
THE PERSONS WITH DISABILITIES ACT, 2012

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FIRST SCHEDULE

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GOVERNMENT OF ZAMBIA

ACT

No. 6 of 2012

Date of Assent: 21st July, 2012

ENTITLED

An Act to continue the existence of the Zambia Agency for Persons with Disabilities and define its functions and powers; promote the participation of persons with disabilities with equal opportunities in the civil, political, economic, social and cultural spheres; provide for mainstreaming of disability issues as an integral part of national policies and strategies of sustainable development; incorporate a gender perspective in the promotion of the full enjoyment of human rights and fundamental freedoms by persons with disabilities; ensure accessibility by persons with disabilities to the physical, social, economic and cultural environment, and to health, education, information, communication and technology; provide for the regulation and registration of institutions that provide services to persons with disabilities and organisations of, and for, persons with disabilities; continue the existence of the National Trust Fund for Persons with Disabilities; provide for the domestication of the Convention on the Rights of Persons with Disabilities and its Optional Protocol and other international instruments on persons with disabilities to which Zambia is party, in order to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities and to promote respect for their inherent dignity; repeal and replace the Persons with Disabilities Act, 1996; and provide for matters connected with, or incidental to, the foregoing.

[24th July, 2012

ENACTED by the Parliament of Zambia

Enactment

PART I

PRELIMINARY

- Short title 1. This Act may be cited as the Persons with Disabilities Act, 2012.
- Interpretation 2. In this Act, unless the context otherwise requires—
- Cap. 65 “Agency ” means the Zambia Agency for Persons with Disabilities established under the repealed Act and continued under this Act;
- “ affirmative action ” includes any measure designed to overcome or ameliorate an inequity or the systematic denial or infringement of a right or freedom;
- “ assistive devices and services ” means implements, tools and specialised services, including the services of personal assistants for persons with disabilities, qualified interpreters for deaf persons and qualified teachers for persons with visual impairments and children with intellectual disabilities, provided to assist them in education, employment or other activities;
- “ board ” means a management board established for a public institution under section *fifty-three*;
- “ child ” means a person below the age of eighteen years;
- “ communication ” means languages, display of text, Braille, sign language, 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;
- “ Convention ” means the Convention on the Rights of Persons with Disabilities adopted by the United Nations and its Optional Protocol;
- “ Director-General ” means the person appointed Director-General of the Agency under section *nineteen*;
- “ disability ” means a permanent physical, mental, intellectual or sensory impairment that alone, or in a combination with social or environmental barriers, hinders the ability of a person to fully or effectively participate in society on an equal basis with others;
- “ discrimination ” means 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, and includes all forms of discrimination, such as denial of reasonable accommodation, and the term "discrimination on the basis of disability" shall be construed accordingly;

"Fund" means the National Trust Fund for Persons with Disabilities continued under section *fifty-five*;

"habilitation" means rehabilitation of a person born with a disability;

"institution" means an institution providing services to persons with disabilities registered under section *fifty-two*;

"language" includes spoken and sign languages and other forms of non-spoken languages;

"organisation for persons with disabilities" means an organisation that promotes and protects the interest of persons with disabilities whose members are not persons with disabilities or if the organisation is a federal organisation, of which the majority of its member organisations are not organisations of persons with disabilities;

"organisation of persons with disabilities" means an organisation that promotes and protects the interests of persons with disabilities, and of which a majority of its members are persons with disabilities or if the organisation is a federal organisation, of which the majority of its member organisations are not organisations of persons with disabilities;

"personal assistant" includes a care-giver;

"person with disability" means a person with a permanent physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder that person to fully and effectively participate in society on an equal basis with others;

"public place" means any building, premises, conveyance or other public indoor or outdoor area, whether privately or publicly owned to which the public have access by right or invitation, whether by payment of a fee or not, but does not include a place used exclusively by one or more person for a private gathering or other personal purpose;

“reasonable accommodation” means necessary and appropriate modification, adaptation and adjustments, not imposing 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;

“Register” means, in relation to—

(a) persons with disabilities, the Register of Persons with Disabilities; and

(b) organisations of, and for, persons with disabilities, the Register of Organisations of, and for, Persons with Disabilities;

“rehabilitation” means the process through which persons with disabilities can partially or fully restore their physical, mental, sensory or social functional abilities;

Cap. 65

“repealed Act” means the Persons with Disabilities Act;

Act No. 12 of
2002

“Road Development Agency” means the Road Development Agency established under the Public Roads Act, 2002;

Act No. 13
of 1998

“TEVETA” means the Technical Education, Vocational and Entrepreneurship Training Authority established by the Technical Education, Vocational and Entrepreneurship Training Act, 1998; and

“universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design, but does not exclude assistive devices for particular groups of persons with disabilities, where this is needed.

Superiority
of Act
Cap. I

3. Subject to the Constitution, where there is any inconsistency between the provisions of any other written law impacting on the rights of persons with disabilities as provided in this Act or any other matter specified or prescribed under this Act with respect to persons with disabilities, the provisions of this Act shall prevail to the extent of the inconsistency.

PART II

RIGHTS OF PERSONS WITH DISABILITIES

General
principles

4. The following principles shall apply to persons with disabilities:

(a) respect for inherent dignity of persons with disabilities, individual autonomy including the freedom to make one’s own choices, and independence of persons;

(b) non-discrimination;

- (c) recognition as persons before the law;
- (d) respect for physical and mental integrity;
- (e) independent living;
- (f) full and effective participation and inclusion in society;
- (g) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (h) equality of opportunity;
- (i) accessibility;
- (j) gender equality;
- (k) respect for the evolving capacities of children with disabilities; and
- (l) respect for the right of children with disabilities to preserve their identities.

5. Every person has a duty to uphold the rights of persons with disabilities and to respect and safeguard the dignity of persons with disabilities.

Duty to respect and uphold rights and dignity of persons with disabilities

6. (1) A person shall not discriminate against a person with disability on the basis of disability.

Prohibition of discrimination and use of derogatory names

(2) A person shall not exploit or subject a person with disability to abusive, violent or degrading treatment including their gender-based aspects.

(3) A person shall not call a person with disability any derogatory name because of the disability of that person.

7. Except where a person with disability is required to be in a specialised institution due to the nature of the disability, a person with disability shall not be deprived of the right to choose their place of residence, to live with that person's family or the right to participate in social, political, economic, creative or recreational activities.

