intellectual disabilities, have capacity to represent themselves.
2. Organisations for persons with disabilities are associations, groups, non-governmental organisations or societies formed to provide services to persons with disabilities.

The Act requires that the Council's membership have equitable representation of different categories of persons with disabilities. No gender should have more than two-thirds representation on the Council, and at least one member shall be from a rural-based organisation. Appointees should have knowledge or experience of the requirements of persons with disabilities. An appointee from organisations of persons with disabilities must come from organisations that have existed for at least three years.

The mandate of the Council is to work with other relevant government agencies and the private sector on matters of disability. In that regard, the Council has four functions: an advisory function; an enforcement function; a function to provide; and an implementation function.

The Council provides advice on accessibility, reasonable accommodation, non-discrimination for persons with disabilities, and their participation in society on an equal basis with others. It also provides advice on the development of policy, legal and other frameworks, as well as the generation of resources, designed to ensure persons with disabilities enjoy their rights fully. Finally, the Council provides advice on the systematic collection, analysis and use of national statistics and disability-disaggregated data.

The Council enforces standards on matters such as accessibility. Its enforcement powers include issuing adjustment orders, and conducting accessibility audits.

The Council provides information and technical assistance to institutions, associations and organisations concerned with the rights, habilitation and rehabilitation of persons with disabilities.

Under the implementation function, the Council:

- Undertakes intensive public awareness and education on the rights of persons with disabilities;
- Undertakes and publicises research on matters relating to the human rights of persons with disabilities;
- Establishes and maintains linkages and networking with local and international organisations, including organisations of and for persons with disabilities; and
- Promotes the establishment of self-help organisations and specific projects to benefit persons with disabilities.

The Act empowers the Council to conduct inquiries or sectoral investigations if it deems it necessary or on the request by a member of the public, a regulatory body, or at the direction of the Cabinet Secretary responsible for disability.



SUMMARY

The Council has four functions: an advisory function; an enforcement function; a function to provide; and an implementation function.



## CHAPTER SEVEN: RELIEFS AND INCENTIVES

Part V of the Act establishes reliefs and incentives for persons with disabilities and other relevant actors.

### Exemptions - Section 56

As a person with disability, the Cabinet Secretary responsible for finance may exempt you wholly or partially from paying income tax. Once you are assessed as having a permanent disability, you will not need to undertake a future assessment to be eligible for the tax exemption.



The Cabinet Secretary may also allow exemptions from import duty and value-added tax in the following circumstances:

- If you import materials, articles and equipment, including motor vehicles, for your use as a person with disability.
- Where goods, items, materials, machinery, tools, articles, implements or equipment are donated to an institution or organisation of or for persons with disabilities.
- Where you purchase, import, transfer or are gifted health materials or equipment relating to yourself as a person with disability.

### Exemptions for parents and guardians - Section 57

If you are certified as a person having a severe disability and incapable of catering for your basic needs, the Cabinet Secretary responsible for finance may grant the parent or guardian caring for you income tax exemption of a prescribed amount. Additionally, the Cabinet Secretary responsible for social protection may grant a long-term social assistance monthly cash transfer to your parent or guardian if she or he is indigent and assumes full custody and care for you.

### Incentives – Section 58

The Act establishes the following incentives to encourage individuals and entities to provide support to persons with disabilities and their organisations:

1. Where a person provides a donation, bequest, subsidy or financial aid to an institution or organisation involved in the programmes of persons with disabilities and registered with the Council, the support shall be computed as a deduction from the person's taxable income.
2. The Cabinet Secretary responsible for finance may provide incentives to local manufacturers of assistive devices used by persons with disabilities, covering raw materials, inputs and imported capital equipment.



## Access to credit – Section 59



The Cabinet Secretary responsible for co-operatives may on the advice of the Council develop guidelines to ensure that, as a person with disability, you have equal access to bank loans, mortgages and other forms of financial credit.

## Exemption from taxable income of employers of persons with disability – Section 60

Your employer is entitled to deductions of expenditure incurred in the computation of their taxable income for reasonably incurred expenses made to support you as an employee with disability.

Eligible expenses include the following:

1. Costs of providing you with reasonable accommodation;
2. Modifications of the workplace to meet your needs; or
3. Provision of mobility aids, assistive devices, adaptive technology or other devices or equipment to meet your needs.