Right to family life and social activities

8. (1) A person with disability shall enjoy legal capacity on an equal basis with others in all aspects of life.

Legal protection and participation in legal proceedings

(2) The Judicature shall take necessary measures to ensure that persons with disabilities have equal and effective protection and equal benefit of the law without discrimination.

(3) Where a person with disability is a party in any legal proceedings, the adjudicating body shall take into account the condition of the person with disability and provide procedural and other appropriate facilities to enable the person with disability to access justice and participate effectively in the proceedings.

Law
enforcement
and persons
with
disabilities
Cap 1

9. Subject to the Constitution, law enforcement agencies shall take into consideration the disability of a person on arrest, detention, trial or confinement of the person with disability and make reasonable accommodation for that person accordingly, including at investigative and other preliminary stages of the matter.

Void
contracts

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

PART III

THE ZAMBIA AGENCY FOR PERSONS WITH DISABILITIES

Continuation
of Agency
Cap. 65

11. (1) The Zambia Agency for Persons with Disabilities established under the repealed Act shall continue to exist, as if established under this Act, as a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and shall, subject to the provisions of this Act, have power to do all such acts and things as a body corporate may, by law, do or perform.

(2) The provisions of the Schedules shall apply to the Agency.

Restriction
on execution
against
property of
Agency

12. Notwithstanding anything to the contrary contained in any written law, where any judgment or order has been obtained against the Agency, no execution or attachment or process, of any nature, shall be issued against the Agency against any property of the Agency, but the Director-General shall cause to be paid out of the funds of the Agency such amounts ordered, against the Agency, to the person entitled to it.

Composition
of Board of
Agency

13. (1) The Board of the Agency shall consist of the following members:

(a) eight representatives, of whom four shall be women, of the following categories of disabilities:

- (i) mental disability;
- (ii) visual impairment;
- (iii) physical disability; and
- (iv) hearing impairment;

(b) a representative of the Federation of Employers;

- (c) a representative of the Ministry responsible for works and buildings;
- (d) a representative of the Ministry responsible for education, science and technology;
- (e) a representative of the Ministry responsible for community development and social welfare;
- (f) a representative of the Ministry responsible for finance;
- (g) a representative of the Ministry responsible for broadcasting services;
- (h) a representative of the Ministry responsible for labour;
- (i) a representative of the Ministry responsible for health;
- (j) a representative of the Attorney-General; and
- (k) a representative of a youth disability organisation.

(2) The persons referred to in subsection (1) shall be appointed by the Minister as members of the Agency.

(3) The Minister shall, when making an appointment in accordance with subsection (1), request the relevant Ministry, organisation or the Attorney-General to nominate suitable persons for appointment to the Agency.

(4) The members shall elect the Chairperson and Vice-Chairperson of the Agency from amongst themselves, except that a public officer shall not be elected Chairperson.

(5) A person shall not be appointed as a member of the Agency if that person—

- (a) is not a citizen of Zambia;
- (b) is an undischarged bankrupt;
- (c) has been convicted of an offence under this Act;
- (d) has been convicted of an offence involving fraud or dishonesty; or
- (e) has been convicted of an offence under any other written law and sentenced to a term of imprisonment exceeding six months without the option of a fine.

(6) The Minister shall, as soon as possible after the appointment of the members of the Agency, publish, in a newspaper of general circulation in Zambia, the names of the members and the period for which the members are appointed.

Functions of
Agency

14. (1) The functions of the Agency are to—

- (a) plan, promote and administer services for persons with disabilities;
- (b) develop and implement measures to achieve equal opportunities for persons with disabilities by ensuring, to the maximum extent possible, that they obtain education and employment, participate fully in sporting, recreation and cultural activities and are afforded full access to community and social services;
- (c) facilitate and coordinate habilitation, rehabilitation, training and welfare services for persons with disabilities;
- (d) operate schemes and projects for self employment or regular or sheltered employment for persons with disabilities;
- (e) promote research into all aspects of disability;
- (f) promote public awareness in all aspects of disability;
- (g) cooperate with State institutions and other organisations in the provision of preventive, educational, training, employment, rehabilitation and habilitation services and other welfare services for persons with disabilities;
- (h) recommend to any State organ or institution any measures to prevent discrimination against persons with disabilities;
- (i) in consultation with relevant State institutions, organisations of persons with disabilities and other civil society organisations, take appropriate measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise;
- (j) make representations on behalf of any person with disability before any State organ or institution and provide or procure legal assistance for any person with disability, if the matter relates to the rights of, or the interaction of, persons with disabilities;
- (k) register persons with disabilities, organisations of, and for, persons with disabilities and institutions rendering services to persons with disabilities;
- (l) promote, directly or indirectly, the development of human resources in the prevention of disabilities and in the provision of habilitation, rehabilitation, education and training services and the general welfare of persons with disabilities;

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- (m) advise the Minister on matters relating to the social and economic development and the general welfare of persons with disabilities;
 - (n) monitor and evaluate the provision of services to persons with disabilities and the implementation of this Act and any policy or national strategy on disability;
 - (o) identify provisions in any law that hinder the implementation of this Act, and any policy and national strategy on disability and recommend necessary reforms to the Government;
 - (p) advise relevant State organs and institutions on the provision of equal opportunities, empowerment programmes and facilities to persons with disabilities; and
 - (q) do all such things as are incidental to, or conducive to, the attainment of the functions of the Agency.
- (2) The Agency shall keep and maintain a register of persons with disabilities and a separate register of organisations of, and for, persons with disabilities.
- (3) The Agency may conduct inquiries into any matter relating to the welfare, habilitation and rehabilitation of persons with disabilities.
- (4) The Agency shall—
- (a) promote research and development of universally designed goods, services, equipment and facilities with minimum possible adaptation and the least cost to meet the specific needs and use of persons with disabilities, and promote universal design in the development of standards and guidelines;
 - (b) maintain a Disability Management Information System for persons with disabilities;
 - (c) undertake and promote research and development of, and promote the availability and use of, new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost; and
 - (d) in collaboration with the Central Statistical Office, keep and maintain statistical records relating to incidences and causes of disabilities to be used for the planning, promotion, administration, monitoring and evaluation of services for persons with disabilities.

Registration
of persons
with
disabilities

15. (1) A person with disability shall apply to the Agency for registration in the prescribed form through the principal officer of a local authority, social welfare officer, central statistics officer, head of a learning institution or an officer in charge of a health centre.

(2) The Agency shall, upon receipt of an application under subsection (1), issue a certificate of registration to the applicant.

Agency may
gather
information

16. The Agency shall, in performing its functions, gather information regarding—

- (a) persons with disabilities, the type and severity of their disabilities, their needs, the extent to which they are integrated into society and methods by which they can be integrated into society;
- (b) organisations of, and for, persons with disabilities and institutions rendering services to persons with disabilities and the type of services rendered by those institutions;
- (c) persons with disabilities in respect of, or to whom services are rendered by, the institutions referred to in paragraph (b);
- (d) the services rendered by the Government to persons with disabilities and the Government policies and strategies regarding persons with disabilities; and
- (e) any information that the Agency may require in order to perform any function or exercise any power under this Act.

Provision of
information
and raising
of public
awareness

17. (1) The Agency shall distribute information relating to any issue on disability to any institution, a person, organisation or to the public at large if—

- (a) all persons having an interest in that information have agreed to its distribution or the Agency reasonably believes that no person will object to the distribution;
- (b) the information has been obtained from the Government and its distribution is not prohibited by any law; or
- (c) the information is of statistical or general nature.

(2) Nothing contained in subsection (1) shall be construed as permitting any action that might infringe upon the right of privacy of a person under the Constitution.

Cap. 1

(3) The Agency shall provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies and other forms of assistance, support services and facilities.

(4) The Agency shall carry out programmes and conduct campaigns to inform the public and raise public awareness on issues relating to disability, and in particular to—

- (a) combat stereotypes, prejudices and harmful practices relating to persons with disabilities in all areas of life;
- (b) promote awareness of the capabilities and contributions of persons with disabilities to society;
- (c) nurture receptiveness to the rights of persons with disabilities;
- (d) promote positive perceptions and greater social awareness towards persons with disabilities; and
- (e) promote and encourage the media to portray persons with disabilities in a manner consistent with the purpose of this Act and the Convention.

18. (1) The Agency may, in writing, delegate or assign a function vested in it by, or under, this Act to the Director-General, a committee or a member of staff of the Agency.

Delegation of powers and assignment of functions

(2) The Director-General may, in writing, delegate or assign a function delegated to the Director-General or conferred by, or under, this Act to a member of staff of the Agency.

(3) The Agency or the Director-General may make the delegation or the assignment under subsection (1) or (2) subject to such conditions and restrictions as the Agency or the Director-General may determine, and the Agency or the Director-General may withdraw or amend the delegation or the assignment.

19. (1) The Board shall, with the approval of the Minister, appoint the Director-General on such terms and conditions as it may determine.

Director-General and other staff

(2) The Director-General shall be the chief executive officer of the Agency and shall, subject to the direction and control of the Board, be responsible for the day-to-day administration of the Agency.

(3) The Director-General shall attend meetings of the Agency and may address such meetings but shall have no vote.

(4) The Director-General shall be the Secretary to the Board.

(5) The Agency may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

PART IV

STRATEGIC PLANNING FOR PERSONS WITH DISABILITIES

General
function of
Minister

20. (1) The Minister shall, in consultation with the relevant Ministers take policy measures to achieve the full social integration of persons with disabilities in society by ensuring that they are provided and have access to habilitation and rehabilitation services, education, health, training and employment, and shall create an environment to enable persons with disabilities to lead independent and meaningful lives.

(2) Without prejudice to the generality of subsection (1), the Minister shall ensure that the policy measures are aimed at the following:

- (a) preventing or reducing the occurrence of physical, intellectual, mental or sensory impairments and permanent functional limitation or disability;
- (b) assisting and supporting persons with disabilities to reach and maintain their optimal human potential;
- (c) making the various systems of society and the environment, such as services, activities, information and documentation available and accessible to persons with disabilities in formats they can understand, such as Braille for persons with visual impairments, sign language for deaf persons and any other appropriate forms of communication;
- (d) ensuring affirmative action with respect to matters affecting persons with disabilities;
- (e) ensuring representation of persons with disabilities in all national and local decision-making positions, including in the political sector; and
- (f) ensuring independent living for persons with disabilities.

National
strategies
and plans

21. (1) The Minister shall, in collaboration with the Agency and other State institutions, whenever they are developing and implementing national policies and plans, progressively strive to achieve equalisation of opportunities for, and integration of, persons with disabilities in social and economic structures of society.

(2) The national strategies and plans, referred to in subsection (1), shall take into account cultural, social and economic disadvantages that have resulted in discrimination against persons with disabilities and incorporate measures to ensure—

- (a) the promotion, protection and full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities and to promote respect for their inherent dignity;
- (b) the mainstreaming of gender into the policies, programmes and activities relating to the equalisation of opportunities for, and integration of, persons with disabilities;
- (c) that women with disabilities have equal opportunities to participate in all aspects of life and to ensure the full development, advancement and empowerment of women with disabilities;
- (d) protection of persons with disabilities from all forms of exploitation, violence and abuse and that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted;
- (e) that elderly persons with disabilities are integrated into society and are given the rehabilitation and support to enable them to continue participating within their communities;
- (f) that persons with disabilities living in rural areas are part of the national development programmes;
- (g) that children with disabilities and their parents, guardians and custodians are provided with information about services available and that early interventions such as early stimulation and education shall be provided to such children as early as possible in order to prevent the development of disabilities;
- (h) that children with disabilities enjoy all human rights and freedoms on an equal basis with other children and have equal opportunities and equal access to education, health care, sports, recreation and all other services in the community; and
- (i) the protection and safety of persons with disabilities in situations of risk which includes situations of armed conflict, humanitarian emergencies and natural disasters.

PART V

PROTECTION AND PROMOTION OF RIGHTS OF PERSONS WITH
DISABILITIES*Division 1—Education*Education
system

22. (1) The Minister shall, in collaboration with the Minister responsible for education, ensure that the education system is inclusive at all levels and early life-long learning directed to—

- (a) the full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
- (b) the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; and
- (c) enabling persons with disabilities to participate effectively in a free society.