## Exemption from postal charges – Section 61

You are exempted as a person with disability from paying postal charges where you use the services of a public postal licensee. Exempt materials are:

1. Braille, printed or recorded literature sent or received by postal mail from within or outside Kenya;
2. Hearing aids, mobility aids and orthopaedic devices designed for use by persons with disabilities and sent within or outside Kenya; and
3. All types of assistive devices and adaptive technology equipment.

**SUMMARY**

Tax exemptions and tax reliefs under the Act cover income tax, import duty, value-added tax, and postal charges.

## CHAPTER EIGHT: OFFENCES AND PENALTIES

Part VI of the Act establishes a range of offenses and penalties.

### Discrimination contrary to Article 27 of the Constitution –Section 62

The Act criminalises disability-based discrimination, which is prohibited in Article 27 of the Constitution.



Disability-based discrimination may have taken place if as a person with disability you are denied the following:

1. Public services or entry to public premises generally accessible to members of the public;
2. The right of inheritance;
3. Health services, including reproductive health services generally accessible to members of the public;
4. Educational or other training services, generally accessible to the public;
5. Employment or indentured learner-ship;
6. Your rights as a child, youth or older person
7. The right to obtain, possess and utilise documents of registration or identification, including a certificate of birth, national identity card and passport;
8. The right to respect for personal dignity; and
9. Reasonable accommodation.

### Prohibition of abuse, exploitation or violence – Section 63

It is a criminal offence for a person to do the following against you as a person with disability:

- Physical violence occasioning actual bodily harm or any form of physical or psychological torture;
- Wrongful confinement or detention in residential premises or in an institution;
- Harmful cultural practices and exploitation; or
- Any other form of cruel, inhuman and degrading treatment.

### Harmful practices – Section 65

The national and county governments are obligated to take measures to eliminate harmful practices committed against you as a person with disability. These practices may include witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.

#### Meaning of harmful practices

Under Section 2 of 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 against such persons.

### Other offences – sections 64, 66, 67, 68, 69, 70 and 72

The Act creates the following other key offences:

1. It is an offence for a person to knowingly conceal you as a person with disability.
2. It is also an offence for a person to knowingly deny you food or fluids when you are under their care and custody.
3. It is an offence for a person to voluntarily or knowingly commit or abet your degrading treatment as a person with disability by words, signs or by visible representations or otherwise.
4. It is an offence for a person to cause, procure, encourage or solicit a child or an adult with disability to engage in begging or receiving alms.
5. It is an offence for a person to publish, circulate or display any publication that lowers or demeans your dignity as a person with disability or which amounts to discrimination.
6. It is an offence for a person to cause harm or death of a person with disability through torture, cruel treatment, ritual killings or other harmful practices.
7. It is an offence for a health professional not to adhere to ethical guidelines on informed consent and confidentiality while providing health care and other services to you as a person with disability, and not to provide you with complete information through accessible modes, methods and formats.
8. It is an offence for a person to perform, conduct or direct any medical procedure to be performed on you as a person with disability which leads to or is likely to lead to infertility. It is an offence for your caregiver as a person with disability to facilitate or negligently fail to prevent such medical procedure from being performed.



## SUMMARY

The Act establishes many offences to protect persons with disabilities from discrimination as well as from violation of their bodily integrity and human dignity.

Under Section 71, it is also an offence for a person to give false information so as to be registered as a person with disability with the Council to enjoy the benefits of persons with disabilities.



## CHAPTER NINE: MISCELLANEOUS PROVISIONS

Part VII of the Act establishes miscellaneous provisions.

### Protection of road users with disabilities – Section 74

The Act obligates national and county governments to make public roads and highways under their respective mandates accessible to you as a person with disability.

In particular, they should:

1. Equip pedestrian crossings with traffic control signals, controlled by a pedestrian push-button system;
2. Provide pedestrian traffic lights with clearly audible signals; and
3. Ensure that bus-stops are barrier-free.

### Public service vehicles and transport – Section 75

The Act obligates a registered owner of a public transport vehicle to adjust the vehicle to suit you as a person with disability in such a manner as may be specified by the National Council for Persons with Disabilities in consultation with the relevant government agencies. It entitles such a person to 25% of the direct cost of the improvements and modifications.

### Denial of admission into premises - Section 76

The Act prohibits a person, on the ground of disability:

1. From denying you admission into any premises to which members of the public are ordinarily admitted;
2. From denying you the provision of any services or amenities to which members of the public are entitled; and
3. From reserving the right of admission to his or her premises against you on the basis of disability.

### Housing - Section 77

The Act obligates government agencies putting up residential housing and commercial buildings to reserve at least five percent of the residential and commercial buildings for acquisition by you and fellow persons with disabilities. It also requires that the terms and conditions of such acquisition to persons with disabilities include interest-free and longer periods of repayment.