(2) The Minister shall, after consultation with the Minister responsible for education, prescribe rules, issue guidelines and put in place measures, as the case may be, to ensure—

- (a) that persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, higher education or vocational training, on the basis of disability;
- (b) that persons with disabilities can access an inclusive, quality and free primary education, secondary education and higher education on an equal basis with others in the communities in which they live;
- (c) that reasonable accommodation of the individual requirements of persons with disabilities is provided;
- (d) that persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) that effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion;
- (f) the facilitation of the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitation of peer support and mentoring;

- (g) the facilitation of the learning of sign language and the promotion of the linguistic identity of deaf persons;
- (h) that the education of persons, and in particular children, who have visual impairments, are deaf persons or have intellectual disabilities, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximise academic and social development;
- (i) that an allowance is paid to learners with disabilities to cover the extra cost that may be incurred for such learning; and
- (j) pre-vocational and vocational training for persons with intellectual disabilities in vocational and skills training institutions.

(3) The Minister shall take measures to ensure that any physical facility at any public educational institution is accessible to learners with special education needs.

23. (1) The Minister responsible for education shall, by statutory order, designate public educational institutions to provide the necessary facilities and equipment to enable persons with disabilities to fully benefit from the public educational institutions.

Special
education
and facilities
and
equipment in
educational
institutions

(2) The Government shall establish special schools for persons with disabilities to enable persons who, by reason of their disability, cannot be enrolled in inclusive educational institutions.

(3) The Agency shall work in consultation with the relevant State institutions at district level to make provision for an inclusive system of special education for persons with disabilities and the establishment, where practicable, of libraries for persons with visual impairments.

24. (1) A parent, guardian or custodian of a child with a disability of school-going age, shall enroll the child in a school.

Education of
child with
disability

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a penalty not exceeding one hundred thousand penalty units.

(3) In this section, "school-going age" has the meaning assigned to it in the Education Act, 2011.

Act No. 23 of
2011

Prohibition
of refusal of
admission on
account of
disability

25. (1) A person responsible for admission into an educational institution or other institution of learning shall not refuse to give admission to a person with disability on account of the disability, unless the person with disability has been assessed by the Agency, in consultation with the Ministry responsible for health, to be a person who requires to be in a special school for children or persons with disabilities.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a penalty not exceeding two hundred thousand penalty units.

Library
facilities

26. A public library shall, as far as practicable, be fitted with facilities to enable persons with disabilities to use the library.

Division 2—Health Care and Facilities

Access to
health
services

27. The Minister shall, in collaboration with the Minister responsible for health, take appropriate measures to ensure access for persons with disabilities to health services that are gender sensitive and to health-related rehabilitation and shall, in particular, prescribe measures to—

- (a) provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- (b) provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimise and prevent further disabilities, including among children and older persons;
- (c) provide health services as close as possible to people's own communities, including rural areas;
- (d) require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, among others, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

- (e) prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance, where such insurance is permitted by law, which shall be provided in a fair and reasonable manner; and
- (f) prevent discriminatory denial of health care or health services, food and fluids on the basis of disability.

28. (1) The Ministry responsible for health shall, in formulating and implementing health policies and programmes, provide for— Health programmes

- (a) free general and specialist medical care, rehabilitative operation treatment and appropriate assistive devices for persons with disabilities;
- (b) measures for prevention of disability;
- (c) early rehabilitation of persons with disabilities;
- (d) systems to avail appropriate facilities and personnel to local health institutions for the benefit of persons with disabilities; and
- (e) measures to enable persons with disabilities receive free or affordable rehabilitation and essential medical services in health facilities.

(2) The Ministry responsible for health shall include education on disability and disability issues in health care programmes.

29. The Ministry responsible for health shall include the study of disability and disability-related issues in the curriculum of training institutions for health professionals to develop appropriate human resources to provide general and specialised rehabilitation services. Training of health professionals

30. The Ministry responsible for health shall, in collaboration with the Ministry responsible for social welfare, provide for periodic screening of children in order to detect, prevent and manage disability. Periodic screening of children

31. The Ministry responsible for health shall establish and operate health assessment and resource centres in each clinic at district level in order to provide early diagnostic medical attention to mothers and infants to determine the existence or onset of disability. Operation of assessment centres

Division 3—Habilitation and Rehabilitation

32. The Minister shall, in collaboration with State institutions and non-governmental organisations, organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes in such a way that these services and programmes— Habilitation and rehabilitation

- (a) enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life;
- (b) begin at the earliest possible stage, and are based on the multi-disciplinary assessment of individual needs and strengths; and
- (c) support participation and inclusion in the community and all aspects of society, and are voluntary and available to persons with disabilities as close as possible to their own communities, including in rural areas.

Habilitation
and
rehabilitation
centres

33. (1) The Ministry shall progressively establish, in every district, habilitation and rehabilitation centres for persons with disabilities.

(2) A habilitation and rehabilitation centre shall offer guidance, counseling and appropriate training for persons with disabilities who are unable to enter the mainstream of social life.

(3) The Ministry shall provide a habilitation and rehabilitation centre with appropriately qualified persons and suitable facilities that are necessary for the performance of its functions.

(4) The Ministry shall, in consultation with the Ministry responsible for education, promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation Centres.

(5) The Ministry shall, in consultation with the Agency, facilitate the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Community
habilitation
and
rehabilitation
centres

34. The Ministry shall ensure that persons with disabilities are rehabilitated in their communities to foster their integration.

Division 4—Employment and Social Protection

Employment

35. (1) The Minister shall, after consultation with the Minister responsible for labour, prescribe safeguards to promote a person with disability's right to employment and ensuring compliance with subsection (2).

(2) A person with disability shall not be discriminated against on the basis of disability with regard to all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, the creation, classification and abolition of positions, the determination of wages, pension or other benefits, apprenticeship, promotion, career advancement and safe and healthy working conditions.

(3) Without prejudice to the generality of subsection (1), the Minister shall, after consultation with the Minister responsible for labour and TEVETA, issue regulations and take measures, as the case may be, to ensure the following:

- (a) the creation of a labour market and work environment that is open, inclusive and accessible to persons with disabilities;
- (b) protection of the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- (c) that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
- (d) enabling persons with disabilities to have effective access to technical and vocational training and guidance programmes, placement services and vocational and continuing training;
- (e) creating and promoting employment opportunities and career advancement for persons with disabilities in the labour market, and assistance in finding, obtaining, maintaining and returning to employment;
- (f) creating and promoting opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- (g) employing persons with disabilities in the public sector;
- (h) creating and promoting the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (i) that reasonable accommodation is provided to persons with disabilities in the workplace;
- (j) promoting the acquisition by persons with disabilities of work experience in the open labour market; and
- (k) promoting vocational and professional rehabilitation, job retention and creating return-to-work programmes for persons with disabilities.

Social
protection

36. The Minister shall, in consultation with the Minister responsible for labour, prescribe safeguards to promote the right of persons with disabilities to social protection and an adequate standard of living and continuous improvement of living conditions to ensure their independent living, and shall take measures to ensure—

- (a) equal access by persons with disabilities to appropriate and affordable services, devices and other assistance for disability-related needs;
- (b) access by persons with disabilities, especially women and girls with disabilities to social protection programmes and poverty reduction programmes;
- (c) access by persons with disabilities to public housing programmes; and
- (d) equal access by persons with disabilities to retirement benefits and programmes.

Promotion
of
employment
of persons
with
disabilities

37. (1) The Government shall grant a person who employs a person with disability a tax rebate of the taxable income in respect of each person with disability employed as shall be prescribed in relevant legislation.

(2) The Government shall grant special incentives to persons with disabilities engaged in business and to business organisations that employ persons with disabilities.

(3) A person who employs a person with disability shall—

- (a) make reasonable accommodation for the person with disability; and
- (b) provide appropriate facilities required by the person with disability for the efficient performance of the functions required by the employment.

(4) An employer who improves or modifies facilities or avails special services in order to provide reasonable accommodation for employees with disabilities shall be entitled to a tax rebate as prescribed under relevant legislation.

(5) An employee with a disability shall be entitled to exemption from income tax as may be prescribed.

Posting,
transfer and
re-
deployment
of person
with
disability

38. (1) An employer shall not post or transfer a person with disability to a section or place of the establishment not suited for the person with disability.

(2) Where an employee suffers a disability as a result of the employment, the employer shall make reasonable accommodation for that employee, counsel, retrain and re-deploy the employee to another section more suited to the person with disability.

(3) The provisions of subsection (2) shall be in addition to any other relief which the employee is entitled to under the Workers' Compensation Act, 1999.

Act No. 10
of 1999

39. The Agency shall, in consultation with the relevant institutions, secure the reservation of a prescribed percentage of positions in employment in the public and private sectors for persons with disabilities.

Reservation
of
employment

Division 5—Accessibility and Mobility

40. (1) The Minister shall, in consultation with the Minister responsible for transport, works and communication, to enable persons with disabilities to live independently and participate fully in all aspects of life—

Accessibility

- (a) take appropriate measures to ensure that persons with disabilities access, on an equal basis with others, the physical environment, transportation, information and communications and other facilities and services open or provided to the public, both in urban and rural areas; and
- (b) take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including—
 - (i) facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at an affordable cost;
 - (ii) facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries;
 - (iii) providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities; and
 - (iv) encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

(2) Without prejudice to the generality of subsection (1), the measures to be taken shall include the identification and elimination of obstacles and barriers to accessibility which shall apply to—

- (a) buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; and
- (b) information, communications and other services, including electronic services and emergency services.

(3) The Minister shall, in consultation with the Minister responsible for transport, works and communication, prescribe—

- (a) minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- (b) that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- (c) in buildings and other facilities open to the public, for signage in Braille and in easy to read and understand forms;
- (d) forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- (e) appropriate forms of assistance and support to persons with disabilities to ensure their access to information and communications technologies and systems, including the internet; and
- (f) the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

(4) Assistive devices and services for persons with disabilities shall be exempt from tax as may be prescribed under the relevant legislation.

Access to
public
places

41. (1) A person shall not, on the ground of disability, deny a person with disability—

- (a) admission into any premises to which members of the public are ordinarily admitted; or
- (b) the provision of any services or amenities to which members of the public are entitled.

(2) The owner or occupier of a place to which the public has access shall provide appropriate facilities that make the place accessible to, and available for use by, persons with disabilities in the prescribed manner.

(3) A person with disability who is denied admission into any premises or the provision of any service or amenity contrary to this section shall have the right to recover damages in any court of competent jurisdiction.

42. A person who provides services to the public shall put in place necessary facilities that make the services available and accessible to persons with disabilities in the prescribed manner.

Access to
public
services

43. The Ministry responsible for rail, air, water and road transport and, where appropriate, the local authorities and the Road Development Agency shall ensure that the needs of persons with disabilities are taken into account in the design, construction and operation of the transport network.

Integration
of needs of
persons with
disabilities

44. (1) A person with disability may import a vehicle adapted or modified for use by persons with disabilities.

Importation
of non-
conventional
vehicles

(2) A person without disability shall not import a vehicle adapted or modified for use by persons with disabilities, except with the approval of the Minister.

(3) A vehicle imported under subsection (1) shall, upon the recommendation of the Minister and with approval of the Minister responsible for finance, be exempted from the payment of import duty and any other tax relating to the importation.

(4) A vehicle imported under subsection (1) shall not be re-exported.

45. (1) An operator of a parking lot to which the public has access shall, in consultation with the Agency, demarcate and designate, in the prescribed manner, a special parking place which shall be reserved for the exclusive use of persons with disabilities.

Parking
places for
persons with
disabilities

(2) Without limiting subsection (1), each public place for parking vehicles shall have a clearly demarcated area for the exclusive use of persons with disabilities.

(3) A person who, not being entitled to park in a parking place designated or demarcated for parking vehicles used by persons with disabilities, parks a motor vehicle in the place reserved for the exclusive use of a person with disability commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Facilities at
port
terminals

46. The authority responsible for the management of ports shall provide facilities to aid the movement of a person with disability at the port.

Public
service
vehicles

47. (1) An owner or operator of a public service vehicle shall make reasonable accommodation for persons with disabilities in the prescribed manner.

(2) A person responsible for the booking of passengers on a commercial or public service bus shall reserve at least two seats for persons with disabilities, except that where the bus is full without the reserved seats having been occupied, the driver or the person responsible for putting passengers on the bus may fill the reserved seats with other passengers.

Participation
in cultural
life,
recreation,
leisure and
sport

48. (1) The Minister shall take all appropriate measures to ensure that persons with disabilities—

- (a) enjoy access to cultural materials in accessible formats;
- (b) enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
- (c) enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance; and
- (d) develop and utilise their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

(2) Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity including sign languages for the deaf culture.

(3) A law protecting intellectual property rights shall not make any provision that creates an unreasonable or discriminatory barrier of access to cultural materials by persons with disabilities.