## Prohibition of discrimination relating to goods, facilities and services – Section 78

The Act prohibits a person from providing goods, information or services, or making facilities available to the general public, with a view to discriminating against you on the ground of your disability.

In particular, such a person is prohibited from:

1. Refusing to provide you any service which he or she provides to other members of the public; or
2. Deliberately making it impossible or unreasonably difficult for you to make use of the goods, information, service or facility.

## Apprenticeship technical, vocational training, rehabilitation and self-employment – section 79

As a person with disability, you are eligible to be engaged as an apprentice or learner in your particular occupation for the period for which you are hired.

## Disability mainstreaming units and inspectors – Section 80

The Act obligates each government ministry, department, agency and county public office to establish a Disability Mainstreaming Unit.

The role of the Unit is:

- To mainstream disability issues;
- To carry out regular inspections to ensure implementation and compliance with the Act; and
- To liaise with the Council on disability matters, including by submitting an annual report to the Council on compliance with the Act.

The Act also obligates the Council to appoint an inspector to investigate and recommend prosecution or other remedies against infringements of the Act.

### Meaning of disability mainstreaming

Under Section 2 of the Act, disability mainstreaming is a strategy through which your concerns, needs and experiences as a person with disability are made an integral part or dimension of the design, budgetary allocation, implementation, monitoring and evaluation, and reporting of policies and programmes in all political, economic and societal spheres. Disability mainstreaming seeks to benefit you equally with others and not to perpetuate inequality.

## Awareness-raising – Section 81

The Act obligates media houses with television and radio stations to dedicate at least one-hour free airtime every month to educate the public on issues of disability. It also requires the Council to coordinate the production of at least one column in the print media every month.





## **Public participation – Section 82**

The Act obligates the national and county governments to put in place measures to facilitate the participation of persons with disabilities in cultural, social and economic life and in public affairs, through:

1. Targeted public participation; and
2. Providing information in accessible form.

## **Consultation between the national and county governments – Section 83**

The Act obligates the national and county governments to perform their functions under the Act on the basis of consultation and cooperation. It also requires the National Council for Persons with Disabilities to consult the Council of County Governors as necessary on any matter that affects the functions and powers of county governments.

## **Markets – Section 84**

The Act obligates the national and county governments, when constructing markets, to reserve five percent of the stores for persons with disabilities.

## **Public prosecutors – Section 85**

The Act provides the Director of Public Prosecutions with the option of appointing public prosecutors for purposes of this Act.

## **National Development Fund for Persons with Disabilities**

Finally, under the Act, the National Development Fund for Persons with Disabilities will be re-established under the Public Finance Management Act. In the meantime, the Board of Trustees that administered the Fund under the Persons with Disabilities Act of 2003 will continue administering it. The Fund will continue to be used for the benefit of persons with disabilities, and its administration will be vested in the National Council for Persons with Disabilities.

## SUMMARY

- One law cannot address all the legislative needs of persons with disabilities. The Act, however, makes provisions on a range of issues, including housing and markets.
- The Act legislates that public participation for persons with disabilities should be specifically targeted. Moving forward, the national and county governments will have to take proactive measures to ensure the public participation of persons with disabilities.

## CHAPTER TEN: CONCLUSION

This publication has introduced you to the Persons with Disabilities Act, 2025. As we stated in chapter one, our aim was to explain the Act as far as possible in plain language.

The Persons with Disabilities Act, 2025, will shape how the public and private sectors address issues of disability in the country for many years. It is important that you use the Act to claim space within society so that you may participate in determining the destiny of Kenya.

Remember that you have as much right to grow up and live in this country as all your peers who do not have disabilities. You must engage with your community leaders, your MCA, your MP and Senator, your Governor, and your President, to ensure they recognise your full humanity and citizenship of this country.

If you are not in an organisation of persons with disabilities, consider joining one or forming one, because you will succeed far more when you work collectively towards a common purpose in your local community, your county, or nationally.

When you need to get specific information on the procedures for claiming your entitlements under the Act, communicate with the National Council for Persons with Disabilities. You may also find the information you need on its website.



This simplified guide to the Persons with Disabilities Act, 2025, has been prepared to make the law accessible and easy to understand. It is designed to support persons with disabilities, their families, organizations, service providers, and policymakers in promoting inclusion, dignity, and equality.

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# Disability Rights are Human Rights




## Removing Barriers, Securing Rights

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