(4) The Minister shall in order to enable persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, prescribe appropriate measures to—

- (a) encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

- (b) ensure that persons with disabilities have an opportunity to organise, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
- (c) ensure that persons with disabilities have access to sporting recreational and tourism venues;
- (d) ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system; and
- (e) ensure that persons with disabilities have access to services from those involved in the organisation of recreational, tourism, leisure and sporting activities.

(5) The Ministry responsible for sport and the National Arts Council of Zambia shall, as far as practicable, ensure that through the provision of adequate facilities, programmes and incentives, persons with disabilities have access to sports, leisure, recreation and cultural events owned or operated by a State institution or conducted in a public place.

(6) A person who, or institution which, organises a national event shall, as far as practicable, ensure that facilities are made available for the participation in the activity by persons with disabilities.

49. All television stations shall provide a sign language inset or sub-titles in all newscasts and educational programmes, and in all programmes covering events of national significance.

Television
programmes

50. (1) All persons providing public telephone services shall, as far as possible, install and maintain telephone devices or units for persons with hearing disabilities and tactile marks on telephone sets to enable persons with visual disabilities to communicate through the telephone system.

Telephone
services

(2) All persons providing mobile devices shall, as far as practicable, take measures to ensure that a mobile device which may be used by a person with a disability is made available to that person within a reasonable time, upon request.

Division 6—Political and Public Life

51. The Minister shall take measures to ensure that persons with disabilities effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, *inter alia*, by—

Participation
in political
and public
life

- (a) ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
- (b) protecting the right of persons with disabilities to vote by secret ballot in elections and public referenda without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies, where appropriate;
- (c) guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice; and
- (d) promoting actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others and encourage their participation in public affairs, including:
 - (i) participation in non-governmental organisations and associations concerned with the public and political life of the country, and in the activities and administration of political parties; and
 - (ii) forming and joining organisations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

PART VI

DISABILITY SERVICES INSTITUTIONS AND ORGANISATIONS OF, AND FOR, PERSONS WITH DISABILITIES

Disability
services
institutions

52. (1) Any person who operates an institution that provides services to persons with disabilities shall register the institution with the Agency in the prescribed form and manner.

(2) An institution established to provide services to persons with disabilities shall comply with the provisions of this Act and shall conform to any requirements and standards set by the Agency with respect to the establishment and continued operation of the institution.

(3) An institution shall not be registered under this Act unless it is founded on good corporate governance structures and incorporates corporate governance practices and principles in its management and operations.

(4) The Agency shall keep a register of institutions referred to in subsection (1) in the prescribed form.

(5) The Agency shall—

- (a) set standards of technical services and accommodation for institutions;
- (b) regulate the number of persons with disabilities to be admitted to institutions and the age group;
- (c) regulate the kind of equipment to be acquired and maintained by institutions;
- (d) set the qualifications and experience of persons employed by institutions;
- (e) set the code of conduct of institutions and organisations registered under this Act;
- (f) keep records of persons with disabilities admitted as boarders at any institution; and
- (g) regulate the conditions under which persons with disabilities may be admitted to any institution.

(6) An institution of learning admitting persons with disabilities shall establish and maintain a special fund for the repair, servicing and purchase of assistive devices, technical aids and appliances for persons with disabilities.

(7) Parliament shall make provision for, and provide, funds for the purposes of subsection (6).

(8) The Minister may make regulations for the administration of, use of, and reporting on, the funds provided under subsection (7).

53. (1) The Minister may, by statutory instrument, establish public institutions to provide services to persons with disabilities and shall appoint boards to govern such institutions.

Public
services
institutions

(2) A board, established under subsection (1), shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may, by law, do or perform.

(3) The Minister shall, by statutory instrument, provide for the composition and tenure of each board and the administration and management of the board.

(4) Notwithstanding anything to the contrary contained in any written law, where any judgment or order has been obtained against any board, no execution or attachment or process of any nature

thereof, shall be issued against the board or against any property of the board, but there shall be paid out of the funds of the board such amounts as may, by the judgment or order, be awarded against the board to the person entitled thereto.

(5) The functions of a board shall be to—

- (a) administer the affairs of any public institution established under this section;
- (b) provide habilitation, rehabilitation, training and welfare services to persons with disabilities;
- (c) do all such things as are necessary to promote the well-being of persons with disabilities; and
- (d) carry out such other functions as the Minister may prescribe.

(6) The Minister may give to a board such general or specific directions, not inconsistent with this Act, with respect to the discharge of its functions as the Minister may consider necessary and the board shall give effect to such direction.

(7) A board may, after approval from the Minister, collaborate, or enter into agreement, with any organisation or institution on any matter relevant to the carrying out of the board's functions under this Act.

(8) Parliament shall make provision for, and provide, funds for the purposes of this section.

(9) The Minister may make regulations for the administration and use of, and reporting on, the funds provided under subsection (8).

Registration
of
organisation
of, or for,
persons
with
disabilities

54. (1) An organisation of, or for, persons with disabilities shall apply to the Director-General, in the prescribed form and manner.

(2) The Agency shall register any organisation of, or for, persons with disabilities.

(3) An organisation, referred to in subsection (1), shall have not less than twenty persons with disabilities as members to qualify for registration.

(4) An application by an organisation of, or for, persons with disabilities shall state—

- (a) the name and address of the organisation; and
- (b) the designation and address of its officers and the members of the executive committee or other body in control of its affairs.

(5) An organisation of, or for, persons with disabilities shall submit, together with its application, a copy of the constitution or rules that govern that organisation.

(6) An organisation of, or for, persons with disabilities shall not be required to register under the Non-Governmental Organisations Act, 2009, or Societies Act, and shall be exempt from the provisions of those Acts.

Act No. 16
of 2009
Cap. 119

PART VII

NATIONAL TRUST FUND FOR PERSONS WITH DISABILITIES

55. (1) The National Trust Fund for Persons with Disabilities established under the repealed Act shall continue to exist as if established under this Act and shall be managed by trustees.

National
Trust Fund
for Persons
with
Disabilities
Cap. 65

(2) The Minister shall draw up and register under the relevant law, a trust deed to provide for the Fund.

(3) A trust deed drawn up under subsection (2) shall provide for the tenure of office of the trustees, staff, finances, financial management and procedures of the trusteeship.

(4) There shall be nine trustees of the Fund appointed by the Minister.

(5) The moneys in the Fund shall be used as may be prescribed.

(6) There shall be paid into the Fund—

- (a) such moneys as may be appropriated by Parliament for the purposes of the Fund;
- (b) such moneys as may be received by the Fund from donations, grants and bequests from whatever source; and
- (c) such other moneys as may, by or under any law, be payable to the Fund.

(7) The Minister, on the recommendation of the trustees, shall develop principles and guidelines governing the grant of moneys from the Fund and for achieving the objectives of the Fund.

(8) There may be paid from the Fund such grants as the trustees may authorise in furtherance of the objectives of the Fund and in particular to—

- (a) provide loans to persons with disabilities for commercial ventures;
- (b) train persons with disabilities to uplift their skills;

(c) support research into disabilities and the welfare of persons with disabilities; and

(d) do any other things necessary to carry out the objects of the Fund.

Financial
matters of
Fund

56. (1) The financial year of the Fund shall be the period of twelve months ending on 31st December of each year.

(2) The trustees shall cause to be kept proper books of account and other records relating to its accounts.

(3) The accounts of the Fund shall be audited annually by the Auditor-General or by independent auditors appointed by the Auditor-General.

(4) The auditor's fees shall be paid by the Fund.

(5) As soon as practicable, but not later than ninety days after the end of the financial year of the Government, the trustees of the Fund, shall submit to the Minister a report concerning the activities of the Fund during the financial year.

(6) The report referred to in subsection (5), shall include information on the financial affairs of the Fund and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(7) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (5), lay the report before the National Assembly.

PART VIII

INSPECTORATE

Inspection
of
institutions

57. (1) The Director-General shall appoint inspectors to inspect institutions.

(2) The Director-General shall issue an identity card to each inspector.

Powers of
inspector

58. (1) An inspector shall have power, on production of the identity card issued to the inspector under section *fifty-seven*, to inspect any institution to ensure that the provisions of this Act are being complied with.

(2) In inspecting the institutions, referred to in subsection (1), an inspector shall ensure that adequate arrangements for the general welfare, education, training, rehabilitation, health, or employment are offered to persons with disabilities, and that records are kept, in accordance with this Act.

(3) Any person who obstructs an inspector appointed under section *fifty-seven* in the exercise of an inspector's duty under this Act commits an offence and is liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

59. (1) An inspector shall submit to the Director-General such reports and other information relating to an inspection undertaken by the inspector as the Director-General may direct.

Duty of
inspector to
report

(2) The Director-General shall forward the reports and other information, submitted under subsection (1), to the Minister.

60. (1) This section shall apply to any—

Adjustment
order

(a) premises constructed to which members of the public are ordinarily admitted, whether on payment of a fee or otherwise; and

(b) services or amenities ordinarily provided to members of the public.

(2) The Director-General may issue an adjustment order to any person, organisation or institution if the Director-General considers that the person's, organisation's or institution premises, amenities or services, referred to in subsection (1), are not accessible to persons with disabilities.

(3) An adjustment order, referred to in subsection (2), shall set out—

(a) a full description of the premises, service or amenity concerned;

(b) the grounds upon which the Director-General considers that the premises, service or amenity is inaccessible to persons with disabilities;

(c) the requirement that the owner shall, at the owner's expense, take action, as may be specified, to make it accessible to persons with disabilities; and

(d) the period within which the action, referred to in paragraph (c), shall be commenced and completed.

(4) The Director-General shall, before serving an order under subsection (2), serve a notice upon the person, organisation or institution, referred to in subsection (2), specifying—

- (a) the grounds upon which the adjustment order is to be issued and the nature of the action which the Director-General considers necessary to rectify the situation which has given rise to the proposed order;
- (b) the maximum period that the Director-General considers reasonable for the implementation of the action it proposes to order; and
- (c) that the owner may make representations to the Director-General, if the owner so wishes, within thirty days from the date of the service of the notice.

(5) A person who adapts that person's premises or provides the amenities or services under this section shall be entitled to a tax rebate as prescribed under relevant legislation.

(6) A person who fails to comply with an adjustment order commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units.

PART IX

OFFENCES AND PENALTIES

Concealment
of persons
with
disabilities

61. A parent, guardian or next-of-kin shall not conceal a person with a disability so as to deny the person with disability the opportunities and services available under this Act.

Negligence
causing
disability

62. (1) A person who negligently causes a disability to another person commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

(2) A court of competent jurisdiction may, in addition to the penalty prescribed under subsection (1), order a person convicted under this section to pay to the person to whom a disability is caused such compensation as it may consider appropriate.

Giving false
information
to get
registered

63. A person commits an offence if that person knowingly or negligently gives false information to the Agency for the purpose of being registered or for the purpose of acquiring any privilege due to registered persons.

64. (1) The Agency may request the Attorney-General to take appropriate legal action where—

Request for
legal action
by
Attorney-
General

(a) a person or group of persons is engaged in a practice which is discriminatory under this Act; or

(b) the discrimination is a significant and substantial infringement of the rights of persons with disabilities and raises issues of public interest.

(2) Any person or group of persons aggrieved by an order made in a legal action commenced pursuant to a request made under subsection (1) may, within sixty days after the making of such order, apply in the prescribed form to the High Court for the review of such order.

65. A person who contravenes any provision of this Act for which no specific penalty is provided is liable, upon conviction, to a fine not exceeding one hundred and fifty thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

General
penalty

PART X

GENERAL PROVISIONS

66. The Minister may, by statutory instrument, make regulations to prescribe anything required to be prescribed under this Act and for the better carrying out of the provisions of this Act.

Regulations

67. (1) The Persons with Disabilities Act, 1996, is hereby repealed.

Repeal of
Cap. 65
Act No. 33
of 1996

(2) Notwithstanding subsection (1), the provisions of the Second Schedule shall apply.

FIRST SCHEDULE

(Section 11 (2))

ADMINISTRATION

PART I

Seal of
Agency

1. (1) The seal of the Agency shall be such device as may be determined by the Agency and shall be kept by the Secretary.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or one other person authorised in that behalf by a resolution of the Agency.

(3) Any contractor or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Agency by the Secretary or any other person generally or specifically authorised by the Agency in that behalf.

(4) Any document purporting to be a document under the seal of the Agency or issued on behalf of the Agency shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of
office of
member and
vacancy of
member

2. (1) A member of the Agency shall, subject to the other provisions of this Schedule, hold office for a term of three years and may be re-appointed for a further term of three years.

(2) Upon the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the period exceed three months.

(3) The office of a member shall be vacated—

- (a) upon the member's death;
- (b) if the member is adjudged bankrupt;
- (c) if the member is absent from three consecutive meetings of the Agency, of which the member has had notice, without the prior approval of the Agency;
- (d) upon the expiry of one month's notice of the member's intention to resign, given by the member in writing to the Minister;
- (e) if the member becomes mentally or physically incapable of performing duties as a member;
- (f) if the Minister is satisfied that the continuation of that member will be prejudicial to the interests of persons with disabilities;

- (g) in the case of members of the Agency registered under this Act, if the member's registration is cancelled;
- (h) if the member is removed by the Minister; or
- (i) if the member is convicted of an offence under this Act or any other law.

(4) Where there is a vacancy in the membership of the Agency before the expiry of the term of office, the Minister shall appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

3. Whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates the office.

Filling of
casual
vacancy

4. (1) Subject to the other provisions of this Act, the Agency may regulate its own procedure.

Proceedings
of Agency

(2) The Agency shall meet for the transaction of business, at least once in every three months at such places and at such times as the Chairperson may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Agency may be called by the Chairperson and shall be called if not less than one-third of the members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) The quorum at any meeting of the Agency shall be eight members.

(5) There shall preside at any meeting of the Agency—

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson;
or
- (c) in the absence of both the Chairperson and the Vice-Chairperson such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Agency on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the person's deliberative vote.

(7) Where a member is for any reasonable cause unable to attend any meeting of the Agency, the member may, in writing, nominate another person from the same organisation to attend such meeting in the members stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Agency may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Agency but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Agency shall not be affected by any vacancy in the membership of the Agency or by any defect in the appointment of any member or by reason that any person, not entitled so to do, took part in the proceedings.

(10) The Agency shall cause minutes to be kept of the proceedings of every meeting of the Agency and every meeting of any committee established by the Agency.

**Committees
of Agency**

5. (1) The Agency may, for the purpose of performing its functions under this Act, establish committees and delegate to any committee such of its functions as it thinks necessary.

(2) The Agency may appoint as members of a committee, established under sub-paragraph (1), persons who are or are not members of the Agency and such persons shall hold office for such period as the Agency may determine.

(3) Subject to any specific or general direction of the Agency any committee, established under sub-paragraph (1), may regulate its own procedure.

**Disclosure of
interest**

6. (1) If a member is present at a meeting of the Agency or any committee of the Agency at which any matter is the subject of consideration and in which matter the member or member's spouse is directly or indirectly interested in a private capacity, the member shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, otherwise, take part in any consideration or discussion of, or vote on, any question touching such matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

7. (1) A person shall not, without the consent in writing given by or on behalf of the Agency, publish or disclose to any unauthorised person, otherwise than in the course of the person's duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to that persons knowledge in the course of that persons duties under this Act.

Prohibition
of
publication
or disclosure
of
information
to
unauthorised
persons

(2) Any person who contravenes sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) Any person who, having any information which to that person's knowledge has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred penalty units or to imprisonment for a period not exceeding two years, or to both.

FINANCIAL PROVISIONS

PART II

8. (1) The funds of the Agency shall consist of such moneys as may—

Funds of
Agency

- (a) be appropriated by Parliament for the purposes of the Agency;
- (b) be paid to the Agency by way of fees, levies, grants or donations; or
- (c) vest in or accrue to the Agency.

(2) The Agency may—

- (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
- (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and
- (c) in accordance with regulations made under this Act, charge and collect fees for services provided by the Agency.

(3) There shall be paid from the funds of the Agency—

- (a) the salaries, allowances and loans of the staff of the Agency;

(b) such reasonable travelling, transport and subsistence allowances for members or members of any committee of the Agency when engaged on the business of the Agency, at such rates as the Minister may determine; and

(c) any other expenses incurred by the Agency in the performance of its functions.

(4) The Agency may invest in such manner as it thinks fit such of its funds, with the approval of the Minister, that it does not immediately require for the performance of its functions.

Financial
year

9. The financial year of the Agency shall be the period of twelve months ending on the 31st of December, in each year.

Accounts

10. The Agency shall cause to be kept proper books of accounts and other records relating to its accounts.

Annual
report

11. (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Agency shall submit to the Minister a report concerning its activities during such financial year.

(2) The report, referred to in paragraph (1), shall include information on the financial affairs of the Agency and there, shall be appended there to—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than thirty, days after the first sitting of the National Assembly next after the receipt of the report referred to in sub-paragraph (1), lay it before the National Assembly.

SECOND SCHEDULE

(Section 67 (2))

SAVINGS AND TRANSITIONAL PROVISIONS

1. There shall vest in, and be owned by the Agency without further assurance, all property, rights, liabilities and obligations which immediately before the commencement of this Act, were the property, rights, liabilities and obligations of the Agency. Vesting of assets and transfer of liabilities
2. (1) Whenever under this Act any property, right, liabilities or obligations of the Agency are transferred to the Agency in respect of which transfer a written law provides for registration, the Agency shall make an application in writing, to the proper officer or the appropriate registration authority for the registration of the transfer. Registration of property to be transferred
- (2) The proper officer, referred to in sub-paragraph (1), shall make such entries in the appropriate register as shall give effect to the transfer and, where appropriate, issue the transferee concerned with a certificate of title in respect of the property or make necessary amendments to any register, as the case may be, and shall make endorsements on the deeds relating to the title, right or obligation concerned.
- (3) Registration fees or duty shall not be paid in respect of any transfer effected under this paragraph.
3. On the commencement of this Act, any plans for any premises or amenities approved for the use of the public, under the Town and Country Planning Act, shall provide facilities that are accessible to persons with disabilities. Premises and amenities to be accessible to persons with disabilities Cap. 283
4. Any legal proceedings or application pending before any authority before the commencement of this Act by or against, the Agency may be continued by, or against, the Agency. Legal proceedings
5. (1) For the avoidance of doubt, a person who, immediately before the commencement of this Act, held office as Director-General or employee of the Agency shall continue to hold such office as Director-General or employee of the Agency, as the case may be, as if appointed under this Act. Transfer of staff
- (2) The service of the staff, referred to under sub-paragraph (1), shall be treated as continuous service.

